

# ANNEX: TLN-WRO-GA-G-M-PAAC

## GENERAL TERMS & CONDITIONS

**Reference Offer Basic TV  
Annex Interactive Services  
Reference Offer Broadband Services  
  
For Authorised Operators**

## Introduction

This document constitutes an integral part of the Telenet Reference Offer Basic TV, the Annex Interactive Services and the Reference Offer Broadband Services.

This document deals with the Services covered by the Reference Offer Basic TV, the Annex Interactive Services and the Reference Offer Broadband Services that Telenet offers to an Authorised Operator, hereafter called “Beneficiary”.

It includes the general terms and conditions applicable to the provision of the Reference Offer Basic TV, the Annex Interactive Services and the Reference Offer Broadband Services.

The Services are provided in conformity with the decisions taken by the VRM, CSA and the BIPT on 1 July 2011 concerning the market analysis of the broadcasting market in Belgium.

Telenet has appealed the decisions of the VRM, CSA and BIPT. The Vlaamse Regulator voor de Media (VRM), Belgian Institute for Post and Telecom (BIPT) and Conseil Supérieur de l’Audiovisuelle (CSA), together are called “the NRAs”. In case the obligation to resell the Services is cancelled, the underlying Reference Offer will be modified or withdrawn by Telenet.

The General Terms and Conditions comprehensively list the rights and obligations of Telenet and the Beneficiary with regard to the provision of the Services. The General Terms and Conditions are also applicable to all the annexes that are attached to the Reference Offer Basic TV, the Annex Interactive Services and the Reference Offer Broadband Services.

With a view to the signature of the Contract(s) and Agreement the Services can be negotiated by the Parties and does not substitute for the Parties’ will.

Except otherwise agreed by the Parties, the Contract(s) and Agreement shall be adapted if the Reference Offer Basic TV, the Annex Interactive Services and/or the Reference Offer Broadband Services is modified.

Anyone may examine the General Terms and Conditions relating to the Services, and the Annexes as they are applicable at the time of consultation. These may be obtained either from Telenet’s dedicated secured Internet site (Webapplication) and may be consulted further to the signature of a non-disclosure agreement.

Definitions

The capitalized terms in the present General Terms and Conditions have the meaning as defined below:

Beneficiary	An Authorized Operator who has been qualified valid and complete In accordance with the TLN_WRO_GA_G_M_PAAD – Valid Request Framework and with whom a Contract (and an Agreement) was concluded for the delivery of one or more Services.
Authorised Operator	<p>It is to be understood as an entity entitled to provide distribution services under the applicable legislation.</p> <p>“Dienstenverdelers” under the Flemish Media Decree of 27 March 2009,</p> <p>“Distributeur de services” under the Decree of 27 February 2003 on Radio diffusion, amended by the Decree of 5 February 2009,</p> <p>“Operator” under the Law regarding electronic Communications networks and services and the execution of broadcasting activities in the bilingual region of Brussels Capital of 30 March 2005</p>
Contract	An agreement concluded between Telenet and a Beneficiary following the negotiations between Telenet and the Beneficiary on the basis of the present General Terms and Conditions, technical, operational, billing, planning and financial conditions for one or more Services as described in the Telenet Reference Offer Basic TV, the Annex Interactive Services and/or the Reference Offer Broadband Services. A Service is concluded as mentioned in the first chapter of the present General Terms and Conditions and the Annex TLN_WRO_GA_G_M_PAAD – Valid Request Framework
CRC Decision(s)	Decisions of 1 July 2011 adopted by the Conference of Regulators for the electronic Communications sector (CRC) concerning the analysis of the broadcasting market in Belgium.
Agreement	A supplementary written agreement between the Beneficiary and Telenet on the basis of which Telenet will provide an Interactive Service according to the conditions described in the Annex Interactive Services.
Reference Offer Basic TV	Refers to the Reference Offer Basic TV as approved by the relevant NRA.

Annex Interactive Services	Refers to the Annex Interactive Services as approved by the relevant NRA.
Reference Offer Broadband Services	Refers to the Reference Offer Broadband Services as approved by the relevant NRA..
Service(s)	This is a service that Telenet provides up until and including the Demarcation Point and is described in the Telenet Reference Offer Basic TV, the Annex Interactive Services and/or the Reference Offer Broadband Services.
Demarcation Point	The point in the house where the coax cable enters and to which the in-home-network is connected. This point , which is part of the Telenet Network, ensures the separation of responsibilities between Telenet and the Beneficiary. The Beneficiary is responsible for the in-home-network, Telenet is responsible for the Telenet Network.
Associated Services	Services, measures and information systems which are provided by Telenet for the Beneficiary in order for him to make use under normal conditions of one or more Services.
VRM	Vlaamse Regulator voor de Media
CSA	Conseil Supérieur de l'Audiovisuel
BIPT	Belgian Institute for Postal services and Telecommunications
NRA(s)	(Collective) name for the relevant media regulator(s), i.e. VRM, BIPT and CSA.
Party / Parties	Depending on the context, Telenet and/or the Beneficiary entering into a Contract, together (“Parties”).
Valid Request	The Beneficiary’s demand allows him to deliver one or more Services as described in the Telenet Reference Offer Basic TV, the Annex Interactive Services and/or the Reference Offer Broadband Services which complies with conditions as set out in the Annex TLN_WRO_GA_G_M_PAAD – Valid Request Framework.
Working Day	Mondays to Fridays from 09h00-17h00 and except for national legal holidays in Belgium and other days/hours that are specified by Telenet through its Webapplication.
End User	End-Customer to whom the Beneficiary provides one or more Services.

Telenet Network	The technical infrastructure, and all elements/components and attached systems thereof, that are managed and operated by Telenet, based on which Telenet provides one or more Services up until and including the Demarcation Point.
Webapplication	The electronic systems, which are part of the Associated Services, made available by Telenet to the Beneficiary, in order for the Beneficiary to manage correctly the relevant Service(s).

***Request by the Beneficiary***

1. In order for the Beneficiary to be able to start delivering a Service, a request has to be submitted to the Wholesale Department of Telenet.

In order for the Beneficiary to be able to support his request for a Service to a Beneficiary's End User he has to submit a request to the Wholesale Department of Telenet confirming to be in the possession of a signed Letter of Authority form in advance for that specific Beneficiary's End User.

2. The Beneficiary shall consult the relevant Telenet Reference Offer, which can be obtained from Telenet's dedicated Internet site.

3. Telenet will not refuse to execute the Beneficiary's request except on one of the grounds mentioned hereunder. A reasoned refusal will be communicated to the Regulator and Beneficiary within 3 Working Days after receiving the request:

- the Beneficiary or his authorized agent refuses to provide Telenet with the confirmation of the fulfillment of the conditions prescribed in the relevant Reference Offer or its Annexes;
- in an emergency situation (i.e. exceptional cases of *force majeure*), for the purpose of ensuring the safe operation of the Telenet Network, after all necessary measures taken by Telenet to ensure access to the service are without effect;
- following the Beneficiary's failure to observe obligations arising from the relevant Reference Offer, Annexes and/or the present General Terms and Conditions for the use of the Service.
- for the purpose of maintaining network integrity or the interoperability of the services or for any other technical reasons that must be indicated by Telenet based on clear motivation;

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4. The Beneficiary may lodge an appeal against this decision by following the procedure provided under the Dispute Resolution Procedure and in accordance with these General Terms and Conditions.

**Conclusion, entry into force and duration of a Contract and/or Agreement**

5. The provision of a Service is subject to the conclusion of a Contract and/or an Agreement between a Beneficiary and Telenet according to the relevant Reference Offer, the present General Terms and Conditions and the negotiations between the Parties.

6. The Contract and Agreement take effect on the Working Day after the date of signature.

7. The Service is made available to the Beneficiary for an initial term of minimum one (1) year as of the confirmation that the implementation and testing procedure has successfully been completed.

8. Except if terminated by the Beneficiary with a written notice sent at the latest three (3) months before the end of the initial term, a Contract or an Agreement shall be automatically renewed for an indefinite term. The Beneficiary will then be able to terminate the renewed Contract or Agreement after having provided Telenet with a written notice of at least six (6) months.

**Services covered by these General Terms and Conditions**

***Resale Telenet Basic TV Service/Resale of Interactive Services/Resale of Broadband Services as defined in the relevant Reference Offer or Annex***

9. Telenet shall grant to Beneficiary, without prejudice to the rights granted by the applicable regulatory framework to Beneficiary, the possibility to resell one or more Services depending on the relevant Reference Offer and Annex Interactive Services. A Service is accompanied by a number of Associated Services in order to allow the Beneficiary to correctly make use of the Service.

10. Telenet remains the owner of the infrastructure up until and including the Demarcation Point.

11. A Service shall be implemented in accordance with the Service descriptions provided in the relevant annexes.

12. The Service shall be implemented by Telenet in conformity with the applicable (technical) conditions.

13. Within the limits of what is permitted under the applicable regulatory framework, both Parties shall exchange appropriate operational information (including, in particular, maintenance contact numbers, network information, information required to comply with

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law enforcement and other security agencies of the government and such other information as the Parties shall mutually agree).

14. In case the Beneficiary's End User cancels a Service, this should not have an effect on Services provided by Telenet to that Beneficiary's End User.

### **Obligations of the Parties**

#### ***Obligations of Beneficiary***

15. The Beneficiary must be an "Authorised Operator", entitled to provide the relevant services on the Belgian market under the applicable legislation.

16. The Beneficiary shall, independently of Telenet, manage all aspects of the relationship with its own End Users. The Beneficiary shall therefore be fully responsible for all Beneficiary's End User inquiries, including but not limited to inquiries concerning product information, service, billing, fault reports, technical issues and settlement.

17. The Beneficiary shall be liable to Telenet for ensuring that the equipment connected to the Telenet Network by Beneficiary's End Users complies with the requirement of the applicable legislation and applicable technical conditions and certifications.

18. The Beneficiary shall be liable to Telenet for ensuring that Beneficiary's himself and End Users do not in any way dispose of, sell, rent out, pledge, Telenet's equipment and installations and the Beneficiary shall ensure that Beneficiary's End Users do not in any way interfere with the Telenet Network. The Beneficiary further guarantees that his End Users will at all times maintain the marking of equipment or installations indicating that they belong to Telenet.

19. The Beneficiary shall furthermore, independently of Telenet, undertake all other customer services towards its End Users.

20. The Beneficiary shall comply with the contractual conditions when sending a Service request and will provide correct information to avoid unnecessary processing work by Telenet.

21. In any case, the Beneficiary will not make any publicity or remarks to the detriment of Telenet or its image. The Beneficiary will in all circumstances stay neutral.

#### ***Obligations of Telenet***

22. Telenet shall provide to the Beneficiary the Service according to Beneficiary's order to be transmitted to Telenet under the terms and conditions set forth in the Contract and/ or

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Agreement.

23. Telenet shall use all reasonable endeavours to correct any trouble affecting the quality of the service of Telenet. Telenet shall also inform the Beneficiary and the Regulator as soon as possible. In this respect in case of urgency and acting in good faith, Telenet shall be entitled to:

a) disconnect a Service immediately and without prior consultation with the Beneficiary, provided that Telenet can identify that the Service has caused a breakdown of networks or services, or if there is imminent risk of such breakdown. Telenet will inform the Beneficiary, about the disconnection, at the latest 1 Working Day after the disconnection.

b) oblige the Beneficiary to contact their End Users with a view to maintaining or ensuring Telenet's ownership of equipment and installations. Only Telenet may carry out service works on equipment belonging to Telenet. Telenet shall act in accordance with the general standard of integrity that it has internally developed and enforced. In case of application of this provision, Telenet will immediately inform the Beneficiary about the operation before its execution.

24. In any case, Telenet will not make any publicity or remarks to the detriment of the Beneficiary or its image. Telenet will in all circumstances stay neutral, in accordance with the technical nature of its intervention.

25. Telenet will not undertake customer handling of the Beneficiary's End Users.

## **Financial Conditions**

### ***Billing and Payments***

26. In consideration for the Service(s) provided by Telenet under the respective Contract and/or Agreement, the Beneficiary shall pay the charges and fees provided in applicable Annexes 'TLN\_WRO\_GA\_G\_P\_PAAA – Tarification Basic TV' and 'TLN\_WRO\_GA\_G\_P\_PAAB – Tarification Tv-BB'.

### **General Principle - Pre-payment**

27. Telenet will send on a monthly basis a pre-invoice at least on the 2nd Working Day after the starting of the considered month of service. For Beneficiaries that are in service, the first preinvoice shall be based on the average of the invoices for Services issued by Telenet during the last three months. For Beneficiaries not yet in service and concluding a new Contract and/or Agreement, the first pre-invoice shall be based on the valuation of the average of the invoices for Services to be issued by Telenet within the first three months of services.

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28. The amount of the pre-invoice shall be adapted on a quarterly basis, i.e. increased or lowered as the case may be, based on the amounts due by the Beneficiary for the Services provided under the Contract and/or Agreement during the previous quarter.

The Beneficiary agrees to pay the amount of the pre-invoice at the latest the 20th calendar day from the date of the pre-invoice.

Within 15 calendar days after sending the final invoice, Telenet will send a credit note regarding the pre-invoice.

If for the same month the amount of the pre-invoice is higher than the amount of the final invoices, Telenet shall reimburse the balance.

If for the same month the amount of the pre-invoice is lower than the amount of the final invoices, the Beneficiary will pay the surplus.

29. Within 20 calendar days following the final invoice, the Beneficiary will make the payment by wire transfer. If payment is not received by Telenet on or before this due date, Telenet will be entitled to an interest calculated on the basis of the legal interest rate + 2 percent points on the unpaid balance for late payment interest, administrative and recovery costs. For disputed amounts, this interest is only due if the dispute has been resolved in favour of Telenet.

30. If the Beneficiary disagrees with an invoice received from Telenet, it must notify in writing by registered letter Telenet thereof before the due date of such invoice in accordance with the relevant provisions of the Contract and/or Agreement. The registered letter should clearly mention the reason(s) for disputing the relevant amount. Each invoice that is not disputed within the applicable payment period will be considered accepted by the Beneficiary.

31. Without prejudice to other legal or contractual remedies and notwithstanding anything to the contrary in the Contract and/or Agreement, in the event the Beneficiary fails to pay on due time any undisputed amount due under the present Prepayment terms and conditions, Telenet shall be entitled to:

- Suspension of any Service Levels obligations;
- Refusal in writing of any new Services,.
- Suspension of the existing Services.

The Services covered by the Reference Offers and/or Annex are due on a monthly basis from the Beneficiary with the exception of the project fees and start-up fees which are due or at launch of the Service(s) (e.g. project fees, one-time participation fees, start-up fees) or on a yearly basis (e.g. recurring participation fee per contact year).

The invoice for the Service(s) will be sent by email to the Beneficiary.

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32. The final invoice for the recurring fees per Beneficiary's End User will be sent to the Beneficiary the month after the Service(s) was/were provided. All amounts due by the Beneficiary for the recurring costs will be invoiced as one total amount. The calculation of the amount due will be based on the proportion of the invoicing period in which a Service is provided to the relevant Beneficiary's End Users.

33. The final invoice for the one-time fees per Beneficiary's End User will be sent to the Beneficiary the month after the period in which the Service(s) was/were provided.

The amount due by the Beneficiary for one-time fees will be invoiced as one total amount.

Corrections to invoices are made by issuing credit notes or an additional invoice.

### **Payment & payment terms**

34. All invoice payments by the Beneficiary are due in EURO by the transfer to the Telenet bank accounts using the structured reference as mentioned on the invoice.

In case of non-payment or incorrect payment by the Beneficiary, the invoice is considered unpaid.

35. All invoices need to be paid within 20 calendar days after the invoice date. When the payment is not received by Telenet within 20 calendar days after the invoice date, a conventional default interest of the annual legal interest rate plus 2% points, will be added to the pending invoice amount. This conventional default interest will be calculated starting the maturity date of the invoice and run until the full payment date, without prejudice to Telenet's right to demand a higher amount.

36. In case of dispute, the disputed amount(s) will be deferred until the dispute is resolved. This deferral only applies to disputed amounts and has no effect on the payment period for the non-disputed amounts. When the dispute is resolved to the advantage of Telenet, the interest for late payment as described above will be due by the Beneficiary on the disputed amount.

37. In case of recurring non or late payment by the Beneficiary, Telenet will have the right to:

- suspend the Service(s) to the Beneficiary until full payment is received;
- reject request for Service provision for other Beneficiary's End Users.

### **Disputes**

38. The Dispute procedure may only start when Telenet receives a registered letter from the Beneficiary in which the disputed amount and the reasons for disputing the amount are mentioned.

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39. Following the receipt of the registered letter Telenet will respond to the Beneficiary by registered letter. In this letter Telenet will, depending on the case, qualify the Beneficiary's claim as correct or unfounded. The latter will be correctly motivated by Telenet.

In case of a correct claim by the Beneficiary, Telenet will modify the invoiced amount(s), accompanied by a credit note or an additional invoice.

40. In the event the Beneficiary does not accept Telenet's reaction, i.e. no agreement exists between Parties regarding the dispute, it should confirm this by registered letter to Telenet within 15 Working Days after Telenet's reaction. When this is the case each Party will designate a contact person for the further resolution of the dispute, with the objective to find a solution through bilateral negotiations.

41. When no solution is found within 15 Working Days, or any other period mutually agreed upon by both Parties, after the Beneficiary's reaction, in which Telenet's reaction is rejected, the dispute may be submitted to the Courts of Mechelen.

### **Financial Guarantees**

42. The Beneficiary has provided Telenet with an irrevocable and unconditional bank guarantee on first demand issued by a reputable bank or financial institution established in the EU. That bank guarantee will be issued for a minimum period of three years and for an amount equal to an estimate of three months of amounts due by the Beneficiary for the Services rendered in accordance with the Contract and/or Agreement and with a minimum of 250.000,00 EURO. Based on the evolution of the amounts due for the Service(s), Beneficiary and Telenet will have the right to require an adaptation of the amount of the bank guarantee every three months. Upon the request for adaptation of the amount of bank guarantee, necessary steps will be taken to ensure adaptation within 10 Working Days. Upon expiration of the bank guarantee or after that Telenet has called upon the bank guarantee, the Beneficiary shall provide Telenet with a pre-payment or with another financial guarantee as defined in the present article within five (5) Working Days of the request of Telenet.

### **Principles**

#### ***Retail Pricing & Billing***

43. Unless otherwise provided in the Contract or Agreement and without prejudice to the applicable regulatory framework, the Beneficiary shall be responsible for the setting of the tariffs that Beneficiary will apply to the Beneficiary's End Users.

44. Except as provided otherwise in the Contract and/or Agreement, no deductions or reductions shall be made from the payment of any charges or fees due for a Service for any

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bad or unpaid debts or any unrecoverable claims (including, in particular, claims arising from fraud cases) that the Beneficiary may have against Beneficiary's End Users or any other third parties in relation with the Service.

### ***Branding***

45. The Parties agree not to offer any Service under any brand, including any trademark, trade name or company name, of the other Party unless the use of the brand(s) of the other Party is explicitly provided under the Contract and/or Agreement. Such use of the brand will then be strictly limited to the Service at stake.

46. Notwithstanding the foregoing, Parties acknowledge that the installation of equipment on the site after the Demarcation Point of the relevant Beneficiary's End Users who have subscribed to an offering of a Beneficiary, can never be realized by Telenet personnel. Both Parties agree that Telenet shall have no obligation to unbrand or rebrand its service technicians or trucks. Telenet will act in accordance with its general standard of integrity that it has internally developed and enforced.

### ***User Terms and Conditions***

47. The Beneficiary shall cause the terms and conditions governing Beneficiary's contractual relationships with Beneficiary's End Users to be compliant with the rules and principles set out in the Contract and/or Agreement, the relevant Reference Offer and its Annexes.

48. Without prejudice to what is set out under Article 53, the Beneficiary shall bear all the consequences of the breach of the above obligation.

### **Coordination between the Parties**

#### ***Single Points of Contact***

49. The Beneficiary and Telenet will both appoint an individual as their respective single point of contact ("SPOC") who will act, within its organization, as the other Party's contact person.

50. The SPOC of either Party will have full authority to act and decide on behalf of the respective Party on all technical and operational matters regarding the day-to-day management of the performance of their Contract and/or Agreement. Except as otherwise expressly provided by the relevant Party, each Party's SPOC will have no authority to modify the conditions described in the Contract and/or Agreement, or to act outside the day-to-day management of the performance of the Contract and/or Agreement.

51. Each Party will be authorized to replace its SPOC by notice sent to the other Party. Such

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notice will have immediate effect.

## **Liability**

### ***General rules***

52. Taking into account the nature of the respective activities of the Parties, the risks associated with these activities and the consideration obtained by each Party from the Contract and/or Agreement, expressly agree that their respective liability shall be limited as follows.

53. If either Party is held liable to the other Party (including such other Party's employee(s) and (sub-)contractor(s)) under the Contract and/or Agreement, that liability shall be limited to the following:

- a. if such liability results from any conduct attributable to the relevant Party, which is, under Belgian law, characterized as being gross negligence (faute lourde – zware fout) or intentional negligence (dol – bedrog), then such liability shall be subject to no limitation, except as provided by law;
- b. if such liability results from any material damage, other than those referred to above, arising out of or in any way connected with the performance by the relevant Party of the Service or the breach of such Party's obligations under the Contract and/or Agreement.

54. In the event of a complaint by a Beneficiary's End User, the liability of Telenet may only be questioned by the Beneficiary if Telenet, or a person Telenet is responsible for, is at fault.

55. In addition, and notwithstanding the above, the Beneficiary will indemnify Telenet against any claim or loss related to the illegal use, or the use for illegal purpose of a Service by the Beneficiary or the Beneficiary's Users.

56. Finally, when it is established that the Beneficiary has not correctly followed the (technical and/or legal) requirements associated to the eligibility to connect to the Telenet Network or to a Service, Telenet has the right, next to claiming damages depending on the case, to terminate the Contract and/or Agreement.

### ***Force Majeure***

57. Neither Party will be liable for any delay or failure to fulfill its obligations under the Contract and/or Agreement arising from any event beyond its reasonable control (all such events being hereafter referred to as "Force Majeure").

58. The Party claiming Force Majeure shall as soon as possible send to the other Party a Notice of the Force Majeure. Such Notice shall contain adequate evidence of the occurrence

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and extent of the Force Majeure, as well as an estimate of the expected duration of the Force Majeure. As soon as practicable after receipt of such Notice, the Parties shall consult with each other in order to find an equitable solution to the problems and difficulties caused by the Force Majeure.

59. The Party claiming Force Majeure shall use all reasonable endeavours to minimise the consequences of such Force Majeure, and to ensure, in as far as reasonably possible, the continuity of the services provided under the Contract and/or Agreement, and shall perform those of its obligations not affected by a Force Majeure.

60. Upon cessation of the effects of the Force Majeure, the Party initially affected by such Force Majeure shall promptly notify the other Party of such cessation.

### ***Accidents at work and Safety Rules***

61. Each Party hereby undertakes to provide insurance cover against accidents at work for its own employees in conformity with the applicable legal requirements. Each Party hereby renounces any possible claim against the other Party, and undertakes to procure that its insurer shall not pursue against the other Party, or against any third party for whose acts or omissions the other Party may be responsible, any claim relating to accidents at work.

62. Each Party shall comply with safety practices and procedures reasonably applicable when entering the premises and installations of the other Party in order to carry out work. Each Party undertakes to ensure that its personnel, while upon the premises and installations of the other Party, will respect any internal rules and codes of conduct therein applicable, provided that such rules and/or codes shall have been made available to them in advance. Without prejudice to the provisions of the chapter relating to liability, each Party shall indemnify and hold harmless the other Party for any and all damage, costs or expenses incurred as a result of any act or omission of a Party's personnel while upon the premises and installations of the other Party.

### **Operational Matters**

#### ***Operational Matters and Network Management***

63. A Service provided under the Contract and/or Agreement shall be implemented and provided by the Parties in accordance with all applicable (technical) specifications set forth in the relevant Annexes.

64. Both Parties shall cooperate to install and maintain reliable Services. Both Parties shall exchange appropriate information (including, in particular, maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the government and such other information as the Parties shall mutually

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agree) to achieve this desired reliability.

65. Each Party shall apply sound network management principles by invoking network management controls to ease the operation of their respective systems. Each Party shall ensure that the network management controls are applied in such a way as to ensure that there is no discrimination in favour of that Party.

### ***Essential Requirements***

66. The Parties shall ensure that the requirements, as defined and applicable under the regulatory framework and the relevant Reference Offer and Annexes, are adequately and sufficiently protected, in as far as the establishment, maintenance and operation of the services offered under the Contract and/or Agreement are concerned.

67. It is acknowledged that the present General Terms and Conditions, and the Reference Offers and Annexes contain a number of specific principles and rules that have been developed to ensure the protection of all applicable requirements. Furthermore, the Parties shall consult with each other in order to ensure that all applicable requirements are protected in an adequate and sufficient manner.

68. It is a condition for the provision by Telenet of the Services under the Contract and/or Agreement that Beneficiary's request is not detrimental to the operation of the networks and Services in question or to their integrity or interoperability, and that the protection of service and internal data, network equipment, software and stored data, including personal data, confidential information and privacy can be sustained.

69. Telenet shall further be entitled to cause interruptions or modifications of the Telenet Network and Services to the detriment of the supply of the Services under the Contract and/or Agreement in connection with measures that are deemed necessary for technical, maintenance and operating reasons taking into account the balance of the interests of both Parties or that are ordered by the regulatory authorities. Telenet shall give Beneficiary in good faith and as soon as possible the notice of interruptions and modifications and state the reason for them.

### **Amendments and Revisions**

#### ***General Principles***

70. Except as otherwise provided in the Contract and/or Agreement, any agreement departing from the Contract and/or Agreement shall only be valid if duly agreed upon in writing by the respective representatives of the Parties.

#### ***Revisions in Technical Terms and Conditions***

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71. If required by operational, technical, legal or regulatory changes, Telenet will after approval by the Regulator be allowed, to modify the terms and conditions applicable to a Service provided under the Contract and/or Agreement, by sending a change Notice to Beneficiary describing the said constraints. Telenet will, together with such a Notice, update the publication on the Webapplication with a new version of its General Terms and Conditions and/or other document as the case may be. The Contract and/or Agreement shall be adapted accordingly.

## **Term, Termination and Suspension**

### ***Term***

72. The Beneficiary has the right to terminate a Service.

### ***Suspension***

73. In the event Beneficiary uses or allows the use of Services provided under the Contract and/or Agreement in an illegal manner or for illegal purposes, or if Beneficiary by its action or omission causes, or could reasonably be expected to cause a damage to the working or the security of the Telenet Network, and the Beneficiary fails to take appropriate measures in order to remedy to the situation within a period of five (5) Working Days from the receipt of a Notice of Suspension sent by Telenet, Telenet will have the right to suspend the provision of the Contracts and/or Agreement. Notwithstanding the foregoing, Telenet will have the right to suspend a Service prior to sending the above mentioned Notice in urgent cases where such suspension will be reasonably required under the circumstances. In that case, Telenet will inform the parties involved about the suspension of Services at the latest 1 Working Day after the suspension

74. If the Beneficiary uses or allows the use of Services provided under the Contract and/or Agreement for a purpose different from the purpose declared pursuant to the relevant Reference Offer and/or Annex and the Beneficiary fails to take appropriate measures in order to remedy to the situation, Telenet will have the right to suspend all or some of the Services.

75. Telenet will have the right to suspend a Service in the event that it is requested to do so by an order of a court or a competent authority. Telenet will inform the Beneficiary as soon as possible of the cause of such suspension.

76. In the event that the Beneficiary recurrently fails to pay outstanding invoice(s) for any amount due under the Contract and/or Agreement, or fails to provide, renew, adapt or reconstitute the financial guarantee as provided in the chapter on Financial Guarantee , Telenet shall be entitled to suspend the Services with immediate effect subject to a prior Notice of Suspension of 15 Working Days. Telenet will inform the Regulator at the same time.

### ***Consequences of Suspension***

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77. The provisions in this chapter on Suspension of the Services are without prejudice to any other right or claim for compensation to which one of the Parties may be entitled to in the event of suspension of a Service.

78. In the event Telenet sends to Beneficiary a Notice of Suspension of Services, the Beneficiary will be requested to inform the relevant Beneficiary's End Users within 24 hours of receipt of said Notice of the imminence of the suspension and of the consequences thereof.

### ***Termination for Cause***

79. In the event that the Beneficiary defaults in the payment of sums due for a Service offered under the Contract and/or Agreement and such default is not substantially cured within thirty (30) calendar days after written Notice of Suspension, then Telenet may by giving notice to the Beneficiary terminate all the Services with immediate effect. This provision does not apply to disputed amounts. Telenet will inform the Regulator at the same time.

80. In the event that either Party is declared bankrupt or enters into liquidation, then the other Party may terminate the Service, without any further legal or other procedures, by sending Notice of Termination with immediate effect to the other Party.

81. In the event that an obligation imposed on Telenet in the CRC Decisions of 1 July 2011 is suspended or nullified by the Court of Appeal of Brussels or any other competent authority, then Telenet will terminate all Services, without any further legal or other procedures, by immediate informing the Beneficiary by registered letter.

### ***Consequences of Termination***

82. The provisions in this chapter on Termination of the Services are without prejudice to any other right or claim for compensation to which one of the Parties may be entitled to in the event of termination of the Services.

83. In the case of termination of Services for any reason, Telenet shall be entitled to payment for all Services performed prior to such termination in accordance with the conditions that were applicable between the parties at the time of termination.

84. The provisions of the Contract and/or Agreement which by their nature are determined to survive the termination of the Services (including, in particular but without limitation, the provisions on Confidentiality and Applicable Law and Jurisdiction), shall remain in full force and effect after termination.

85. In the event Telenet sends to the Beneficiary a Notice of Termination of the Services, the

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Beneficiary will be requested to inform the relevant Beneficiary's End Users within 24 hours of receipt of said Notice of the imminence of the termination and of the consequences thereof.

## **Confidentiality**

### ***Request for Information***

86. Requests for information concerning the Reference Offers and Annexes and/or the Contract and/or Agreement can be made in writing by the Beneficiary to its SPOC within Telenet.

87. The transmission by Telenet of some type of information is subject to the prior signing of a non disclosure agreement by the requesting party.

88. Any interested party who will have signed a non disclosure agreement will be entitled to obtain information via a dedicated Telenet Webapplication through a secured access. Information on how to access the mentioned Webapplication can be obtained via the SPOC within Telenet of the interested party.

### ***Confidential Information***

89. For the purpose of this Chapter, the term "Confidential Information" shall mean:

- information communicated by one Party (or from any of its Associated Companies) (the "Disclosing Party") to the other Party (or to its employees and advisors) (the "Receiving Party"), or obtained by the Receiving Party in connection with the performance of the Service, provided that such information is, at the time of its disclosure, reasonably designated "confidential" or with an equivalent term. If such information was disclosed orally, it shall constitute Confidential Information provided that the Disclosing Party informs the other Party at the time of such disclosure, that such information is confidential and that (i) a written notice containing a summary of the information disclosed orally and mentioning that such information is confidential, is issued by the Disclosing Party to the other within five Working Days from the date of disclosure, or (ii) such disclosure is recorded in minutes of a meeting that are designated, labelled or marked "confidential" or designated, labelled or marked with an equivalent term;

90. "Confidential Information" does not include:

a. information that is properly and lawfully in the public domain otherwise than by breach of the Contract and/or Agreement or any other obligation of confidence;

b. information that was disclosed by a third party to the Receiving Party without restriction on disclosure or use, unless the Receiving Party knew or should reasonably have known that

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this information was acquired unlawfully or by a breach of contract or fiduciary relationship.

91. Except as specified in writing, by the Disclosing Party at the time of disclosure, Confidential Information shall continue to be deemed as such until the end of a period of three years after its initial communication under the Contract and/or Agreement.

#### ***Non-Disclosure***

92. The Receiving Party shall refrain from disclosing the Confidential Information to any third party and shall use the Confidential Information only for the performance of the Services offered in accordance with the Contract and/or Agreement. In addition, the Receiving Party shall take any reasonable measures to ensure the confidentiality of this information. In any event, the Receiving Party shall use efforts at least commensurate with those that such Party uses for protecting the confidentiality of its own Confidential Information.

93. Notwithstanding the foregoing and without prejudice to the provisions regarding the Disclosure to Personnel, Advisors or Suppliers here-under, either Party shall be allowed to disclose the Confidential Information to third parties provided it has obtained the prior written consent of the other Party. Such written consent will be given case-by-case upon a discretionary basis. Such written consent shall only be valid and enforceable for the specific information listed therein. The written consent to disclose Confidential Information shall identify the third party or parties to which the information can be disclosed and shall set forth the terms and conditions to which such disclosure is subject.

94. The Disclosing Party shall remain free to disclose to any third party Confidential Information disclosed to the Receiving Party.

#### ***Disclosure to Personnel, Advisors or Suppliers***

95. A Receiving Party shall disclose the Confidential Information received from the other only to its directors, employees, suppliers, agents, advisors, resellers or contractors who have a need to know such information. Such Party shall ensure that such directors, employees, suppliers, agents, advisors or contractors are bound by the obligations of confidentiality in respect of the Confidential Information that are set forth in the Contract and/or Agreement. For this purpose, the Beneficiary shall conclude a similar non disclosure agreement with the above authorized parties not on his payroll that contains at least the same provisions as the non disclosure agreement the Beneficiary concluded with Telenet.

96. Notwithstanding anything to the contrary in the foregoing provisions, the Receiving Party shall not disclose or use the Confidential Information, with the aim of providing commercial advantage to business divisions of the Receiving Party, or business divisions of the Receiving Party's Associated Companies, which are engaged in activities competing with the other Party.

97. Either Party may disclose Confidential Information that they received from the other

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Party, to their suppliers or contractors provided and to the extent that such suppliers or contractors effectively require to have access to such information in order to supply the relevant goods and services. The Parties shall do whatever is necessary in order to impose on the suppliers or contractors which have obtained access to Confidential Information obligations to keep this information confidential, which are at least equivalent to the obligations imposed under the Contract and/or Agreement.

98. Each Party shall be liable under the limitations provided in the Chapter relating to Liability, for any unauthorized disclosure or use of the Confidential Information by its directors, employees, suppliers, agents, advisors or contractors. The Party responsible for an unauthorized disclosure or use of the Confidential Information shall, in any event, take any reasonable measures (including but not limited to court proceedings) to mitigate the damage resulting there-from.

#### ***Disclosure Required by Law***

99. If the disclosure of Confidential Information to third parties is required by reason of legal, accounting or regulatory requirements beyond the control of the Receiving Party, the Receiving Party may disclose such information to the extent necessary to comply with such requirements. Without prejudice to the application of the foregoing, the Parties shall endeavour to ensure the confidential treatment of the Confidential Information by the third parties receiving such information as a result of such requirement.

100. Without limitation to the generality of the foregoing, either Party will have the right to disclose Confidential Information to the NRAs, whenever required by law, or deemed reasonably necessary in the context of any proceedings or discussions held in front or with the NRAs. If any such disclosure of Confidential Information is made, the Party communicating the information will ensure that the attention of the NRAs is properly drawn to the fact that the information is confidential and that the information needs to be kept confidential.

#### **Dispute Resolution and Applicable Resolution**

##### ***Dispute resolution procedure***

101. The SPOC shall, on an ongoing basis, attempt to solve any dispute, controversy or claim between the Parties concerning the interpretation, application and implementation of the General Terms and Conditions and/or the Contract and/or Agreement through discussions held in good faith.

102. In the event that the Parties have been unable to solve any Dispute, then upon Notice of either Party, each of the Parties will appoint a designated senior business executive (other than their respective SPOC) whose task it will be to meet for the purpose of endeavouring to resolve the Dispute. Each Party shall ensure that their respective designated executive has

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sufficient authority or decision-making power concerning the matter at stake. The designated executives will meet as often as the Parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the Parties believe to be appropriate in connection with its resolution. Such executives will discuss the Dispute and will negotiate in good faith in an effort to resolve the Dispute without the necessity of any formal proceeding relating thereto.

103. In the event the Parties fail to reach such a solution and/or settlement within fifteen (15) Working days as from the receipt of the above Notice, they shall escalate the matter to a higher level within their respective organizations. Discussions at that level will be conducted as described in article 102. The Parties may, at any given escalation level, agree to extend the time limits described in this article and in article 102 when they consider it necessary in order to facilitate that an agreement be concluded on the subject-matter of the dispute.

104. Except in the cases of urgency, as determined in good faith by the Party calling the Dispute, no formal proceedings for the resolution of a Dispute may be started until the earlier to occur of (a) a good faith conclusion by the designated executives that amicable resolution through continued negotiation of the matter in issue does not appear likely or (b) the Parties have failed to reach an agreement on the Dispute within 15 working days of the escalation of the Dispute as described in article 103.

#### **Applicable Law and Jurisdiction**

105. The Services and the Contract and/or Agreement, and Reference Offers, Annex and Annexes shall be governed by Belgian law.

106. Without prejudice to article 103, any dispute concerning the validity, the interpretation of the Contract and/or Agreement, or the performance of the Service, or of subsequent contracts derived here-from shall be finally submitted to the Courts of Mechelen, Belgium.

#### ***Fraud***

107. The Parties accept to cooperate to the best of their respective abilities in order to prevent and eliminate any kind of fraud which involves Services provided under the Contract and/or Agreement. If any of the Parties suspects such kind of fraud, the Parties shall co-operate in order to identify the origin of the fraud and to use any appropriate means in order to eliminate and prevent such fraud as soon as possible. For the purposes of the application of the present provision, fraud shall mean any manipulation of a communications network, including by Beneficiary connected to the Telenet Network in order to obtain one or more services without paying the proper charge for it, or to support other criminal activities (including, in particular, wiretapping, eavesdropping and gathering secret numbers).

108. It is explicitly acknowledged by the Parties that any cooperation in the context of the present provision will need to be in due compliance with the entire regulatory framework.

#### ***Independent Parties – Approvals***

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109. Each Party shall be responsible for obtaining and keeping in effect all approvals from, and rights granted by, competent authorities, other operators, and any other persons that may be required in connection with the performance of its obligations under the Contract and/or Agreement. Each Party shall reasonably cooperate with the other Party in obtaining and maintaining any required approvals and rights for which other Party is responsible.

110. Each of the Parties is and shall remain at all times an independent contractor. Neither Party is authorized 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. Neither Party nor its employees, agents or representatives shall engage in any acts which may lead any person to believe that such Party is an employee, agent or representative of the other Party. Nothing in the Contract and/or Agreement shall be deemed to constitute a partnership between the Parties.

111. If any part of the Contract and/or Agreement shall be held to be illegal, invalid or unenforceable for any reason, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of the Contract and/or Agreement shall not in any way be affected or impaired thereby.