

# General Terms and Conditions Carriers



## Article 1. Definitions

- 1.1 **Backbone:** All telecommunications facilities whose terminating points are the Nodes of Telenet, including the Telenet Equipment at these nodes. The interface between the Backbone and the Access Network is an integral part of the Access Network.
- 1.2 **Order Form:** the form that the Customer has to fill out completely and correctly when placing an order.
- 1.3 **Gross Repair Time:** time that elapses from the moment a fault is reported by the Customer to the time the Service(s) is/are again available to the Customer as communicated by the Customer Service Desk.
- 1.4 **Control Desk:** the contact point provided by Telenet for the Customer to report technical problems and ask technical questions. The Control Desk is available all day every day.
- 1.5 **Contract:** the agreement on the supply of (a) Service(s), consisting of these General Terms and Conditions, the Service Agreement, the annexes; and each amendment in writing to this agreement.
- 1.6 **Service:** each service that Telenet supplies to the Customer. Each Service is described in a Service Agreement.
- 1.7 **Escalation:** procedure whereby persons of a comparable hierarchical level can contact each other for the purpose of answering a question or solving a problem that has not been solved at a lower level.
- 1.8 **Escalation point:** person designated by each of the Parties for the other Party. An Escalation Point is where problems that are not solved by the SPOC or questions that are not answered by the SPOC are referred to.
- 1.9 **All telecommunications facilities:** all that which is needed for the transmission, emission or reception of signs, signals, documents, images, sound or data of any nature whatsoever by wire, radiowaves, fibre optic cable or any other electromagnetic system.
- 1.10 **Helpdesk:** Telenet's point of contact consisting of the Customer Service Desk and the Control Desk.
- 1.11 **Office Hours:** from 9:00 am to 5:30 pm daily except Saturdays, Sundays and holidays.
- 1.12 **Customer Service Desk:** the point of contact provided by Telenet for the Customer, which is available during Office Hours.
- 1.13 **Node:** physical location where the connection between the Backbone and the Access Network is established.
- 1.14 **RFI date:** ready-for-installation date, date on which Telenet can start the installation works on the Site.
- 1.15 **Delivery term:** term between the date of receipt of a correctly filled in and signed Order Form and the RFS ('ready-for-service') date.
- 1.16 **Site:** any location or place or part thereof where the Service(s) is/are supplied.
- 1.17 **Net Repair Time:** the difference between the Gross Repair Time and the various Stopclocks that occur during interventions. Only the Net Repair Time is taken into account for calculating any refunds under the SLA.
- 1.18 **NOC:** Network Operating Centre, central location from where the Telenet Network and the Services are managed.
- 1.19 **Public telecommunications network:** a telecommunications network that is used in whole or in part for the provision of public telecommunications services.
- 1.20 **Telecommunications network operator:** the holder of a licence that authorises him to deploy and operate a telecommunications network. Telenet can call upon the services of the Operator of a telecommunications network to extend its Backbone.
- 1.21 **RFS date (ready for service):** the date on which the Service is brought into service by Telenet.
- 1.22 **SLA: Service Level Agreement.** The quality-of-service guarantees included in the Service Agreement between Telenet and the Customer in which Telenet provides guarantees with regard to the delivered Service(s).

- 1.23 **Software:** all those elements in the Telenet Equipment that are protected by an intellectual property right, including the related documentation.
- 1.24 **SPOC: Single Point of Contact:** unique contact point designated by each Party for the other.
- 1.25 **Stopclock:** period not taken into account by Telenet to calculate the time that is needed to terminate a service interruption.
- 1.26 **Telenet Network:** the Backbone and the Telenet Access Network, which together constitute the telecommunications network that is used by Telenet to provide the Customer with the Service(s) laid down in this Contract.
- 1.27 **Telenet Access Network:** the Access Network that is partly or wholly provided by Telenet and/or is contracted for by Telenet from one or more Operators of telecommunications network(s).
- 1.28 **Access Network:** All the means of telecommunications that render it possible to connect the Customer Equipment directly or indirectly to the Backbone.
- 1.29 **Customer Access Network:** the Access Network that is contracted for by the Customer from one or more Operators of (a) telecommunications network(s).
- 1.30 **TT number:** Trouble Ticket Number, number of the report of an interruption.
- 1.31 **Customer Equipment:** equipment (including Software) under supervision of the Customer that is intended to be connected directly or indirectly to a telecommunications network and managed by the Customer.
- 1.32 **Telenet Equipment:** all equipment (including Software) that is installed by Telenet on the Site of the Customer and intended to be connected to the Telenet Network.

## Article 2. Description of the Service(s)

The Customer declares having taken cognisance of the technical characteristics of the Service(s) and the Telenet Equipment described in this Contract and recognises that they answer his needs.

## Article 3. Application of the General Terms and Conditions

Without prejudice to any other provision in this Contract, each order of a Service by the Customer, regardless whether such order was placed before or after the date of signature of the Contract, is throughout the term of the Contract subject to the provisions of these General Terms and Conditions, even if same is not explicitly specified at the time the relevant Service is ordered.

## Article 4. Duration of the Service(s)

These General Terms and Conditions apply as of the date of signature of one or more Service Agreements or Order Forms and remain applicable as long as a Service is supplied to the Customer.

Termination of a Service is only allowed:

- (i) in case of dissolution of the Service by the Customer with due observance of the term of notice specified in this article, or
- (ii) in case of prior written agreement of both Parties, or
- (iii) in case of payment by the Customer to Telenet of a termination fee for each terminated Service. This termination fee consists of a) all discounts and the like that were granted for the Service b) the sum of all amounts still owed by the Customer for the relevant Service from its ordering until the end of the current period, including costs due by Telenet to third parties. Telenet bases the calculation of these amounts not yet due on the average of the amounts already billed for the relevant Service and/or on the subscription fee set in the Order form. In case a minimum usage commitment has been specified, at least the corresponding monthly amount shall be



taken into account c) all installation costs incurred by Telenet to allow the Service to be provided. The duration of a Service is specified in the Order Form. Without prejudice to any other provision, each Service ordered by the Customer is provided for a minimum period of one (1) year, as from the RFS date.

## Article 5. SPOC, reporting procedure and escalation

- 5.1 The Parties each designate a SPOC (Single Point of Contact) and an Escalation Point. The function of the SPOC is to give answers to questions or find a solution to problems put to him. The Escalation Point is contacted if the SPOC does not react or if he fails to do so in a satisfactory manner. Either Party is entitled to change the Escalation Point and/or the SPOC by sending a fax or a letter to the other Party at least ten working days before the effective date of the change. All information communicated orally to the other Party must be followed by a written confirmation in the form of a letter or fax.
- 5.2 For Telenet the Customer Service Desk acts as SPOC. The contact data of the Customer Service Desk are communicated to the Customer upon installation. The Customer Service Desk can be reached during Office Hours and is available for reporting technical problems and for questions related to billing and other services of Telenet. If Telenet itself detects any problems with the operation of a Service, a trouble ticket (hereinafter 'TT') is automatically generated. In this case the Customer Service Desk itself contacts the Customer. Only problems that are reported to the SPOC or Escalation Point qualify for the official follow-up procedure described in the SLA. This procedure is also followed if Telenet itself has identified the problem and issued a TT.
- 5.3 In case of a malfunction in (a) Service(s) the following reporting procedure must be followed:  
A malfunction is, in principle, reported over the telephone with indication of at least the following data:  
(i) name and phone number of the contact with the Customer for subsequent malfunction follow-up;  
(ii) identification of the circuit in which the malfunction occurs (the identification numbers of the circuits can be found on the latest invoice);  
(iii) description of the malfunction;  
(iv) date and time of discovery of the malfunction.  
For each malfunction a TT is generated. This TT is linked to the identification details of the Customer, such as company name and address. The TT number is always quoted as a reference between the Parties. After the problem has been solved the Customer Service Desk again contacts the Customer for the administrative closing of the TT. For the purposes of fixing the term within which Telenet has resolved the problem, only the technical solution of the problem is decisive. Purely administrative problems are preferably reported, and purely administrative questions preferably asked, by e-mail or fax.

## Article 6. Bringing into Service, and Obligations of the Customer

- 6.1 Bringing into Service
- 6.1.1 The Service(s) is/are brought into service in accordance with the procedure and according to the agreements specified in the applicable SLA. Compensations for delays bringing the Service(s) into service as provided for in the SLA are not accorded if:  
(i) the Customer wants the installation to be carried out later than the originally agreed RFS date, in which case the latter is replaced by the installation date proposed by the Customer. In this case Telenet is entitled to bill the Service(s) from the originally agreed RFS date.

- (ii) the Customer is absent at the agreed time of installation or has failed to make the necessary provisions and the Site is/was not ready for installation. In this case Telenet is entitled to bill the Service(s) from the originally agreed RFS date and to invoice to the Customer the extra costs due to third parties as a result of such failure.
- (iii) Telenet does not obtain the necessary licence from a public authority or any other third party for the execution of works on public or private property, as required for supply of the Service(s), to the Customer.
- 6.1.2 If the Customer wishes to cancel an ordered Service before its RFS date, he must notify Telenet thereof by recorded delivery letter. In such a case the Customer is required to pay a termination fee. This termination fee consists of a) all costs already incurred by Telenet (including costs due to third parties) and b) the value of all or part of any discounts that have been granted.
- 6.2 Other obligations
- 6.2.1 By signing the Contract the Customer undertakes to provide Telenet with all data that are necessary for installation of the Service(s), including the features of the Customer Equipment (including Software) that Telenet needs to determine the technical parameters and the configuration of the Telenet Equipment and for provision of the Service(s).
- 6.2.2 For each Service an original, duly and correctly filled out Order Form must be made and signed by the Customer. Provided the Service Agreement has been signed, orders can also legitimately be placed by fax or by e-mail. Such orders shall be deemed valid and contractually binding upon the Customer even if they are not signed or confirmed by an original, provided that Telenet could reasonably believe the order to have been placed by the Customer. Regardless of this exception, the rule that each order must be approved and accepted by Telenet in order to commit Telenet still applies.
- 6.2.3 Telenet is entitled to invoice to the Customer, at the then applicable rates, all and any additional costs (travelling expenses, operating costs...) that are incurred by it during installation, maintenance or modification of a Service as a result of non-compliance by the Customer with any of his contractual obligations (including obligations relating to the provision of electricity or adaptation of the Site to the required environmental conditions). Extra costs are invoiced to the Customer if the latter is not present at the place and at the time previously agreed on with Telenet.
- 6.2.4 The Customer, at his expense, makes all modifications to the Customer Equipment (including the Software) that are necessary to have access to the Service(s).
- 6.2.5 The Customer warrants that he holds the licences and permits that are required under national, European and international law and regulations for the commissioning and connection of the Customer Equipment. The Customer disconnects any components of the Customer Equipment that do not conform to the aforementioned laws and regulations that may cause death or physical injury or that may damage the Telenet Network or make it unavailable. Telenet reserves the right to proceed with such disconnection itself at the expense and for the account of the Customer if the Customer should fail to do so. Telenet can in no way be held liable for the consequences of non-compliance by the Customer with his obligations under this paragraph or for the consequences of exercise of Telenet's rights in accordance with this paragraph.

## Article 7. Maintenance and Site

- 7.1 Telenet regularly carries out works on its infrastructure, including the relocation, upgrading or testing of Telenet Equipment. Only Telenet and the authorised contractors of Telenet are authorised to carry out maintenance and repair works on Telenet Equipment and the Telenet Network. Wherever possible, Telenet informs the Customer of any (planned or unplanned) work that is likely to impact the



Service(s), even if no service disruption whatsoever is to be expected.

(i) In the case of planned works Telenet endeavours to draw up the planning in joint consultation with the Customer, in order to minimise the impact of these works on the availability of the Service(s).

Telenet provides the following information in so far as is practicable:

- date and time of the intervention;
- reference of the planned work;
- duration of the work;
- nature of the work (short description).

If the Customer has a problem with one or more aspects of the planned work, he informs Telenet thereof in writing (by fax or e-mail) within a period of 24 hours following communication of the information by Telenet. In doing so, the Customer clearly indicates the name and details of the responsible contact person and also includes a clearly motivated alternative proposal.

(ii) Unplanned works are normally only carried out in case of emergency or in exceptional circumstances. Telenet endeavours to minimise the impact of these interventions on the availability of the Service(s).

7.2 If the Telenet Equipment (or components thereof) is/are to be installed at the Site, the Customer makes sufficient, free and appropriate space available (whether the Site is owned by the Customer or not) and ensures that the required licenses and authorizations are obtained for the Site, so that the necessary introduction and excavation works can be carried out in order ensure a free right of way for the entire duration of the Services. If the Customer does not meet the above mentioned requirements, Telenet is entitled to charge the Customer any and all costs exposed to still obtain the necessary space, permits, rights of way or to realize an alternative solution. This space is laid out at the expense of the Customer, in accordance with the ambient conditions communicated by Telenet and possibly modified on the basis of an inventory of the premises that may have been conducted in advance.

The layout of the space must conform to the applicable standards and must allow for normal installation and maintenance. The Customer shall in particular be responsible for the following: sufficient space; the supply of electricity; access to a terminating point that might be selected by Telenet of the Public telecommunications network; maintenance of temperature and air humidity. The Customer notifies Telenet forthwith if technical or other installations (water, gas, electricity etc.) risk being damaged during installation or maintenance of the Telenet Equipment. Telenet is not liable for any damages arising out of the Customer's non-compliance with his obligations under this paragraph.

The Customer notifies Telenet forthwith of any health or safety regulation; any hazardous substance or any dangerous object; and of any reasonable safety requirement that applies to the Site. Telenet endeavours to ensure that its employees and the representatives under its supervision duly observe these rules (as communicated to Telenet) during their presence at the Site. Telenet is not liable if observing these rules results in it failing to fulfil its obligations under the Contract. Prior to installation Telenet can carry out an inspection to verify whether the Site conforms to the specified standards. A Site that is considered as non-conforming by Telenet must be laid out again by the Customer based on the instructions provided by Telenet. During the execution of the Contract the Customer allows Telenet and the Operator of a telecommunications network access at all times to his Site where the Telenet Equipment is installed, whether the Site is owned by the Customer or not. If the Location is not owned by the Customer, the latter ensures that access is granted by the owner.

## Article 8. Ownership

8.1 Owner of the Telenet Equipment

8.1.1 Telenet retains full ownership of the Telenet Equipment that is provided to the Customer by Telenet under the Contract.

8.1.2 The Customer manages the property of Telenet with all due care, and makes no modifications thereto.

8.1.3 In case of termination of (a) Service(s), the Customer undertakes to return the Telenet Equipment upon first request. In that event, the Customer grants Telenet permission to enter the Site in order to collect the Telenet Equipment.

8.2 Intellectual Property

The content of websites; all elements, programs (communication and security software), denominations, trade and domain names, brands, logos and services, data, databases, graphics, drawings and models; all original texts; all multimedia presentations and creations; and any instructions for use developed by or for Telenet (hereinafter the 'Information') are protected by intellectual property rights owned by Telenet, or third parties (hereinafter 'Intellectual Property Rights').

The Customer makes all reasonable efforts to respect the Intellectual Property Rights at all times; he refrains from any violation thereof.

The right to use the Telenet Service(s) only provides the Customer with a personal and non-transferable right to use that portion of the Service(s) that is protected by Intellectual Property Rights, for an agreed definite or indefinite period of time.

The Information may not be stored (except where necessary to allow the Service(s) to be used), reproduced, altered, published, distributed or transmitted, sold or otherwise transferred or be made the subject of any rights granted to third parties, without the prior written consent of Telenet.

The Customer may only use the Information in connection with the use of the Service(s). This right of use may at all times be revoked by Telenet.

Any failure by the Customer to comply with his obligations under this article may be grounds for Telenet to suspend execution of the Contract or to terminate the Contract without Telenet owing any compensation of any nature whatsoever and with payment by the Customer of the cancellation fee specified in article 4.

This article applies without prejudice to the protection of the Intellectual Property Rights under legislation on the protection of computer programs and the Belgian, European or international legal provisions regarding industrial property and intellectual property.

## Article 9. Quality of the Service(s) and Guarantees

9.1 In fulfilling its obligations under the Contract, Telenet acts with the caution and expertise of an operator who provides public telecommunications services.

9.2 Unless otherwise stipulated in the Contract, Telenet's obligations under the Contract are related exclusively to the Backbone, the Service(s) provided via the Backbone and the associated Telenet Equipment.

9.3 Telenet undertakes to fulfil its obligations in so far as:

- (i) the Customer fulfils his obligations under this Contract; and
- (ii) any act or omission on the part of a third party (including an Operator of a telecommunications network) used by Telenet for the provision of the Service(s) does not interfere with the proper performance of his obligations.

9.4 The standard quality guarantees offered by Telenet are part of the Service(s) and are set out in the SLA.

9.5 Application of the SLA is suspended upon the occurrence of any of the following circumstances - the list is not exhaustive - until the problem having led to the suspension has been solved:

- (i) problems caused by the Customer Equipment such as configuration errors, interruptions in the operation of the Customer Equipment or incompatibility with the interfaces specified by Telenet;



- (ii) on-Site problems such as: interruption of the Service(s) due to damage caused to the Telenet Equipment as a result of deliberate and/or inadvertent mistakes by the Customer or by third parties who are authorised by the Customer to access the Telenet Equipment or the place where it is installed; or interruption of the Service(s) due to problems with the power supply of the Customer or due to a defect in the Site where the Telenet Equipment is installed;
- (iii) maintenance works as stipulated in article 7;
- (iv) non-compliance with the reporting procedure specified in article 5.3.

## Article 10. Rates

- 10.1 Description  
Prices are stated in euros and are exclusive of taxes. Unless prohibited by law, all national, regional or local levies, fees, duties or taxes; levies on sales, use, personal property and added value; privileges or excise duties; and other levies payable by the Customer are added to the prices and paid by the Customer.
- 10.2 Price Revision  
The rates may be adjusted by Telenet at any time during the term of the Contract, on condition that the Customer is informed thereof at least 1 month in advance. In the event of an increase in rates - except in the case of a rise related to the consumer prices index - the Customer is entitled to terminate the Contract no later than the last day of the month following receipt of the first invoice following the effective date of the changes, whereby no compensation shall be owed by him.

## Article 11. Payment for the Service(s)

- 11.1 Invoices  
The amounts due under the Contract are stated on invoices addressed to the Customer. The invoices also mention "settlement of third party services cf. VAT Circular 50/2009". These third party services are billed and collected by Telenet, but for any complaints the Customer has to contact the third party itself. Invoicing starts from the RFS date. Telenet or another company, department etc. belonging to its group, prepares monthly invoices and sends them to the address of the Customer stated in the Contract.  
Where certain amounts are paid monthly and the amount to be paid by the Customer is not due for a full month, the amount to be paid is calculated by multiplying the number of days in the incomplete month by one-thirtieth of the monthly amount to be paid.
- 11.2 Terms of payment  
Each invoice issued by Telenet is deemed to be collectable on the date that the invoice was made out (hereinafter the 'Invoice Date') and is, unless otherwise indicated in writing on the invoice or in a document accepted by Telenet, payable 30 calendar days after the invoice date (hereinafter the 'Due Date'), net and without discount.  
Any dispute in connection with an invoice or a part thereof must be addressed by recorded delivery mail to the financial department of Telenet within 15 calendar days after the date of dispatch of the relevant invoice. After this period the Customer is irrevocably deemed to have accepted the invoiced amount. A dispute does not discharge the Customer from his payment obligations for the undisputed amounts. The Customer acknowledges that any bad debts or claims he might have towards his clientele, end-users or towards third parties does not entitle him to hold payments back or to apply decreases on amounts due under this Contract.
- 11.3 Consequences of non-payment of invoices  
Non-payment (failure to pay the invoice on the Due Date) automatically and without formal notice results in the application of a penalty. The penalty amounts to 15% with a minimum of 124 euros. Additionally default

interest is charged on the outstanding amounts at the rate of 10% per year.  
If an invoice has not been paid in full or in part on the Due Date and the Customer has not remedied the default following the receipt of a notice, Telenet has the right to suspend the Service(s), being the object of this Contract, in whole or in part with immediate effect. Insofar as technically feasible, Telenet can restrict the suspension to the unpaid Service(s).  
In the aforementioned case of non-payment, Telenet is also entitled to dissolve the Contract, after notifying the Customer thereof. In such a case Telenet is entitled to claim payment of the cancellation fee provided for in article 4.

### 11.4 Security deposit

During the execution of this Contract, Telenet may request the Customer to pay a security deposit or to adapt it, in the following cases:  
(i) the threshold of 1,000 euros - if not otherwise specified in the Order Form - is exceeded; or  
(ii) the Customer sends traffic on circuits/links which are not contractually allocated for that sort of traffic; or  
(iii) the Customer sends traffic which is not provided for in the Contract or which does not correspond to the description made in the Contract; or  
(iv) the use of the Service(s) by the Customer has substantially increased compared to its average consumption; or  
(v) in case of non-payment and/or delays in the payment of due amounts by the Customer.  
If the Customer does not immediately follow the request to pay a security deposit or to adapt it, article 15 shall apply.

The security deposit does not give rise to the payment of interests by Telenet to the Customer.

Telenet cannot rely on the security deposit to discharge outstanding amounts for which the Customer has started legal proceedings.

After termination of the Contract and discharge of all outstanding amounts by the Customer, Telenet will reimburse the security deposit to the Customer without interests within sixty (60) days after termination of the Contract.

## Article 12. Liability

- 12.1 Liability regime  
Without prejudice to the liability rules set out in this Contract, Telenet's liability is governed by ordinary law, albeit Telenet cannot be obliged to pay compensation to the Customer, not even in the event of gross negligence, for indirect or consequential damage, including loss of profit, loss of business opportunities and absolutely unforeseeable damage, save in the event of wilful intent. Except in the case of death or physical injury, the amount of the compensation and interest which is due by Telenet to the Customer is in any case, also in the event of gross negligence, limited to an amount of 1,000,000 euros per claim and to a sum of 1,000,000 euros per year. Each Party takes out and maintains, during the term of the Contract, adequate insurance allowing it to compensate any damage for which it can be held liable towards the other Party under this article.
- 12.2 Responsibilities  
Telenet or its suppliers are in no case liable for interferences by third parties with the IT systems of the Customer; the Customer shall be solely responsible for the protection of his IT systems. The Customer shall also be solely responsible for the security of its PABX and/or other systems. The Customer acknowledges and agrees that he shall be responsible for all usage charges in respect of the use of the Services whether or not such use was authorized. It is indeed the Customer's responsibility to maintain the security of the means of access to the Services and to ensure unauthorized use does not occur.  
The Customer undertakes to use the Telenet Network, the Service(s) and the Telenet Equipment placed at his disposal with all due care, not to disturb the traffic on



the Telenet Network through his behaviour or negligence, and not to make any alterations to the Public telecommunications network without explicit approval. Moreover, he assumes full liability for all harmful consequences of the wrong, unlawful or unauthorised use of the Telenet Network and/or the Service(s) by himself or by his users or by third parties.

The Customer undertakes: not to use the Service(s) for illegal or immoral purposes or to tolerate such use; to observe Internet etiquette; and to comply with the regulations for use applicable to the networks that can be accessed by the Customer via the Service(s) (including any codes of conduct that appear on the website of Telenet).

The Customer is required to comply with the effective legislation whenever he transmits data via the Service(s). Forbidden data include, but are not limited to: illegal, incorrect, obscene and defamatory data; data that are contrary to public order and/or good morals; data that infringe the privacy of the users; and data that promote racism and xenophobia.

Telenet asks the Customer to inform it of any illegal content, so that Telenet can take the necessary and appropriate measures to remove such data or make it inaccessible.

Furthermore, the Customer provides Telenet with all the information it needs to fulfil its obligations resulting from the Act of 30 June 1994 relative to the protection of privacy from wire-tapping, examination and recording of private communications and telecommunications ('Wet van 30 juni 1994 ter bescherming van de persoonlijke levenssfeer tegen het af luisteren, kennisnemen en opnemen van privécommunicatie en -telecommunicatie'); the Act of 28 November 2000 relative to computer crime; and any other applicable legislation relative to wire-tapping, identification and observation ('Wet van 28 november 2000 inzake informaticacriminaliteit evenals elke andere van kracht zijnde wetgeving betreffende het af luisteren, identificeren en observeren'), ... that Telenet requires to comply with.

The Parties undertake to join efforts to prevent any form of fraud. If either Party suspects that fraud is taking place, the Parties join efforts to trace the origin of the fraud and to take suitable actions to end such fraud. For the application of this article, 'fraud' is understood to mean: any manipulation or act, also on the part of customers of one of the Parties, that is aimed either at acquiring telecommunications services without paying the corresponding price, or at supporting criminal activities (including the collection of secret codes and wire-tapping). The Parties acknowledge that the required collaboration as described above must always be pursued in accordance with the legal provisions. The Customer also undertakes not to generate unlawful traffic, not to transmit undesired messages or data, not to provide illegal access to the data of the connected networks, not to commit computer piracy or hacking, not to harm or destroy the confidentiality of the computer data, not to jeopardise the use or the performance capacity of the other customers and to observe the Intellectual Property Rights (including copyright) of Telenet or of third parties.

The Customer moreover takes all necessary measures to impose the same obligation on any third parties that have access to the Service(s) through him. Telenet does not warrant the content, quality or legality of the transported information. Telenet can in no case be obliged to compensate for any direct or consequential damage suffered by third parties as a result of the transmitted information or arising from underlying commercial activities.

The Customer compensates all costs incurred by Telenet as a result of the violation of this article (including court costs, lawyers' fees etc.).

### Article 13. Bank guarantee

In order to guarantee the execution of his obligations under this Contract, including any payment obligation applicable under this Contract, the Customer shall provide Telenet with an irrevocable and unconditional bank guarantee upon first demand. This guarantee mentions Telenet as beneficiary and is made in accordance with the model of bank guarantee that is provided in appendix.

The bank guarantee upon first demand must at any time secure an amount at least equal to three (3) monthly invoices (hereafter the "Covered Risk"). Telenet is entitled to ask for an immediate adaptation of the bank guarantee if the bank guarantee amounts to less than the Covered Risk.

The bank guarantee shall be provided to Telenet at the latest ten (10) days after the signature of the present Contract. If the Customer would fail to provide Telenet with such a bank guarantee, the latter would be entitled to immediately terminate one or more Service(s) and/or the Contract without owing any compensation to the Customer. A bank guarantee that is provided will remain in force until Telenet will have given its agreement to withdraw it.

### Article 14. Transfer of the Contract

None of the rights and obligations arising out of the Contract may be transferred to third parties without the prior written permission of the other Party, irrespective of the form of transfer (e.g. merger, split-off or capital injection). Such permission is not required if the Contract or the rights thereunder are transferred from Telenet to another company or firm belonging to its group.

### Article 15. Suspension and dissolution of the Contract

#### 15.1 Suspension

Telenet may automatically and immediately suspend the execution of this Contract or the supply of (a) Service(s) in whole or in part in case of cessation of payment, judicial composition ('gerechtelijk akkoord') or similar situation of the Customer, in the event of Force Majeure as described in article 16, or in the event of protest, liquidation, or unlawful or unauthorised use, or if the Customer fails to fulfil his contractual obligations towards Telenet. Telenet notifies the Customer of this suspension in advance and as soon as possible.

If the Contract must be suspended as a consequence of any fact or act, negligence or violation of the Contract on the part of the Customer, the latter shall compensate Telenet for all costs associated with the suspension and/or resumption of the supply of the Service(s). Telenet shall be entitled to claim damages from the Customer for any other losses caused by this fact or act, negligence or contractual violation.

Telenet cannot be held liable for any loss, inconvenience or damage suffered by the Customer as a result of a suspension.

#### 15.2 Early Dissolution

##### 15.2.1 Withdrawal of the licence or the permit

Telenet can terminate the Contract or the Service(s) if and as soon as its licence(s) and/or permit(s) authorising Telenet to supply the Service(s) are withdrawn or declared invalid. Such dissolution shall not entitle the Customer to claim damages or collect a penalty from Telenet.

##### 15.2.2 Illegality or Government order

Telenet reserves the right to immediately change the technical characteristics and conditions of (a) Service(s) if the law or a regulation of any nature whatsoever so requires or if Telenet is required to implement an order, an instruction or a request from a government, an emergency aid organisation or a competent administrative authority. Telenet also has this right if the operating or organisational conditions of the Telenet Network so require, or if any supplier of services to



Telenet imposes changes that must be adhered to by Telenet. The Customer is notified of these changes to the technical characteristics and conditions of the Service(s) at least one month in advance. The Customer shall be entitled to terminate the supply of the Service(s) thus changed subject to thirty (30) days' notice, on condition that the Service(s) has been the subject of a substantial change that has changed the essential characteristics of the Service(s).

#### 15.2.3 Bankruptcy

Telenet is entitled to immediately terminate the Contract in case of bankruptcy, cessation of payment, judicial composition or similar situation of the Customer.

#### 15.2.4 Change in control

Telenet is entitled to terminate the Contract subject to 1 month's notice if the Customer is no longer controlled directly or indirectly by the company that controlled it upon signature of the Contract within the meaning of articles 5 through 9 of the Companies Code ('Wetboek van Vennootschappen'), and on condition that Telenet reasonably believes that such change in control has or may have an adverse effect on the Customer's ability to fulfil his obligations under the Contract.

#### 15.2.5 Termination after suspension

Without prejudice to application of the specific suspension procedures provided for in the next article ('Force Majeure') of this Contract, Telenet is entitled to terminate the Contract or the relevant Service(s) with immediate effect if Telenet deems that a case of suspension as defined in this article will not permit the Customer to resume the fulfilment of his contractual obligations within a reasonable period of time. The suspension or dissolution of the Contract or of the supply of (a) Service(s) does not discharge the Customer from his obligation to pay all amounts due under this Contract before the date of termination of the Contract or the Service(s) and does not affect the validity of certain articles of the Contract which by their nature are meant to remain valid after the above-mentioned date of termination of the Contract or the Service(s). Moreover, Telenet is in such a case of dissolution entitled to payment of the cancellation fee stipulated in article 4.

### Article 16. Force Majeure

Apart from the classic cases of force majeure, storms, floods, earthquakes, epidemics, insurrections, wars, attacks, prohibition or restriction imposed by the government or a competent administrative authority to supply telecommunications services, failure to obtain the required permits or licences and suspension or the termination of the supply of the required services to Telenet by any other telecommunications operator are also considered as force majeure.

The Party that claims a force majeure event must notify the other Party within no more than five (5) working days following the occurrence of the case of force majeure. Moreover, it must identify and motivate the case of force majeure; specify the date on which the fact or the circumstance constituting the case of force majeure occurred; report the obligation(s) whose performance is delayed or prevented by the case of force majeure and justify this prevention.

Force majeure results in suspension of the obligations which the affected Party can no longer perform and of the corresponding obligations of the other Party; it relieves the Parties involved from their contractual liability under the suspended obligations. The suspension shall not last longer than three (3) months from the date of occurrence of the force majeure.

The Parties involved undertake to meet each other as quickly as possible in order to study the measures to be taken. Failing an agreement on such measures or upon expiry of the suspension period of three (3) months, the most diligent Party may notify the other Party of the dissolution of the supply of the relevant Service(s) or of the Contract, if all services are affected.

### Article 17. Confidentiality and personal data

#### 17.1 Confidentiality of information

The Parties undertake to consider as confidential this Contract, its contents and all documents, information and data - irrespective of the carrier - that they exchange in connection with the performance of the Contract. As a result, the Parties undertake not to communicate or disclose the items listed in this regard to third parties for any reason whatsoever without the prior written approval of the Party involved. Should a legally competent authority require the communication of confidential information, the Party obliged to disclose the information must inform the other Party thereof in advance in order to discuss the extent and the content of such disclosure. This obligation applies during the term of the Contract and for two years after expiry of the Contract.

Telenet considers as confidential all information that is transmitted on the Telenet Network and therefore undertakes not to take cognisance of the content of the exchanged messages and data, save for legal purposes or following a court decision.

#### 17.2 Personal data

The Customer gives Telenet permission to refer to the name of the Customer in its list of customers, without Telenet being required to obtain prior permission from the Customer.

The personal data of the Customer are included in the files of Telenet at the address Lierssesteenweg 4, 2800 Mechelen. These personal data are used exclusively for customer and supplier management purposes and/or to get in contact with the Customer. By means of a written, dated and signed request addressed to Telenet, the contact person with the Customer, who proves his identity by means of a copy of his identity card, can obtain, free of charge, the written communication of his personal data as well as the rectification of incorrect, incomplete or irrelevant data. The data included or meant to be included in directories are communicated to the persons who are authorised to publish such directories. Telenet warrants the right of every Customer not to be included in the lists for compilation of the directories, against payment.

The Customer must inform Telenet in writing within three (3) working days of any change of his identification data and in particular of any change of his registered office, legal form or trading name in particular. If this change is also to be reflected in the directories, the Customer must inform Telenet thereof at least two (2) months before publication of the directory.

### Article 18. Severability and independence of the provisions

A completely or partially void, voidable or inoperative provision shall not automatically entail the nullity of the Contract and shall not be a ground for dissolution. If any provision is held illegal or invalid, such provision shall be considered as independent. The remaining provisions of the Contract remain in effect and continue to bind the Parties as though the relevant provision had not existed. In such event the Parties shall act in good faith and endeavour to replace the relevant provision with a legal or valid provision that most closely approximates the replaced provision.

### Article 19. Entire Agreement and hierarchy

19.1 The titles included in the Contract have only a clarifying function. They therefore do not form part of the terms and conditions of the Contract nor do they influence its significance or interpretation.

19.2 This Contract sets out all contractual obligations of the Parties. The provisions contained herein cancel and supersede all previous arrangements, acceptances, agreements, correspondence, requests for quotation or previous proposals related to the same Service(s).



- 19.3 In the event of conflicts between the documents forming the Contract, the following hierarchy shall apply, with the higher order documents taking precedence on the lower order documents:
- (i) Service Agreement
  - (ii) General Terms and Conditions
  - (iii) Order Form
  - (iv) Annexes
- 19.4 The Contract always takes precedence over the offer(s). Any reference to the offer is solely intended to provide clarification with regard to the technical solution offered under the Contract to the Customer and of the tariff structure which is applied.

#### **Article 20. Notification**

All notifications referred to in this Contract must be made in writing to the attention of the SPOC, by recorded delivery mail through the Post Office, by letter through a courier service or by carrier with receipt acknowledgment. A fax message or e-mail message is permissible on condition that a receipt acknowledgment has been requested and received. Any such notice shall be deemed received and effective upon acknowledgment of receipt; this does not apply if notice is given by the Customer by telephone to the number provided for this purpose by Telenet. Such notice by telephone shall be deemed received and effective when Telenet has given notice of a TT number.

Unless otherwise stipulated in this Contract, complaints must be reported by the Customer to Telenet within fifteen (15) calendar days following the occurrence of the incident. Upon expiry of this period, Telenet can consider the Customer complaint as inadmissible.

#### **Article 21. No association or company**

The Parties continue to act as independent entities within the context of performance of this Contract. Nothing in the Contract or in the behaviour of the Parties during the performance of the Contract shall give rise to or may be considered as the establishment of an association, company, joint venture or any other common entity of the Parties.

#### **Article 22. Waiver and nullity**

Unless a fixed, binding period has been specified, the fact that a Party fails to exercise its right at a given moment, does not immediately exercise its right, or only puts forward a compromise shall not be sufficient to be considered a waiver of its rights under the Contract and shall not refrain that Party from claiming the strict application of the relevant provisions or of other contractual terms at a later point in time.

A single and/or partial exercise of a right or the putting forward of a compromise by either Party does not prevent the continued or full exercise of the relevant or any other right under the Contract.

#### **Article 23. Surviving provisions**

The provisions of the Contract which by their nature and scope are meant to survive the performance by (one of) the Parties also survive the termination, expiration, fulfilment or cancellation of the Contract.

#### **Article 24. Dispute**

The implementation, interpretation and execution of this Contract are governed exclusively by Belgian law. In the event of a dispute, only the courts of Mechelen have jurisdiction.