



DARK FIBRE SERVICE SCHEDULE

BACKGROUND

- A Eftel Limited is engaged in the business of providing dark fibre telecommunications links.
- B The Customer wishes to acquire dark fibre telecommunications links on the terms set out in this Schedule, the attached Service Order and the Master Services Agreement.

OPERATIVE PROVISIONS

1 Contract information

- 1.1 The Customer has signed or will sign a Service Order for Dark Fibre Services and a Master Services Agreement, and, in the case of the first engagement for Dark Fibre Services, will sign this Service Schedule.
- 1.2 This Schedule shall be incorporated in and form part of each Contract (as defined in the Master Services Agreement and which, for the avoidance of doubt, includes the Master Services Agreement and the Service Order) between the parties for the supply of Dark Fibre Services and contains the terms and conditions specifically relating to the Dark Fibre Services.

2 Dark Fibre Services

- 2.1 Eftel Limited shall provide to the Customer the Dark Fibre Services in accordance with applicable laws and on the terms and conditions contained in this Schedule and the Contract.
- 2.2 Eftel Limited grants to the Customer an exclusive licence to use the Circuits.
- 2.3 Eftel Limited shall allocate the Cores to be used in the Circuits in its sole and absolute discretion and may modify, substitute or replace the Cores as reasonably necessary upon reasonable advance notice to the Customer, provided that the standard of service shall not be materially reduced.
- 2.4 Eftel Limited reserves to itself the right to:
 - 2.4.1 access and use for its own purposes, and for the provision of services to other customers, Cores within Eftel's cable that are not used in the Circuits;
 - 2.4.2 grant additional licences to other customers for the use of Cores within Eftel's cable that are not used in the Circuits; and
 - 2.4.3 exercise or grant other rights not inconsistent with the rights granted hereunder.
- 2.5 Eftel Limited may, by thirty (30) days' notice in writing to the Customer, relocate the Circuit and shall use reasonable endeavours during the relocation to minimise any disruption to, or non-availability of, the Service.
- 2.6 If Service Levels are specified in Annexure 1, Eftel Limited shall provide the Dark Fibre Services in accordance with such Service Levels.

3 Term

- 3.1 The Contract and the Dark Fibre Services shall commence on the Dark Fibre Acceptance Date and shall, unless terminated earlier in accordance with the terms of this Contract, continue in full force and effect for the initial term set out in the Service Order. Unless the parties have prior to the expiry of the initial term negotiated a formal extension (including a review of pricing), this Contract shall be renewed for further periods of one (1) month unless and until terminated by either party giving to the other not less than one (1) month's written notice to expire at the end of the initial term or the end of any renewal period provided that the applicable fees shall be increased in accordance with clause 6.10 of the Master Services Agreement (Fee Indexation).

4 Service delivery and acceptance

- 4.1 Eftel Limited shall use reasonable endeavours to install the Dark Fibre Services within the approximate commencement date specified in the Dark Fibre Services Order. Such dates are approximate only and Eftel Limited shall not be liable for any delay in installation howsoever caused (including delays in obtaining access to any property or premises) and time for installation shall not be of the essence unless previously agreed by Eftel Limited in writing.
- 4.2 Eftel Limited shall notify the Customer upon completion of provisioning and installation of the Dark Fibre Services.
- 4.3 Following installation Eftel Limited shall test the Dark Fibre Services using its standard acceptance tests to ensure that the Dark Fibre Services are installed and operating to the standards set out in Annexure 2. Eftel Limited shall notify successful acceptance test results to the Customer. Unless the Customer provides to Eftel Limited prior notice that the Dark Fibre Services are not installed and operating to the standards set out in Annexure 2, the Customer shall be deemed to have accepted the Dark Fibre Services five (5) business days after successful completion of the Eftel Limited tests or upon commencement of use of the Dark Fibre Services, whichever is earlier.

5 Fees

- 5.1 The Customer shall pay to Eftel Limited the fees set out in the Dark Fibre Service Order such fees to be invoiced on the frequency and payable on the terms set out in the Service Order.

6 Acceptable use

- 6.1 Unless otherwise specified in the Service Order, the Customer may not transfer, assign, sublicense or resell the Dark Fibre Services to any third party without the prior written consent of Eftel Limited.

7 Superior rights

- 7.1 This Contract is made subject and subordinate to the terms and conditions of any underlying ground or facilities lease or licence or other superior rights by which Eftel Limited has acquired an interest in the site(s) from which or through which the Service is located or provided.

8 Definitions and interpretation

- 8.1 Subject to clause 8.2, terms used in this Schedule shall have the meaning given to them in the Master Services Agreement between Eftel Limited and the Customer.
- 8.2 In addition, in this document the following definitions apply:
- Circuits means the dark fibre circuit(s) as configured (including the number of Cores) and as described in the Dark Fibre Services Order, and a Circuit shall start at the Eftel Limited fibre termination panel at the first End Point on the Circuit and end at the Eftel Limited fibre termination panel at the second End Point on the Circuit.
 - Core means a single fibre optic cable that is contained within a larger cable comprising multiple Cores. A Core may be a single continuous length of optic fibre or a series of segmented lengths of optic fibres that have been joined, spliced or connected.
 - Dark Fibre Acceptance Date means the date when the Dark Fibre Services are operational and achieve acceptance under clause 4.3.
 - Dark Fibre Services means telecommunications dark fibre link between the End Points to provide the Circuits.
 - End Points mean the Customer locations described as such in a Dark Fibre Services Order.
- 8.3 A reference to a clause, part, schedule, annexure or attachment is a reference to a clause, part, schedule or attachment of or to this Schedule.
- 8.4 Any schedules, annexure and attachments form part of this Schedule.

ANNEXURE 1

Service Levels

Eftel Limited shall provide the Dark Fibre Services in accordance with the following Service Levels:

SERVICE CRITERIA	MEASUREMENT AND FREQUENCY OF MEASUREMENT	TARGET SERVICE LEVEL
Availability	$SA = \text{Uptime} / (\text{Total Time} - \text{Excused Downtime}) \times 100$ Where: Uptime means: the time (measured in minutes) in any month during which the Service is able to be used by the Customer as intended. Total time means: the time (measured in minutes) in any month. Excused Downtime means: the time (measured in minutes) in any month during which the Service is not available due to any of the following: a. Force Majeure b. Failure of the Customer's equipment c. Act or omission of the Customer d. Planned maintenance e. Permitted suspension by Eftel Limited of the Service	99.95% for any single path. 99.999% for a Service, which consists of multiple paths with complete physical separation.

Rebates for Service Level Failure

Where the Eftel Limited fails to achieve the Service Levels specified above in any month of the term of this Contract, the Customer shall be entitled to a refund of the proportion of the applicable fee set out below in any month:

Failure of all Paths (with complete physical separation)

SERVICE AVAILABILITY TARGET FAILURE	PERCENTAGE OF MONTHLY SERVICE CHARGE CREDITED
Less than 27 seconds per calendar month	Nil
28 seconds to less than 4 minutes and 21 seconds per calendar month (Availability <	5%
4 minutes and 21 seconds to less than 21 minutes per calendar month (Availability <	10%
21 minutes to less than 4 hours per calendar month (Availability < 99.95%)	20%
4 hours or more per calendar month (Availability < 99.5%)	50%

Failure of a single Path

SERVICE AVAILABILITY TARGET FAILURE	PERCENTAGE OF MONTHLY SERVICE CHARGE CREDITED
Less than 21 minutes per calendar month	Nil
21 minutes to less than 4 hours per calendar month (Availability < 99.95%)	20%
4 hours or more per calendar month (Availability < 99.5%)	50%

Genuine pre-estimate

The Customer acknowledges and agrees that the Service Rebate represents a genuine and reasonable pre-estimate of the Customer's loss arising from Eftel Limited's failure to perform the Dark Fibre Services in accordance with the Service Levels.

Sole remedy

Eftel Limited's obligation to extend Service Rebates shall be the full extent of Eftel Limited's liability and the Customer's sole and exclusive remedy in respect of any failure by Eftel Limited to meet the Service Levels.