



Proximus Reference Offer for Bitstream Access

Covering the technologies ADSL, Reach Extended  
ADSL2, ADSL2+, SDSL and VDSL2

## Annex 1: General Terms & Conditions

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Our reference: MSO & Servicing version

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## 1. General information

This document constitutes an integral part of the Bitstream (Re)ADSL(2+), SDSL & VDSL2 Services Offer (hereafter referred to as Bitstream xDSL services) communicated to the Belgian Institute for Post and Telecom (hereafter the BIPT). It includes the General Terms and Conditions applicable to the provision of Bitstream xDSL to establish end-to-end services based on xDSL. These Bitstream xDSL services are provided in conformity with the relevant laws and decrees in effect. The present General Terms and Conditions shall remain applicable until they are replaced by other Terms and Conditions.

This Offer is made by Proximus PLC under Belgian Public Law, a Belgian autonomous public enterprise organized under the Law of March 21, 1991, with registered office at B-1030 Brussels, 27 Boulevard du Roi Albert II, VAT BE 0202 239 951 Brussels Register of Legal Entities, exercising its activities under the commercial name Proximus, and referred to as "Proximus" in all the documents that are part of the Reference Offer.

A distinction should be made between the following:

### The Main Body

This document describes in broad terms the conditions of the Bitstream xDSL services offered by Proximus.

### The Annex 1. "General Terms and Conditions"

The General Terms and Conditions comprehensively list the rights and obligations of Proximus and the Beneficiary with regard to the provision of the Bitstream xDSL Services.

### The Annex 2. "Technical Specifications"

The Technical Specifications define the technical conditions and the quality standards of the Bitstream xDSL Services.

### The Annex 3. "Planning & Operations"

The Planning & Operations Manual describes the operational conditions of delivery of the Bitstream xDSL Services.

### The Annex 4. "Basic Service Level Agreement"

The Basic Service Level Agreement ("Basic SLA") defines the service level conditions upon which Proximus will deliver installation and maintenance for the Bitstream xDSL Services.

### The Annex 4a. "Improved Service Level Agreement for Repair"

The Improved Service Level Agreement ("Improved SLA" or "ISLA") defines the service level conditions upon which Proximus will deliver repair services for the Bitstream xDSL Services in case ISLA on repair has been requested. The elements included in this document replace those in the Basic Service Level agreement, unless otherwise stated.

### The Annex 5. "Pricing, Compensations and Billing"

The Pricing, Compensations and Billing annex indicates the rates and compensations as well as the billing and payment conditions for the Bitstream xDSL Services.

### The Annex 6, “Prepayment Terms & Conditions”

### The Annex 7, “Roles & Responsibilities throughout the OLO CPE lifecycle”

This document aims at clarifying and defining all the roles & responsibilities of Proximus and the Beneficiary throughout the lifecycle of an OLO Customer Premises Equipment (“OLO CPE”).

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The Main Body, General Terms and Conditions, Technical Specifications, Planning & Operations including the underlying Business and Operational Support Systems and the Migrations as further described in the BRUO Reference Offer and also applicable to the present Offer, Basic SLA, Improved SLA, Pricing, Compensations and Billing, Prepayment Terms & Conditions and if any, the specific terms and conditions agreed upon by the Parties constitute the Bitstream (Re)ADSL(2+), SDSL & VDSL2 Offer (hereafter, the “Bitstream xDSL Offer”).

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With a view to the signature of the Bitstream xDSL Contract, the Bitstream xDSL Offer can be negotiated by the Parties and does not substitute for the Parties’ will.

Except otherwise agreed by the Parties, the Bitstream xDSL Contract shall be adapted if the Bitstream xDSL Offer is modified. This adaptation shall be in accordance with this Bitstream xDSL Offer’s modification.

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Anyone may examine the Main Body and Annexes of the Bitstream xDSL Offer, as they are published on the Proximus Internet site. Other documents which are referenced in the Main Body or Annexes of the Bitstream xDSL Offer are available on the secured website of Proximus (Personal Page of Proximus Wholesale) and may be consulted further to the signature of a Non-Disclosure Agreement.

## 2. Glossary

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

Bitstream xDSL Contract	Any agreement concluded between Proximus and a Beneficiary following the negotiations between Proximus and the Beneficiary on the basis of the General Terms and Conditions, technical,
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operational, billing, planning and financial conditions for the Bitstream xDSL as described in the Offer of Proximus. The Bitstream xDSL Contract is concluded as mentioned in the third chapter of the present General Terms and Conditions.

Request	The Beneficiary's demand concerning the delivery of a Bitstream xDSL Service as described in this Offer.
Certified Technician	Any technician employed either by a Beneficiary or by one of Beneficiary's subcontractors, trained and certified by Proximus in order to perform, in place of a Proximus Technician, the installation of Bitstream without voice xDSL lines.
Bitstream xDSL Services	All the Services described in the Bitstream xDSL Offer that are ordered by the Beneficiary.
Party	Either Proximus or Beneficiary.
Parties	Collectively, Proximus and Beneficiary.
End-User	User of electronic communication services provided by the Beneficiary, Third Party Beneficiary, or a reseller of these services, and/or Proximus.
Payment Agreement (PA)	A Payment Agreement groups different lines / services which will be billed together on the same invoice. Every PA = one invoice per billing cycle.

## 3. Contract procedure

### 3.1 Request by the Beneficiary

1. In view of the offering of a Bitstream xDSL based Service to End-Users pursuant to the provisions of the Contract, the Beneficiary must submit his order or Request for a Service in electronic format. To that end, the Beneficiary will comply with the rules described in the Planning & Operations Manual. The terms and conditions for delivering the Services are described hereafter.
2. The Beneficiary shall consult the General Terms and Conditions and the relevant Bitstream xDSL Services Offer as well as the list of technical requirements. These can be obtained from the Proximus Internet site or by requesting them from the Proximus Account Manager.
3. Proximus may not refuse to execute the Beneficiary's Request conform the Bitstream xDSL Offer, without prejudice to the negotiations between Proximus and the Beneficiary, except on one of the following grounds:
  - a) the Beneficiary or his authorized agent refuses to provide Proximus with official documents to identify himself;
  - b) in an emergency situation (i.e., exceptional cases of force majeure as defined further in the present General Terms and Conditions), for the purpose of ensuring the safe operation of the Proximus network, after all necessary measures taken by Proximus to ensure access to the service are without effect;
  - c) following the Beneficiary's failure to observe obligations arising from the present General Terms and Conditions for the use of the service;
  - d) for the purpose of maintaining Proximus network integrity or the interoperability of the services or for any other technical reasons that make the delivery of the service impossible;
  - e) the Beneficiary has refused to provide proof of the existence of the unconditional financial guarantee as specified in the provision Financial Guarantees (section 7.2.) hereafter;

- f) the Beneficiary's Request comes from an operator with an existing fixed network and is unreasonable in application of the framework defined under Section 30.2.3. of the CRC decision of June 29<sup>th</sup>, 2018 regarding the analysis of the broadband markets;
  - g) the Beneficiary's Request for access to the Bitstream xDSL Service is unreasonable on the basis of other grounds than the ones listed hereabove.
4. In the event of a refusal on one of the grounds listed in article 3 above, Proximus shall notify within 3 working days the Beneficiary of its decision and the grounds for the decision by ordinary mail. A copy will be sent to the BIPT in the same timing.
5. The Beneficiary may lodge an appeal against this decision by following the procedure provided under the Dispute Resolution Procedure (chapter 15 hereafter) and in accordance with these General Terms and Conditions.

## 3.2 Conclusion, entry into force and duration of the Contract

6. The provision of the Bitstream xDSL Service is subject to the conclusion of a Contract between the Beneficiary and Proximus according to the present General Terms and Conditions and the negotiations between the Parties. The Contract is concluded when Proximus has accepted via electronic way the order submitted by the Beneficiary in accordance with the Annex "Planning & Operations" of the present Bitstream xDSL Offer.
7. Unless otherwise stipulated, the Contract takes effect on the day after the date on which the Bitstream xDSL Service (as described hereafter) is made available to the Beneficiary. Proximus shall confirm this date to the Beneficiary via electronic way.
8. The Service is made available to the Beneficiary for an indefinite term.
9. The OLO Access line is made available to the Beneficiary for an initial one-year term. At the end of this minimum term, if the Beneficiary does not terminate the contract in accordance with the procedure specified in the BROTSOLL General Terms and Conditions the contract shall be tacitly renewed for an indefinite term.



## 4 Services covered by these General Terms and Conditions

10. Proximus shall provide to Beneficiary and maintain on behalf of Beneficiary Bitstream xDSL Services in accordance with the Bitstream xDSL Offer and its Annexes and/or Appendixes.

11. Subject to the successful completion of testing as defined in and pursuant to the provisions of the Bitstream xDSL Offer, the Parties will agree upon the date of the bringing into service of the Bitstream xDSL Services. When Beneficiary chooses to have the line installed by one of his Certified Technicians, the Beneficiary alone decides upon the date for bringing into service the Bitstream xDSL Service and informs Proximus of this date.

12. The data connectivity between the respective networks of the Parties shall be implemented in accordance with the technical specifications of the OLO Access Line in Annex 2 "Technical Specifications".

13. The Bitstream xDSL Services purchased by Beneficiary according to the foregoing will enable Beneficiary to define its own services based on xDSL and to market, distribute and sell under its name and on its behalf its own services based on xDSL towards End-Users. In this respect Proximus will communicate the definitive version of any minor modification in the technical specifications (such as e.g. definitive Line Profile numbers, Line Profile values, deployment rules, ...) at the latest one (1) month before its planned launch date. The Beneficiary is also allowed to resell the Bitstream xDSL based services via other telecommunications operators (OLO), who will act as a reseller of the Beneficiary, on the condition that these entities are not a cable operator in Belgium, nor an affiliated or associated company (as defined by article 11 and 12 Company Code) of such cable operator, nor a company in which such cable operator holds a participation (as defined in article 13 Company Code).

14. For each End-User to whom Beneficiary will sell an xDSL product in accordance with the foregoing, Proximus will, in accordance with and subject to the limitation set out in the Bitstream xDSL Offer, install, implement and provide connectivity from the End-User premises up to the demarcation point between Proximus network and Beneficiary network, as defined in Annex 2 "Technical Specifications". If the Beneficiary chooses to install a specific xDSL line with a Certified Technician, Proximus will provide to the Beneficiary the exhaustive list of tasks to be performed in relation to the physical installation of this specific line, which tasks will all be executed by the Certified Technician chosen by the Beneficiary.

15. Within the limits of what is permitted under the applicable regulatory framework, both Parties shall exchange appropriate operational information as provided in the Annexes of the present Reference Offer (including, in particular, but not limited to, 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 agree).

## 5. Obligations of the Parties

### 5.1 Obligations of the Beneficiary

16. The Beneficiary is at all times fully responsible in particular for the following tasks in respect of the establishment of the connection between the Beneficiary network and the Proximus network:

- to order an OLO Access Line between the Proximus Service PoP and the Customer Equipment;
- to inform Proximus immediately and in writing of any change that may have an impact on the Proximus network integrity or on the performance of other services delivered by Proximus towards End-Users. The present rule does not imply that such changes can be made by the Beneficiary independently;
- to use the Proximus network in conformity with the prevailing technical specifications and regulations on telecommunications and data protection and in conformity with the applicable law in general and especially the normal behaviour of a professional Beneficiary;
- to ensure that its End-Users behave in a manner that is fully compatible with these elements and take also responsibility for such behaviour;
- to comply with the instructions that Proximus may issue to the Beneficiary from time to time to ensure the security and correct operation of the Proximus network and of any other network or infrastructure used by Proximus for the supply of the connection between the End-User premises and the demarcation point between the Proximus network and the Beneficiary network, or used in any other manner by Proximus.

17. In respect of the necessary interventions of Proximus related to connectivity between Proximus and the Beneficiary, the latter will communicate in good faith to Proximus, in relevant cases and in a sufficiently timely and complete manner, all information needed by Proximus for performing repair on the Beneficiary VLANs. Beneficiary may refuse to communicate confidential data for which Beneficiary motivates it is not relevant for the requested purpose. In that case Proximus may ask to BIPT the communication of this data if Proximus is able to prove its need to obtain this information.

18. In respect of the offering of a service based on a Bitstream xDSL service to End-Users pursuant to the provisions of the Contract, Beneficiary is responsible:

- to communicate orders for Bitstream xDSL connection of End-Users to Proximus;
- to select the allowed type of technician via the Multi Service Ordering (MSO) SOA interface or GUI, as described in the Annex "Planning & Operations" of the present Offer, to communicate whether the installation of the Bitstream xDSL line will be performed by a Proximus Technician, a Partner Technician or a Certified Technician (when applicable);
- in case of an installation performed by a Certified Technician, to dispatch to the Certified Technician chosen by the Beneficiary all the operational information needed to perform the installation of the Bitstream xDSL line;
- in case the Certified Technician type is chosen in MSO by the Beneficiary, to take the responsibility for the installation of the Service;

- to ensure accurate communication of End-Users information to Proximus in accordance with the relevant provisions of the Contract;
- to ensure the marketing, selling, distribution of its own Bitstream xDSL products based on the present General Terms and Conditions, as well as the billing and collection of the fees to be charged to End-User, without this affecting the Beneficiary's liability towards Proximus;
- to communicate to Proximus network related problems;
- to ensure by the Beneficiary, or to have the latter impose on its End-User, to use the Modem conformed to the provisions of the Offer and pursuant to the R&TTE Directive or any Directive replacing the latter;
- to be the single and only point of contact of End-User with regard to the xDSL service offered by the Beneficiary to the End-User and abstain from redirecting this End-User towards Proximus in any circumstance for any problem related to the xDSL service offered by the Beneficiary to the End-User on the concerned line;
- to not modify Proximus infrastructure and equipment at End-User premises (as specified in the Main Body), except in case of installation by Certified Technician and to the extent necessary to perform the installation tasks as explicitly foreseen in the tasks list communicated by Proximus to the Beneficiary;
- to pay to Proximus the prices pursuant to the Contract;
- to handle responsibility related to network/equipment issues that are not related to Proximus;
- to limit the number of circuits per Payment Agreement to 2500 and create another Payment Agreement when one would exceed this limitation.

## 5.2 Obligations of Proximus

19. In case of installation performed by a Certified Technician, Proximus will provide to the Beneficiary all operational information needed to perform the installation of the xDSL line.
20. Proximus will provide and maintain Bitstream xDSL services on behalf of the Beneficiary from the End-User premises up to the demarcation point between the Proximus network and the Beneficiary network. In this respect, Proximus and Proximus only will be entitled to carry out physical modifications to the Proximus network.
21. Proximus will not provide Bitstream xDSL on behalf of the Beneficiary on a specific End-User line if Proximus has determined on the basis of a technical objective assessment that:
  - (a) The Bitstream xDSL service is not technically feasible over existing facilities;
  - (b) The Bitstream xDSL service will cause interference problems, according to the rules submitted to the BIPT or to the rules stated by the legal and regulatory framework, within the Proximus network or other facilities. In this respect, the Bitstream xDSL service is incompatible with some line transmission systems in the same cable bundle.

(Applicable rules are described in BRUO Spectrum Management)

- (c) Cable is spectrally saturated according to the rules submitted to the BIPT or to the rules stated by the legal and regulatory framework.

(Applicable rules are described in BRUO Spectrum Management)

22. In such cases, Proximus will comply with the rules described in the Planning & Operations Manual:

- An order of the Beneficiary for which the delivery is technically impossible will be discarded with a specific discard reason code;
- An order of the Beneficiary for which the delivery is temporarily impossible will be put in an “on hold” status and the Beneficiary will be informed by a “temporarily impossible” Message for Information. Two options are then possible:
  - The order becomes technically possible: a Message for Action to perform a new appointment booking will be triggered towards the Beneficiary;
  - The order finally becomes technically impossible: a Discard message is triggered towards the Beneficiary.

On demand of the Beneficiary, Proximus will communicate the cost of the study needed to determine when and at what costs it can be remedied to such cases of technical impossibility; alternatives will be tested and proposed to the Beneficiary. The study will be done only after agreement of the Beneficiary. In case the Beneficiary agreed on the study, but does not take the proposed solution by Proximus, the study cost will be charged.

The Beneficiary has the possibility to ask a detailed justification as well as verification with or without site visit, if necessary, in case where many discards occur at a specific moment, in a specific place.

23. Proximus shall respect all service levels, timers and other guarantees mentioned in the (I)SLA documents or otherwise shall conform to the applicable penalties.

24. Proximus further reserves the right to discard requests for implementation of Bitstream xDSL on behalf of the Beneficiary on a specific End-User line based on wrong data which would not allow Proximus to identify the End-User line unmistakably and to provide him/her the line.

## 6. Certified Technician

25. Proximus allows the Beneficiary to perform the installation of the without voice xDSL lines itself, via Certified Technicians, i.e. its own employees or employees of its subcontractor who are trained and certified by Proximus. When the Beneficiary chooses to work with Certified Technician, the installation works will not be performed under instruction of Proximus, but on behalf of Beneficiary itself, and at its own expenses.

26. Employees of Beneficiary and employees of Beneficiary's subcontractor may qualify as Certified Technician, if they fulfill the conditions described in the Specific Terms and Conditions relating to Certified Technician, available on the Personal Page of Proximus Wholesale. In order to be certified, they will successfully follow training by Proximus and sign the necessary confidentiality agreements. The program of the training to follow by each Certified Technician candidate is determined by Proximus individually, based on the Proximus trainings already received by each candidate and on the professional experience of the latter. For each candidate to the certification it will result in a personal training program, based on a series of theoretical and practical training modules, followed by an individual test. The duration of each training module is a multiple of half days. The duration of the test is less than a half day. After their

certification, each Certified Technician will have to follow mandatory updating sessions organized periodically by Proximus to refresh their technical skills on the services covered by the Certified Technician functionality and communicate them the evolution of the processes and documentation systems. The duration of each updating session is a multiple of half days.

27. Employees of Beneficiary's subcontractor will only be certified, if Beneficiary's subcontractor accepts the right of Proximus to bring a direct claim against him for any damage caused by his employees to Proximus, its employees, or third parties when installing the xDSL lines. The Beneficiary's subcontractor must also provide to Proximus a "liability insurance" certificate of EUR 2.500.000 per claim and per year to cover his liability for any damages caused by his employees, acting as Certified Technician (see also art. 64).
28. Except for this right of direct claim of Proximus against Beneficiary's subcontractor and a confidentiality agreement, no contractual relationship exists between Proximus and Beneficiary's subcontractor.
29. The Beneficiary shall allow Proximus access to its Certified Technicians (both its own employees as well as its subcontractor's employees) for technical discussions. Such direct contact shall, in no cases, be considered as creating a direct contractual link between Proximus and these Certified Technicians, nor shall it create any responsibility of Proximus for the acts of the Certified Technicians.
30. When the Beneficiary chooses to work with Certified Technician, he agrees to be responsible for all tasks related to the physical installation of the line (which are foreseen in the list of tasks provided by Proximus to the Beneficiary for each particular line), and releases Proximus of any responsibility in this respect. Also, Proximus cannot be held responsible for incidents during delivery of the Bitstream xDSL Service after installation of the line, nor for any non compliance of the line with the Technical Specifications, to the extent that these incidents/non compliance are caused by a wrongful installation by Certified Technician.
31. The Beneficiary guarantees that the Certified Technician will respect the rights and obligations applicable on the Beneficiary under the Bitstream xDSL Reference Offer (e.g. confidentiality obligation, liability).
32. The Beneficiary may only appeal upon Certified Technician for installation of the Bitstream xDSL lines, not for repair or maintenance. The exact scope of activities which may be performed by Certified Technicians is described in the Specific Terms and Conditions relating to Certified Technician, available on the Personal Page of Proximus Wholesale.
33. The Certified Technician may lose his certification in any of the following events:
  - he no longer fulfils the conditions for certification as described in the Specific Terms and Conditions relating to Certified Technician, available on the Personal Page of Proximus Wholesale;
  - he repeatedly or seriously breaches the obligations applicable upon the Beneficiary under the Bitstream xDSL Reference Offer;
  - his work does not meet the quality standards, and repeatedly needs correction by a Proximus technician.
34. In case the installation of the xDSL line is not correctly performed by Beneficiary's Certified Technician, Proximus will perform the necessary repair actions, at the expense of Beneficiary, without prejudice to Proximus' right to claim compensation for any other damages.

## 7. Financial Conditions

### 7.1 Billing and Payments

35. In consideration for Bitstream xDSL Services provided by Proximus under the Contract, Beneficiary shall pay the charges and fees provided in the Bitstream xDSL Offer.

### 7.2 Financial Guarantees

#### 7.2.1 General Principle - Pre-payment

36. Notwithstanding anything to the contrary in the Contract, in order to guarantee the payment by the Beneficiary of the prices due for Services provided by Proximus that are invoiced on a monthly basis under the Contract, the Beneficiary will provide Proximus with a monthly pre-payment based on the average of the monthly amount due by the Beneficiary. The amount of the pre-payment shall be based on the average of the invoices issued by Proximus during three (3) months for the Services ordered in accordance with the Contract. The amount of the pre-payment shall be reviewed every three (3) months. The terms and conditions of this pre-payment are described in Annex "Prepayment Terms and Conditions".
37. In addition, the Beneficiary will provide an additional guarantee equal to two months of pre-payment. Proximus reserves the right to require from the Beneficiary the immediate adaptation of this additional guarantee at any time if and when the amount of the monthly pre-payment increases.
38. Without prejudice to any other legal or contractual remedies and notwithstanding anything to the contrary in the Contract, in the event Beneficiary fails to pay in due time any undisputed amount due under the pre-payment conditions as defined in the present section and in Annex "Prepayment Terms and Conditions", Proximus shall be entitled to execute the following alternatives until full payment is made:
- suspension of any SLA obligations that are not foreseen in the Basic SLA;
  - refusal in writing of any new Order, including Migration Services, and excepted for Cancellation and Cease;
  - suspension of the existing Services in accordance with article 86 hereafter.

#### 7.2.2 Sufficient Creditworthiness

39. This monthly pre-payment will not be required in the following circumstances.

40. The Beneficiary has sufficient creditworthiness as evidenced by either of the following alternatives:

- the Beneficiary has obtained a “Ba2” rating or above for its debt (Moody’s); or
- the Beneficiary has obtained a rating similar to Moody’s “Ba2” rating, provided that (i) such rating is generally accepted by the market as giving similar reliability as Moody’s, (ii) such rating is reviewed and updated on a regular basis.

## 7.2.3 Other Financial Guarantees

41. In the event that the Beneficiary would lose the above described creditworthiness at some point in time (either through the loss of “Ba2” credit rating or similar, or upon the occurrence of any default or delay of payment), Beneficiary will have to provide Proximus with a pre-payment or with another financial guarantee as defined in the present chapter within ten (10) working days of Proximus’ request thereto.

42. The Beneficiary obtains an irrevocable and unconditional parent corporation guarantee for the debts incurred by the Beneficiary for the Services ordered in accordance with the Contract provided that such parent company is issued by a company that has sufficient creditworthiness as defined above. In the event that the Parent Company would lose the above described creditworthiness at some point in time, the Beneficiary will provide Proximus with a pre-payment or with another financial guarantee as described in the present section within ten (10) working days of the request of Proximus.

43. The Beneficiary has constituted a Deposit on an escrow account with a reputable bank or financial institution established in the EU. The amount of that deposit will be equal to an estimate of three (3) months of invoices due by the Beneficiary for the Services ordered in accordance with the Contract. Based on the actual evolution of the amounts due for the Services, the Beneficiary and Proximus will have the right to require an adaptation of the amount of the deposit every three (3) months. Upon the request for adaptation of the amount of deposit, necessary steps will be taken to ensure adaptation within ten (10) working days. In case of default by the Beneficiary to pay sums due under the Contract, the sums deposited on the escrow account will accrue to Proximus. The interests accrued on the escrow account will be payable to the Beneficiary. In the event the sums deposited are accrued to Proximus, or if the amount of the deposit is not adapted despite Proximus’ request thereto, Beneficiary will provide Proximus with a pre-payment or with another financial guarantee as defined in the present section within ten (10) working days of the request of Proximus.

44. The Beneficiary has provided Proximus 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 (3) years and for an amount equal to an estimate of three (3) months of amounts due by the Beneficiary for the Services ordered in accordance with the Contract. Based on the evolution of the amounts due for the Services, Beneficiary and Proximus will have the right to require an adaptation of the amount of the bank guarantee every three (3) months. Upon the request for adaptation of the amount of bank guarantee, necessary steps will be taken to ensure adaptation within ten (10) working days. Upon expiration of the bank guarantee or after Proximus has called upon the bank guarantee, or if the amount of the bank guarantee is not adapted despite Proximus’ request thereto, the Beneficiary shall provide Proximus with a pre-payment or with another financial guarantee as defined in the present section within ten (10) working days of the request of Proximus.

## 8. Principles

### 8.1 Retail Pricing & Billing

45. Beneficiary shall be responsible for the setting of the tariffs that Beneficiary will apply to the End-Users to whom Beneficiary will sell telecom services using the Bitstream xDSL Services and for the billing and invoicing of such End-Users.
46. Except as otherwise provided in the Contract or its Annexes, no deductions or reductions shall be made from the payment of any charges or fees due for the Services for any bad or unpaid debts or any unrecoverable claims (including, in particular, claims arising from fraud cases) that Beneficiary may have against End-Users or any other third parties in relation with these Services.

### 8.2 Branding

47. 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. Such use of the brand will then be strictly limited to the service at stake.
48. Beneficiary shall offer telecom services to End-Users under its own brand, in its own name and for its own account without any use of, or reference to Proximus brands or accountability.
49. Notwithstanding the foregoing, Parties acknowledge that, as provided in the Bitstream xDSL Offer, the installation of equipment on the site of the relevant End-Users, may, when relevant under the terms and conditions of the Bitstream xDSL Offer, be realized by Proximus personnel or its Sub-Contractors. Both Parties agree that Proximus shall have no obligation to unbrand or rebrand its service technicians or trucks. Proximus will act in accordance with its general standard of integrity that it has internally developed and enforced.

In any case, Proximus will not make any publicity or remarks to the detriment of the Beneficiary or its image. Proximus must in all circumstances stay neutral, in accordance with the technical nature of its intervention. Where Proximus makes use of standard documents vis-à-vis Beneficiary's End-Users, it will submit these for prior approval by BIPT.
50. When Beneficiary chooses to have the installation of the without voice xDSL lines performed by a Certified Technician, Beneficiary will see to it that the Certified Technician acts with integrity and makes no publicity or remarks to the detriment of Proximus or its image.

### 8.3 End-User Terms and Conditions

51. Beneficiary shall cause the terms and conditions governing Beneficiary's contractual relationships with the End-Users to be compliant with the rules and principles set out in the Contract and its Annexes. Notwithstanding the above, nothing in the present Reference Offer can be construed as creating or



evidencing a contractual relationship of any kind between Proximus and Beneficiary's End-Users or as providing to Proximus any right to consult the contracts signed between Beneficiary and its End-Users.

52. Beneficiary shall indemnify Proximus against all losses, claims or liability suffered by Proximus due to the fact that Beneficiary will have failed to incorporate the above mentioned rules and principles in its terms and conditions.

## 9. Coordination between the Parties

### 9.1 Single Points of Contact

53. As soon as possible after signing this Contract, each of the Parties will both appoint an individual as its respective single point of contact ("SPOC") who will act, within the organization of such Party, as the other Party's contact person.
54. 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 the Bitstream xDSL Contract. All the decisions taken by any working group constituted by the Parties during the performance of this Bitstream xDSL Contract will need to be expressly and formally validated by the SPOC of either Party to be binding on such Party. 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, or to act outside the day-to-day management of the performance of the Services.
55. Notwithstanding anything to the contrary in the foregoing, each Party will be authorized to replace its SPOC by notice sent to the other Party. Such notice will have immediate effect.

### 9.2 Working Group

56. The Parties will be free to set up any other working group in charge of discussing and agreeing on any technical or operational issue as the Parties may deem fit in the performance of the Services.

## 10. Liability

### 10.1 General rules

57. Taking into account the nature of the respective activities of the Parties, the risks and potential profits associated with these activities and the consideration obtained by each Party from the Contract, Parties expressly agree that their respective liability shall be limited as follows.
58. If either Party is held liable to the other Party (including such other Party's employee(s) and contractor(s)) under the Contract, that liability shall be limited to the following:
- if such liability results from any personal injury or death incurred as a direct result of the non-performance of the relevant Party's obligations under the Contract, then such liability shall be only subject to the limitation provided in article 59;
  - 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 permitted by law;
  - if such liability results from any material damage (including any dysfunction of the Proximus Network), other than those referred to above, arising out of or in any way connected with the performance by the relevant Party of the Services or the breach of such Party's obligations under these Terms and Conditions, then the total amount which can be recovered from such Party for all acts or omissions shall, in no event, exceed an aggregate amount equal to EUR 1,250,000 (one million two hundred fifty thousand euro), subject to the limitation provided in article 59.
59. Neither Party shall be liable for indirect damages (pure and consequential), including without limitation loss of profit, loss of revenue, loss of data, loss of use, loss of savings, loss of goodwill, interruption of business or claim by third parties.
60. Beneficiary will be responsible for, and will indemnify Proximus against, any claim for damages issued by Beneficiary's End-Users in connection with the performance of this Contract, except if the Beneficiary is able to prove that the damage or claim results of a fault of Proximus as regard its obligations described in this Contract.
61. In addition, Beneficiary will indemnify Proximus against any claim or loss related to the illegal use, or the use for illegal purpose of the Bitstream xDSL Services by Beneficiary, Beneficiary's End-Users or by any person using the Bitstream xDSL Services.

### 10.2 Certified Technician

62. In addition, and notwithstanding the above, the Beneficiary will be held liable to Proximus, its employees or third parties for damages caused by one of its Certified Technicians (Beneficiary's own employees, as well as Beneficiary's subcontractor employees), when performing the installation of the Bitstream xDSL lines. The Beneficiary shall indemnify and hold Proximus harmless from any and all

damage, costs or third party claims incurred as a result of any act or omission of Beneficiary's Certified Technician, including claims against Proximus based upon art. 544 Civil Code ("burenhinder/troubles de voisinage").

63. If a Beneficiary chooses to install some or all of his Bitstream xDSL lines by one or several Certified Technician(s), he will have to provide to Proximus, prior to his first request to have installation done by Certified Technician, a "liability insurance" certificate of EUR 5,000,000 per claim and per year to cover his liability for any damages caused by his employees or his subcontractors to Proximus, its employees or third parties when provisioning the lines.

The insurance policy has to be contracted with a first class insurance company in an E.U. country and must be maintained during the total duration of the agreement between Parties. The policy must contain the following provision: the suspension, cancellation or the end of the insurance policy will be opposable to Proximus, 15 calendar days after the reception of a registered letter from the insurance company informing Proximus of the end of the policy. At the expiry of the insurance certificate, the Beneficiary will be diligent in providing Proximus an updated certificate, confirming the prolongation of the insurance policy.

64. The Beneficiary will also procure that its subcontractors, who wish to qualify certain of its employees as Certified Technician, accept the right of Proximus to bring a direct claim against Beneficiary's subcontractor as to hold Proximus harmless from any and all damage, costs or third party claims incurred as a result of any act or omission of the Certified Technicians employed by Beneficiary's subcontractor, including claims against Proximus based upon art. 544 Civil Code ("burenhinder/troubles de voisinage"). In the event that damage is caused by Beneficiary's subcontractor, Proximus can choose to bring a claim towards the Beneficiary, or to Beneficiary's subcontractor, or to both. For the sake of clarity, in case of parallel claims against the Beneficiary and Beneficiary's subcontractor, Proximus can only once recover indemnification of its total damage.

The Beneficiary's subcontractor will provide to Proximus a "liability insurance" certificate of EUR 2.500.000 per claim and per year to cover its liability for any damages caused by its employees, acting as Certified Technician, to Proximus, its employees or third parties when provisioning the lines. The insurance policy has to be contracted with a first class insurance company in an E.U. country and must be maintained for the total duration of certification of any of Beneficiary's subcontractor employees. The policy must contain the following provision : the suspension, cancellation or the end of the insurance policy will be opposable to Proximus, 15 calendar days after the reception of a registered letter from the insurance company informing Proximus of the end of the policy. At the expiry of the insurance certificate, the Beneficiary's subcontractor will be diligent in providing Proximus an updated certificate, confirming the prolongation of the insurance policy.

## 10.3 Force Majeure

65. Neither Party will be liable for any delay or failure to fulfil its obligations under the Contract arising from any event beyond its reasonable control. In particular, Proximus shall not be held liable for any delays or shortcomings in the provision of its Bitstream Services whenever these are the result of events or circumstances that are beyond its control, unpredictable or unavoidable, such as acts of war, riots, disturbances, civil unrest, actions of civil or military authorities, embargoes, explosions, bankruptcy of a licensor or a supplier, strikes or labor conflicts (including those involving its employees), cable cuts, power blackouts (including those blackouts arising from the application of a

power cut plan drawn up by the authorities), flooding, prolonged frost, fires or storms (all such events being hereafter referred to as “Force Majeure”).

66. The Party invoking 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 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. Should the events or circumstances of Force Majeure be definitive or continue for more than three (3) months, either Party may lawfully and in writing terminate the Contract without any compensation being due.
67. The Party invoking Force Majeure shall use all reasonable endeavours to minimize the consequences of such Force Majeure as well as the duration thereof, and to ensure, in as far as reasonably possible, the continuity of the services provided under the Contract and shall perform those of its obligations not affected by a Force Majeure. To the extent that a Party is prevented as a result of Force Majeure from providing one or several of the services or facilities to be provided under the Contract, the other Party shall be released to the equivalent extent from its obligations to make payment for such services or facilities or complying with its obligations in relation thereto. In particular, Proximus shall have the right to suspend or limit the delivery of the Bitstream Services in order to protect the operating environment, without the Beneficiary being entitled to claim any damages whatsoever. For the avoidance of doubt, Proximus shall only be entitled to exercise this right in compliance with its non-discrimination obligation.
68. 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.

## 10.4 Accidents at work and Safety Rules

69. Each Party hereby undertakes to provide insurance cover against accidents at work for its own employees in conformity with the applicable legal requirements. Beneficiary also procures that its subcontractors provide insurance cover against accidents at work for their employees in conformity with the 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. Beneficiary undertakes to procure that its subcontractors and subcontractor's insurer renounce any possible claim against Proximus relating to accidents at work.
70. 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 (see, for Proximus, safety rules and procedures in Specific Terms and Conditions relating to Certified Technician, available on the Personal Page of Proximus Wholesale). Each Party undertakes to ensure that its personnel or its subcontractor 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 General rules or the chapter relating to Liability Certified Technician, depending on the situation, 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 or a Party's subcontractor personnel while upon the premises and installations of the other Party.

## 11. Operational Matters

### 11.1 Operational Matters and Network Management

71. The Bitstream xDSL Services provided under the Contract shall be implemented and provided by the Parties in accordance with the technical specifications set forth in the Annex 2 "Technical Specifications" and the operational rules and procedures contained in the Annex 3 "Planning & Operations".
72. Both Parties shall cooperate to install and maintain reliable services. Both Parties shall exchange appropriate information as provided in the Annex 3 "Planning & Operations" (including in particular, but not limited to, 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 agree) to achieve this desired reliability.
73. Each Party shall apply sound network management principles by invoking network management controls to ease the operation of their respective systems and to alleviate or to prevent congestion. Each Party shall ensure that the network management controls are applied in such a way as to ensure that there is no discrimination in favor of that Party's own traffic.

### 11.2 Essential Requirements

74. The Parties shall ensure that the Essential Requirements, as defined and applicable under the regulatory framework, are adequately and sufficiently protected, in as far as the establishment, maintenance and operation of the services offered under the Contract are concerned.
75. It is acknowledged that the Contract and its Annexes and/or Appendixes (in particular the Annex "Planning & Operations" of the relevant service) contain a number of specific principles and rules that have been developed to ensure the protection of the Essential Requirements. Furthermore, the Parties shall consult with each other in order to ensure that the Essential Requirements are protected in an adequate and sufficient manner.
76. It is a condition for the provision by Proximus of a Bitstream xDSL Service under this Document that Beneficiary's request is not detrimental to the operation of the telecommunications networks and telecommunications 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.
77. The conditions for and restrictions on use applying at any time appear from the Annex "Technical Specifications" of the present Reference Offer. It is acknowledged that Proximus assumes no responsibility for the accuracy of the technical specifications written by the equipment suppliers. Passing on and copying of these technical specifications, use and communication of their contents are not permitted without written authorization from those suppliers. The suppliers' documents that contain proprietary information will not be disclosed except in accordance with applicable agreements.

78. Proximus shall further be entitled to cause interruptions, disturbances or modifications of Proximus' public network and services to the detriment of the supply of the services under the Contract 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. Proximus shall give in good faith Beneficiary the longest possible notice of interruptions, disturbances and modifications by any means it deems appropriate (e.g. via electronic communication) and state the reason for them.

## 12. Amendments and Revisions

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

## 13. Termination and Suspension

80. Beneficiary has the right to terminate one or more Bitstream xDSL Contracts as provided in the Bitstream xDSL Offer annexed to the Contract. Proximus has the right to terminate one or more Bitstream xDSL Contracts in order to preserve Proximus network integrity and security.
81. Without prejudice to the above, the Beneficiary must request the termination of the Bitstream xDSL Contract when the telecom services are ceased for any reason whatsoever on a specific loop. Said termination request shall automatically give rise to the deactivation of the Bitstream xDSL Service on the line without delay.
82. A Bitstream xDSL Contract shall automatically be terminated without prior notice to Beneficiary upon the activation by Proximus of another Service on the same line based on the valid migration / change operator request of either Proximus retail or another Beneficiary. Proximus will further inform Beneficiary of the request without revealing the identity of the requestor.
83. In the event Beneficiary uses or allows the use of Services provided under the Contract in an illegal manner or for illegal purposes (such as for instance but without limitation: spamming, violation of intellectual property rights of third parties), 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 telecommunication network of Proximus, and Beneficiary fails to take appropriate measures in order to remedy to the situation within a period of fifteen (15) days from the receipt of a Notice of Suspension sent by Proximus, Proximus will have the right to suspend the provision of some Bitstream xDSL Contracts or of the whole Bitstream xDSL Service. Notwithstanding the foregoing, Proximus will have the right to take proactive actions in order to protect the other xDSL lines prior to sending the above mentioned Notice in urgent cases (such as, for instance but without limitation, if the resynchronization rate exceeds 50 resynchronizations per day) where unstable lines disturb the transmission quality and link stability of other xDSL lines. Those actions could be a change in the line profile such as a reduction of the target bitrates, the lock of the xDSL port or the physical disconnection of the line. In that case, Proximus will inform the Parties involved about the actions taken at the latest 24 hours after the suspension.

84. If the Beneficiary uses or allows the use of Services provided under the Contract in a manner not corresponding to the Technical Specifications set forth in the Annex "Technical Specifications", and Beneficiary fails to take appropriate measures in order to remedy to the situation within a period of fifteen (15) days from the receipt of a Notice sent by Proximus, Proximus reserves the right to suspend all or some of the services.
85. Proximus will have the right to suspend Bitstream xDSL Services in the event that it is requested to do so by an order of a court or a competent authority. Proximus will inform Beneficiary as soon as possible of the cause of such suspension.
86. Without prejudice to article 38, in the event that Beneficiary fails to pay outstanding invoice (invoice, preinvoice or final invoice) for any amount due under the Bitstream xDSL Offer, Proximus shall be entitled, after having duly informed the BIPT,
- to suspend all Bitstream xDSL Services without further notice if the total amount due has not been paid within a period of fifteen (15) days following written Notice;
  - to terminate all Bitstream xDSL Services without further notice if the default is not cured within a period of 30 days following the same Notice.
87. Article 86 does not apply to amounts duly disputed by the Beneficiary in writing, before the Due Date, including a clear summary of the grounds for the Dispute and the position of the Beneficiary as to this dispute.
88. In the event that Beneficiary fails to provide, renew, adapt or reconstitute the financial guarantee as provided in the chapter on Financial Guarantee here above, Proximus shall be entitled, after having duly informed the BIPT,
- to suspend all Bitstream xDSL Services without further notice if the default is not cured within a period of 15 days following written Notice;
  - to terminate all Bitstream xDSL Services without further notice if the default is not cured within a period of 30 days following the same Notice.
89. In the event of suspension of this Contract, Beneficiary will be responsible to inform the relevant End-Users of the consequences of the suspension of this Contract in a neutral manner.
90. The provisions of this chapter on Suspension of the Services are without prejudice to any other right or claim for compensation to which the non-defaulting Party may be entitled to in the event of suspension of the services.
91. In the event that either Party is declared bankrupt or enters into liquidation, then the other Party may terminate all the Bitstream xDSL Services, without any further legal or other procedures, by sending Notice of termination with immediate effect to the other Party.
92. The provisions in this chapter on Termination of the Services are without prejudice to any other right or claim for compensation to which the non-defaulting Party may be entitled to in the event of termination of the Services, or in the event of termination of one or several Bitstream xDSL services ordered under this Contract.
93. In the case of termination of the Services for any reason, or in the event of termination of one or several Bitstream xDSL services ordered under this Contract, Proximus 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.

94. The provisions of the Contract 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 the termination.
95. In the event of termination of this Contract, Beneficiary will be responsible to inform the relevant End-Users of the consequences of the termination of this Contract in a neutral manner.

## 14. Confidentiality

### 14.1 Confidential Information

96. 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 Services, 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 Party 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.
  - Shall in any event be considered as Confidential Information, any information or data obtained regarding End-Users of the other Party or regarding End-Users of other licensed operators, or any other information or data which the Beneficiary or his subcontractor obtain via access to the tools which Proximus puts at the disposal of the Certified Technician.
97. For purposes of these General Terms and Conditions, "Confidential Information" does not include:
- a. information that is properly and lawfully in the public domain otherwise than by breach of the Contract 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 this information was acquired unlawfully or by a breach of contract or fiduciary relationship.
98. 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 (3) years after its initial communication under the Contract.



## 14.2 Non-Disclosure

99. 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. 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.
100. Notwithstanding the foregoing and without prejudice to the provisions regarding the Disclosure to Personnel, Advisors, Suppliers or Resellers hereunder, 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.
101. The Disclosing Party shall remain free to disclose to any third party Confidential Information disclosed to the Receiving Party.

## 14.3 Disclosure to Personnel, Advisors, Suppliers or Resellers

102. A Receiving Party shall disclose the Confidential Information received from the other Party only to its directors, employees, suppliers, agents, advisors, contractors, sub-contractors, or resellers who have a need to know such information. Such Party shall ensure that such directors, employees, suppliers, agents, advisors, contractors, sub-contractors or resellers are bound by the obligations of confidentiality in respect of the Confidential Information, which is at least equivalent to the confidentiality obligation set forth in the Contract.
103. 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.
104. The Beneficiary guarantees that the Certified Technicians, whom he uses for the installation of the Bitstream xDSL lines, comply with the confidentiality obligations described herein, and he will see to it that his Certified Technicians do not divulge or use Confidential Information belonging to Proximus or to other licensed operators, when performing installation services on behalf of the Beneficiary. The Certified Technicians will also conclude a confidentiality agreement with Proximus directly before starting their training by Proximus in order to obtain certification.
105. Each Party shall be liable under the limitations provided in the chapter relating to Liability here-above, for any unauthorized disclosure or use of the Confidential Information by its directors, employees, suppliers, agents, advisors, contractors or subcontractors. 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 therefrom.

## 14.4 Disclosure Required by Law

106. 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.
107. Without limitation to the generality of the foregoing, either Party will have the right to disclose Confidential Information to the BIPT, whenever required by law, or deemed reasonably necessary in the context of any proceedings or discussions held in front of or with the BIPT. If any such disclosure of Confidential Information is made, the Party communicating the information will ensure that the attention of the BIPT is properly drawn to the fact that the information is confidential and that the information needs to be kept confidential.

## 15. Dispute Resolution and Applicable Resolution

### 15.1 Dispute resolution procedure

108. 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 present General Terms and Conditions and/or the Contract and its Annexes (a "Dispute") through discussions held in good faith.
109. 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 will be to meet for the purpose of endeavouring to resolve the Dispute. Each Party shall ensure that their respective designated executive has 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 Party 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.
110. 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 109. The Parties may, at any given escalation level, agree to extend the time limits described in this article and in article 109 when they consider it necessary in order to facilitate that an agreement be concluded on the subject-matter of the dispute.
111. Except in the cases of urgency, as determined in good faith by the Party calling the Dispute, and unless otherwise in these general Terms and Conditions, 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 110.

## 15.2 Applicable Law and Jurisdiction

- 112. The Bitstream xDSL Offer and the Contract and its Annexes shall be governed by the Belgian law.
- 113. Without prejudice to article 111, any dispute concerning the validity or the interpretation of the Bitstream xDSL Offer and the Contract, or the performance of the Bitstream xDSL Services, or of subsequent contracts derived herefrom shall be finally submitted to the Courts of Brussels, Belgium. This provision is without prejudice to the right of each of the Parties to submit the dispute to the BIPT with a view to reach conciliation or to submit the dispute to the Competition Council.

## 16. Miscellaneous

### 16.1 General Principles

- 114. All the terms and conditions of this Contract, including its Annexes and/or Appendixes, are agreed upon by the Parties without prejudice to the rights and obligations that either Party may derive from the applicable provisions of the regulatory framework. The fact that either Party has agreed to any provision in this Contract will not be construed as a renunciation by such Party to invoke (i) any right that such Party may derive from any imperative provision of the applicable regulatory framework or (ii) any obligation that may be imposed to the other Party pursuant to any imperative provision of the applicable regulatory framework.
- 115. In the framework of the applicable Proximus Bitstream xDSL Offer, should a conflict arise between the Main Body, and any or several Annexes, Attachment or Appendix to an Annex, the Main Body shall prevail, except for (a) Annex 1 - General Terms and Conditions, which will prevail over the Main Body unless otherwise specifically stated, (b) when otherwise agreed by the Parties, in writing or (c) when otherwise specifically stated in the Main Body or Annex, Attachment or Appendix. Should a conflict arise between Annex 1 - General Terms and Conditions and another Annex, Attachment or an Appendix to said other Annex, the Annex 1 - General Terms and Conditions shall prevail unless otherwise specifically stated. Should a conflict arise between an Annex and an Attachment or an Appendix to this Annex, the Annex shall prevail unless otherwise agreed by the Parties, in writing or otherwise specifically stated.

## 16.2 Notices – Address for Invoicing

116. Unless stated otherwise in this Contract, any Notice under this Contract will be sent to the respective SPOC of the Parties, in writing and by registered mail or by fax confirmed by registered mail to the following respective addresses:

To Beneficiary:

\*\*\*Beneficiary Full name

[Address]

Fax: [Fax]

Attention: \*\*\*

To Proximus:

Proximus PLC under Belgian Public Law

27 Bd Albert II

B-1030 Brussels

Fax: [Fax]

Attention: \*\*\*

Notwithstanding the foregoing, Parties shall send to each other invoices and credit notes by ordinary mail to the following addresses:

To Beneficiary:

\*\*\*Beneficiary Full name

[Billing Address]

Attention: \*\*\*

To Proximus:

Proximus PLC under Belgian Public Law

[Billing Address]

Attention: \*\*\*

## 16.3 No Assignment

117. Neither of the Parties is entitled to assign the Contract, in part or in its entirety, to any third party or to any other entity unless with the prior written approval of the other Party.
118. No approval will be required for an assignment of the Contract in case of transfer to a successor, to which a transfer has taken place of, at least, the Assigning Party's activities covered by the Contract.

In such a case, the assigning Party shall immediately give Notice to the other Party of any such assignment permitted to be made under the Contract without requesting the other Party's consent.

119. Without prejudice to the foregoing, no assignment shall be valid unless the assignee agrees in writing to be bound by the provisions of the Contract and its Annexes.

## 16.4 Waiver

120. A failure by either Proximus or Beneficiary to insist on the performance of any term of the Contract or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege. No waiver shall be valid unless it is in writing and signed on behalf of the Party making the waiver.

## 16.5 Fraud

121. 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. 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 network of one of the Parties, in order to obtain one or more telecommunication services without paying the proper charge for it, or to support other criminal activities (including, in particular, wiretapping, eavesdropping and gathering secret numbers).
122. 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.

## 16.6 Independent Parties – Approvals

123. 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. Each Party shall reasonably cooperate with the other Party in obtaining and maintaining any required approvals and rights for which the other Party is responsible.
124. 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, representatives or subcontractors 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, representatives or subcontractors shall engage in any acts which may lead any person to believe that such Party is an employee, agent, representative or subcontractor of the other Party. Nothing in the Contract shall be deemed to constitute a partnership between the Parties.

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