



Eurofiber NV/SA

General Terms and Conditions

Version: January 1st 2023

EUROFIBER NV/SA - GENERAL TERMS & CONDITIONS

VERSION 1 JANUARY 2023

These General Terms & Conditions (the “GTC”) are applicable to the Services provided by Eurofiber to Customer and every Order for Services submitted to Eurofiber.

1. Definitions

In these GTC the following terms shall have the following meaning:

- **Agreement:** the agreement between Parties including the Order, these GTC, the applicable Service Description and Service Level Agreement.
- **Annex:** means any annex to the Order.
- **Average Delivery Time:** the period of time estimated on the basis of historical data necessary to deliver the Service(s) as specified in the Order.
- **Charges:** the non-recurring (one-off) and/or (monthly) recurring charges invoiced by Eurofiber for the Service(s), as set forth in the Order or the relevant Annex.
- **Committed Delivery Date:** the date on which Eurofiber shall deliver the Service(s), whether or not determined by Eurofiber as a result of the Site Survey, which date has been communicated by Eurofiber to the Customer in writing.
- **Controller:** the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of Personal Data.
- **Customer:** a party that entered into an Agreement with Eurofiber for the delivery and use of one or more Services.
- **Customer Equipment:** all equipment and/or other applications (including software) or measures used by the Customer or its customer(s) to benefit from the Service(s) provided by Eurofiber.
- **Data Subject:** means an identified or identifiable natural person.
- **Demarcation Point:** the interface between the Eurofiber Network and the Customer’s network that marks the dividing line between the Parties’ respective areas of responsibility.
- **Engineering and Installation Charges:** the one-time fees charged by Eurofiber to the Customer in order to connect and/or activate the Service(s).
- **Eurofiber:** Eurofiber NV/SA, a company with registered office address at Belgicastraat 5, B-1930 Zaventem, registered under company number VAT BE 0435 204 851, and affiliated companies as set forth in the Order.
- **Eurofiber Equipment:** equipment (including any software) owned or licensed by Eurofiber and placed on the Customer’s location by Eurofiber for the provision of the Service(s).

- **Eurofiber Network:** the nationwide telecommunications network (including active and passive equipment) which is maintained, managed and operated by Eurofiber.
- **Event of Default:** a breach of any material provision under the Agreement, including the failure to make (timely) payment.
- **Force Majeure Event:** any occurrence beyond a Party's reasonable control affecting the performance of its obligations under the Agreement, including a refusal or failure by competent authorities to grant the necessary authorisations and/or permits in good time, a failure to obtain access to buildings (in a timely manner), a failure to organize the dependencies by or on behalf of the Customer (in due time), labour disputes, time lost through frost, epidemic, war, riot, civil disturbance, sabotage or adverse weather conditions.
- **GDPR:** the General Data Protection Regulation.
- **Implementation Charges:** the Charges for on-premises infrastructure, including on-premises cabling, patches and/or interconnection.
- **Location(s):** the site(s) where the Service must be delivered or provided at the Customer's request. A Location may be subject to rights vested in the Customer as well as any third party (such as property owners, for example) that must be respected by Eurofiber and the Customer.
- **Monthly Recurring Charges (MRC):** Charges invoiced to Customer on a monthly basis.
- **On-net Location:** a location is considered On-net if no authorisation by third parties and/or permit is required in order to connect this location to the Eurofiber Network.
- **Order:** a request by the Customer to order, change, upgrade or relocate one or more Service(s), using the Eurofiber Order form.
- **Parties:** Eurofiber and the Customer jointly. Eurofiber and the Customer are also individually referred to as a Party.
- **Personal Data:** any information relating to an identified or identifiable natural person, as described in article 4(1) of the GDPR, which Eurofiber processes in connection with the performance of its obligations arising from the Agreement.
- **Prepaid Charges:** the (one-off) charges payable in advance by the Customer for the Service, as set forth in the Order.
- **Privacy Notice:** the applicable Eurofiber privacy and cookie notice published on the Eurofiber website as may be amended from time to time.
- **Proprietary Information:** all information which relates to the business affairs, prices, product developments, network information, trade secrets, know-how and personnel (data) of either Party as well as any information which may reasonably be regarded as proprietary information of either Party, and all information (in whatever form) designated as confidential or proprietary by the Parties.

- **Ready for Service:** the moment at which a Service (at a specific location) meets the technical specifications set forth in the applicable Service Description and Service Level Agreement.
- **Ready for Service Date** or **RFS Date:** the date, notified as such by Eurofiber to the Customer, on which the Service is Ready for Service.
- **Service(s):** one or more communication or network related services delivered by Eurofiber to the Customer as described in the respective Service Description.
- **Service Description:** a description of the Service set forth in Annex to this Agreement or any Order;
- **Service Level Agreement** or **SLA:** the service level agreement applicable to one or more Service(s).
- **Service Term:** the term of a Service effective from the Ready for Service Date as specified in an Order, and in the event the Order consists of multiple Locations as from the Ready for Service Date of the last delivered Location.
- **Site Survey:** the process whereby the Location(s) and the route of the Eurofiber Network are assessed by or on behalf of Eurofiber and whereby agreements are made or can be made with the Customer and any third party in whom rights in respect of a Location are vested.
- **Working Day:** a calendar day, with the exception of Saturdays, Sundays and statutory public holidays in Belgium.

2. Ordering

- 2.1 These GTC provide the terms and conditions under which the Customer shall purchase from Eurofiber, and Eurofiber shall provide the Services to the Customer, through the execution of Orders.
- 2.2 An Order shall be effective and binding between the Customer and Eurofiber if the Eurofiber Order form is signed by an authorised representative of both Parties.
- 2.3 Neither Party shall derive any exclusive rights from this Agreement and/ or an Order.
- 2.4 Prior to entering into an Order, Eurofiber may require from the Customer to provide a financial security in a manner to be determined by Eurofiber prior to the conclusion of an Order. Each Order shall be subject to the condition subsequent that the Customer continues to meet Eurofiber's requirements in respect of creditworthiness.
- 2.5 In case of a discrepancy between the provisions of the Agreement, the applicable Service Description and Service Level Agreement and the Order, the following order of priority shall apply:
- a. the Order(s);
 - b. the Service Description,
 - c. the Service Level Agreement
 - d. the provisions of the GTC.
- 2.6 By ordering one or more Services with Eurofiber, the Customer unconditionally acknowledges and agrees to waive in full the applicability of its own general terms and conditions of procurement.

3. Services

- 3.1 The provision of Services under the Agreement entails the right to use the Services as described in the Order, the applicable Service Description and the Service Level Agreement during the Service Term.
- 3.2 The Customer acknowledges and explicitly accepts that the right to use the Service does not grant it more or other rights than as referred to in article 3 and does not grant it any right to use any element of the Eurofiber Network or any Service other than explicitly agreed in the Order.
- 3.3 Unless otherwise agreed upon, the Eurofiber Service Description and Service Level Agreement shall also apply to Services that (fully or partially) make use of input networks or services provided by upstream carriers.
- 3.4 A quotation for a new Service is valid for a period of 30 days, unless otherwise agreed upon between the Parties.
- 3.5 The Customer may not use the Service(s) for any action or operation in breach of the provisions of the Agreement or any applicable law or regulation.
- 3.6 The Customer may only use the Service and any associated bandwidth for its own use. The Customer may not (sub-)lease or (re-)sell the Service and any associated bandwidth or otherwise make the same available to any third party without the express prior written consent of Eurofiber. The Customer may not transfer its rights and/or obligations under the Agreement to a third party without the express written consent of Eurofiber.

4. Eurofiber obligations

- 4.1 Eurofiber shall provide the Services to the Customer in accordance with the provisions of any applicable Order and these GTC.
- 4.2 Eurofiber warrants that the Service(s) shall comply with (i) the applicable (Belgian) legal and regulatory requirements and (ii) all reasonable health & safety rules and regulations and physical security requirements that apply at a Location to the extent that they have been notified to Eurofiber in writing.
- 4.3 Eurofiber shall meet the applicable service levels specified in the Service Level Agreement. In the event that Eurofiber fails to meet the service levels in the SLA, the Customer shall be entitled to claim service credits at the latest within the term and in accordance with the service credit mechanism set forth in the SLA. In the event that the Customer's claim is found eligible and justified, Eurofiber shall pay the service credits set forth in the SLA. The payment of service credits to the Customer shall be Customer's sole remedy for Eurofiber's failure to meet the service levels or contractual breach, even if considered an Event of Default.
- 4.4 Provided that Eurofiber gives the Customer as much notice as reasonably practicable, Eurofiber may: (a) suspend a Service in an event of emergency and/or to safeguard the integrity and security of the Eurofiber Network and/or conduct repair or emergency works; (b) for operational reasons, change the technical specification of the Service, provided that any such change does not materially decrease or impair performance of the Service; or (c) provide an alternative, equivalent service, where it becomes necessary to do so.

4.5 Eurofiber shall implement security safeguards in accordance with industry standards to prevent any unauthorized access by third parties to any part of the Eurofiber Network, but Eurofiber shall not be liable for any loss or damage sustained by the Customer in the event of any unauthorised access to the Eurofiber Network in spite of Eurofiber's reasonable precautions.

5. Customer obligations

5.1 The Customer shall ensure that all preparatory work, information, items or consents required in order to supply the Service(s) are completed, made available or obtained at the Customer's own cost in due time to allow Eurofiber to complete its work and deliver the Service(s).

5.2 Eurofiber may change a Service (e.g. change a route) due to incomplete or inaccurate information provided by the Customer.

5.3 The Customer shall comply with Eurofiber's reasonable requests that are necessary for reasons of health and safety, environment, sustainability, security or quality or performance of any Services.

5.4 The Customer shall, upon reasonable notice from Eurofiber, allow Eurofiber (and/or its subcontractors) physical access to the Locations as may be reasonably necessary for the performance by Eurofiber of its obligations under this Agreement, including the installation or maintenance of Eurofiber Equipment and the recovery or removal of any Eurofiber Equipment.

5.5 If Eurofiber is required to install any Eurofiber Equipment at a Location, the Customer shall, prior to installation and at its own expense:

- (a) obtain all necessary consents, including consents for any necessary alterations to buildings and any consents required for the installation and use of any Eurofiber Equipment over the Customer's network or at the Customer's Location;
- (b) permit access to Eurofiber and its subcontractors to the relevant Location as may be required by Eurofiber or Eurofiber's subcontractor to install the Eurofiber Equipment;
- (c) provide a suitable and safe working environment, including all necessary trunking, conduits and cable trays, in accordance with the relevant installation standards;
- (d) provide any electricity and telecommunication connection points required by Eurofiber;
- (e) provide any openings in buildings required to connect such Eurofiber Equipment to appropriate telecommunications facilities;
- (f) provide internal cabling between the Eurofiber Equipment and any Customer Equipment, as appropriate;
- (g) take up or remove any fitted or fixed floor coverings, ceiling tiles and partition covers in time to allow Eurofiber to undertake any necessary installation or maintenance Services and carry out afterwards any work that may be required to make good any cosmetic damage caused during the installation or maintenance Services; and
- (h) ensure that any floor loading limits shall not be exceeded.

The above actions must be completed in advance of any installation work by Eurofiber; otherwise the provisions in article 5.2 shall apply.

5.6 If the Customer delays or fails to perform its obligations under this article 5, then at Eurofiber's option, Eurofiber may upon prior notice in writing except in case of emergency either:

- (a) change the Committed Delivery Date or cancel the relevant Order(s) and invoice the Customer for any applicable termination Charges; or
- (b) invoice the Customer for any reasonable Charges and expenses incurred for any work that is performed by Eurofiber on behalf of the Customer and that is directly attributable to the Customer's failure to perform or delay where such work is necessary to provide the Services.

5.7 The Customer is responsible for the provision, installation, configuration, monitoring and maintenance of any Customer Equipment connected to the Service. The Customer shall ensure that any Customer Equipment connected to or used with the Service is connected and used in accordance with any instructions and safety and security procedures applicable to the use of that Customer Equipment.

5.8 The Customer shall ensure that any Customer Equipment attached (directly or indirectly) to the Service by the Customer is technically compatible with the Service. Eurofiber does not make any commitment with respect to the interoperability between the Service and Customer Equipment.

6. Delivery and Acceptance

6.1 The Order provides for the Average Delivery Time for the Services, unless the Parties agree a Committed Delivery Date.

6.2 If the Demarcation Point of the Service(s) is not required or desired at the standard location in the premises (as described in the Service Description), a Site Survey shall be performed in connection with the delivery of network-related services in consultation with the Customer (to the extent reasonably possible within 10 Working Days after the Order). Upon completion of a Site Survey, Eurofiber shall convert the Average Delivery Time into a Committed Delivery Date and communicate the Committed Delivery Date to the Customer. Eurofiber may invoice the Customer an Implementation Charge where a Demarcation Point will not be delivered at the standard location provided that Eurofiber shall inform the Customer in advance.

6.3 The Customer may cancel the Order in writing, without being required to pay any compensation to Eurofiber, within five (5) Working Days after Eurofiber has notified the Customer in writing of the Committed Delivery Date in accordance with article 6.2:

- (a) if the Committed Delivery Date exceeds the Average Delivery Time by more than fourteen (14) calendar days; or
- (b) for On-net Locations if the Committed Delivery Date exceeds the Average Delivery Time by more than seven (7) calendar days.

6.4 Eurofiber reserves the right at all times to cancel an Order or to amend an Order in consultation with the Customer if Eurofiber cannot be expected according to standards of reasonableness and fairness (e.g. due to exceptionally high digging/excavating and/or construction costs) to be bound by its offer.

6.5 If for reasons other than a Force Majeure Event, or those attributable to the Customer (such as but not limited to denial of (timely) access to the Customer's premises and/or locations or the Customer's failure to ensure that Customer Equipment and/or other network components are ready in good time), the Ready for Service Date:

- (a) exceeds the Committed Delivery Date by less than sixty (60) calendar days, the Customer is only entitled to the liquidated damages in an amount equal to two (2) times the recurring Charges calculated on a daily pro rata basis, for each full Working Day that the Ready for Service Date exceeds the Committed Delivery Date, with a maximum of thirty (30) calendar

days. The payment of such liquidated damages by Eurofiber shall be the Customer's sole remedy in the event of late delivery of Services by Eurofiber.

- (b) exceeds the Committed Delivery Date by sixty (60) calendar days or more, both the Customer and Eurofiber shall be entitled to terminate the Order in writing.

- 6.6 Eurofiber shall inform the Customer of the Ready for Service Date. For a period of ten (10) Working Days commencing on the Ready for Service Date, the Customer is entitled to conduct on-site testing of the Service(s) allowing the Customer to establish that the Service(s) meet the specifications as described in the applicable Service Description and the Service Level Agreement.
- 6.7 If the Customer accepts a Service after the on-site tests referred to above have been carried out (cf. article 6.6), the Customer shall be deemed to have accepted the Services on the Ready for Service Date. In the event that the Customer (i) does not conduct on-site testing of the Service(s), or (ii) fails to prove to Eurofiber within ten (10) Working Days after the Ready for Service Date that the Service(s) does/do not meet the specifications as described in the applicable Service Description and the Service Level Agreement, the Customer shall be deemed to have accepted the Services on the Ready for Service Date.
- 6.8 If Customer proves to Eurofiber within the aforementioned period of ten (10) Working Days that the Service(s) does/do not meet the specifications set out in the applicable Service Description and informs Eurofiber in writing that it does not accept the Service(s), Eurofiber shall take all necessary measures that may reasonably be expected to ensure that the Service(s) meet(s) the specifications in the applicable Service Description and shall ensure that the Service(s) is/are tested again. Eurofiber shall provide the results of the new tests to the Customer. The date on which the results of the new tests are provided to the Customer shall constitute the new Ready for Service Date. If a new Ready for Service Date is determined, the procedure described in article 6.6 to article 6.9, inclusive, will be repeated.
- 6.9 If Eurofiber cannot deliver a Service for reasons attributable to the Customer or for the Customer's risk, such as but not limited to denial of (timely) access to the Locations or the Customer's failure to ensure that Customer Equipment and/or other network components are ready (in good time), Eurofiber shall inform the Customer thereof in writing. The Customer shall be deemed to have accepted the Service(s) one (1) month after the date of the aforementioned written notification to the Customer. The date of such written notification to the Customer shall constitute the Ready for Service Date.

7. Eurofiber Equipment

- 7.1 Risk of loss of the Eurofiber Equipment shall pass to the Customer upon delivery, whether or not the Eurofiber Equipment has been installed.
- 7.2 The Customer shall not move, add to, modify or in any way interfere with the Eurofiber Equipment, nor permit any other person (other than a person authorised by Eurofiber) to do so. The Customer shall be liable to Eurofiber for any loss of or damage to the Eurofiber Equipment, except where the loss or damage is due to fair wear and tear or is caused by Eurofiber or any Eurofiber affiliate. If the Customer moves or changes the location of any Eurofiber Equipment without Eurofiber's prior written consent, Eurofiber may recover any failed visits as a consequence or additional cost or expense incurred by Eurofiber as a result of any lost or wasted time locating the Eurofiber Equipment.

8. Charges, invoicing and payment

- 8.1 The Customer shall pay the Charges set forth in the applicable Order. All amounts set forth in the Order are, to the extent applicable, exclusive of VAT (or any other taxes whatever they are called) and indexation.
- 8.2 In determining the Engineering and Installation Charges, Eurofiber assumes that the digging/excavation and construction activities, to the extent applicable: (i) do not involve any contaminated or polluted ground or buildings, such as but not limited to asbestos; (ii) do not involve the need for a crane or any roping down activities; (iii) are (capable of being) carried out by a contractor appointed by Eurofiber and in accordance with the instructions provided by Eurofiber and (iv) can be carried out on Working Days between 06.00 hours and 18.00 hours. Any additional costs incurred by Eurofiber as a result of deviations from the assumptions mentioned above or of patches and/or interconnection at locations that are not managed by Eurofiber shall be charged separately by Eurofiber to the Customer on the basis of actual costs plus a reasonable mark-up.
- 8.3 Unless otherwise agreed upon, Eurofiber shall invoice as follows:
- (a) the non-recurring Charges such as Technical & Engineering Charges and Implementation Charges on or after the signature date of the Order; and
 - (b) the (monthly) recurring costs and Charges (including if applicable, internal cabling and power consumption costs) monthly in advance as from the Ready for Service Date of the Service for each single Location that will be delivered;
 - (c) If applicable, the costs of power consumption shall be invoiced monthly in advance to the Customer based on a pre-determined advance payment as set forth in the Order. Once a year Eurofiber shall determine in arrears the actual energy consumption during the preceding year and shall set this off against the advance payments made by the Customer for the year in question.
- 8.4 Eurofiber may review the Charges and costs each calendar year to adjust in line with [the Agoria Digital reference labour cost index published by Agoria](#) in accordance with the following formula:
- $P = P_0 (0,2 + 0,8 X_1/X_0)$, where:
- P = revised amount;
 - P_0 = original amount;
 - X_1 = Digital labour cost Index for the month of December preceding the revision as published by Agoria;
 - X_0 = Digital labour cost Index in December preceding the Effective Date of the Order as published by Agoria.
- A price adjustment based on the price adjustment formula shall not give the Customer any right to terminate an Order or the Agreement without payment of an early termination fee. Any decision by Eurofiber not to index its Charges or costs at a given indexation occasion shall not be considered as a waiver of this right. Eurofiber explicitly reserves the right to adjust the Charges or costs accordingly at a future occasion of indexation.
- 8.5 Customer shall pay all Eurofiber invoices in full within thirty (30) days of the date of the invoice without any right of set-off.
- 8.6 In the event of failure to pay the invoices by their due date, the following shall apply automatically and without prior notice of default:

- (a) all amounts due are immediately payable regardless of the agreed payment terms; and
- (b) such amounts shall accrue statutory interest in respect of late payment in commercial transactions (published by the [Federal Public Service \(FOD/SPF\) Finances](#)) from the date such payment is due until the date the outstanding amount is fully paid.

8.7 A dispute of an invoice will only be accepted if communicated in writing at the latest within thirty (30) days after the date of the invoice. In the event of a dispute with respect to a part of the invoice, the part of the invoice that is not disputed shall be paid in accordance with the provisions of article 8.5.

8.8 All costs related to the collection of unpaid invoices, including reasonable attorney's fees, shall be for the Customer's account with a minimum of 15% of the amount due, without prejudice to Eurofiber's right to claim any excess amount from the Customer in the event these costs are greater.

9. Substitution or Relocation

9.1 If Eurofiber is required by order or other lawful action of any government or public authority or for technical reasons to substitute or relocate any part of the Eurofiber Network, including any of the facilities used or required in providing the Service(s), Eurofiber is entitled to proceed with such substitution or relocation provided that any such substitution or relocation

- (a) shall be performed and tested by Eurofiber to determine compliance with the specifications set forth in the relevant Service Description following substitution or relocation, and
- (b) shall not result in an unreasonable and material adverse change in the Services rendered to the Customer.

9.2 The Customer shall be informed in advance by Eurofiber in the event of any substitution or relocation.

10. Suspension

10.1 Eurofiber shall be entitled to fully or partially suspend its obligations pursuant to the Agreement with immediate effect and without judicial intervention by notice in writing:

- (a) upon the occurrence of an Event of Default attributable to the Customer if a prior notice in writing remains without any effect after a remedy period of ten (10) Working Days;
- (b) if the Customer does not grant Eurofiber (timely) access to the Locations or if any equipment and/or other network components are not ready (in good time) so that Eurofiber is not able to deliver the Service(s);
- (c) upon the revocation or expiry of any telecommunications authorisation, registration or licence that may be required for the Customer to fulfil its obligations under the Agreement and to use the Service(s);
- (d) if Eurofiber thereby complies with or is thereby obliged to comply with an order, instruction or request of a court or any public authority;
- (e) if the Customer has filed a petition for its own bankruptcy or has requested a moratorium on payments, if the Customer has been declared bankrupt or granted a moratorium on payments, if an administrator or trustee has been appointed for the Customer's business, or if the Customer is otherwise no longer able to fulfil its payment obligations towards its creditors; and
- (f) if there is a proof or serious indications of fraud, criminal activities or any irregular practices by the Customer or involving the Customer.

10.2 Suspension by Eurofiber of the fulfilment of its obligations under the Agreement does not affect Customer's obligation to pay undisputed invoices.

11. Liability and indemnity

11.1 Eurofiber's liability under the Agreement, irrespective of the legal ground, is limited to direct loss and damage only and shall not exceed the total value of an Order, nonetheless with a maximum of hundred thousand EUR (€ 100,000) per event or related series of events and two hundred thousand EUR (€ 200,000) per period of twelve months. Direct loss and damage shall only consist of the following:

- (a) the reasonable costs the Customer has incurred in order to ensure that Eurofiber's performance conforms to the Agreement;
- (b) the reasonable costs the Customer has incurred in order to determine the cause and the scale of the loss and damage, insofar as the determination relates to direct loss or damage;
- (c) the reasonable costs the Customer has incurred in order to prevent or restrict any loss or damage, insofar as the Customer demonstrates that such costs have resulted in restriction of the direct loss or damage; and
- (d) the reasonable loss or damage due to damage to tangible property of the Customer which loss or damage is the direct result of activities of or on behalf of Eurofiber directly connected with the execution of the Agreement.

11.2 Eurofiber's liability for loss or damage resulting from death or personal injury shall be limited to the amount claimable under the liability or indemnity insurance subscribed by Eurofiber.

11.3 Eurofiber is not liable for any indirect loss and damage, including but not limited to loss or damage due to loss of operating time, loss of goodwill, loss of data, loss of profits, lost savings, damage through business interruptions and any claims of clients of the Customer.

11.4 The limitation of liability referred to in this article 11 does not apply insofar as the loss or damage is due to fraud or wilful misconduct committed by Eurofiber.

11.5 As a condition for the eligibility of any right to compensation the Customer shall report the occurrence of such loss or damage as soon as possible in writing to Eurofiber. Claims for loss or damages shall no longer be accepted upon the expiry of six (6) months after the occurrence of the event giving rise to such claim.

11.6 It is the sole responsibility of the Customer and its customers to protect and store its information in an efficient manner. Customer and its customers are responsible for making the necessary back-ups of such information.

12. Term and Termination

12.1 An Order will enter into effect on its signature date and shall be effective until the expiry date of the initial or renewed Service Term, except if terminated earlier in accordance with the provisions of this article 12.

12.2 After the expiry of the initial Service Term, an Order shall automatically renew from month-to-month and may be terminated at any time with a one-month prior written notice.

12.3 An Order may only be terminated in accordance with the provisions of this article 12. The termination of any Order shall not affect other Orders.

In the event that the Customer terminates a Service (with regard to one or more Locations) before the expiry of the Service Term for convenience, the Customer shall be due an early termination fee equal to the recurring Charges of the Service for the unexpired portion of the Service Term, and this on the date of early termination. In addition, Eurofiber reserves the right to charge the commercial discount, as the case may be, as well as the costs related to deactivation, relocation, installation and/or activation of a new connection.

12.4 In the event that the Customer cancels an Order before the RFS Date, the Customer shall be due all costs incurred by Eurofiber related to such Order (such as the costs related to the design, civil engineering and third party carrier costs).

12.5 Either Party is entitled to terminate an Order for cause in writing by registered letter with immediate effect and without judicial intervention in case:

- (a) a Party commits an Event of Default and fails to rectify the Event of Default within ten (10) Working Days from the date of a notice of default sent by the terminating Party;
- (b) of a Force Majeure Event that continues for at least thirty (30) calendar days as a result of which a Party is not able to perform its (material) obligations pursuant to the Agreement; or
- (c) if the other Party is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of its creditors, or if any of its assets are the subject of any form of seizure, or goes into liquidation, either voluntary (otherwise than for reconstruction or amalgamation) or compulsory or if a receiver or administrator is appointed over its assets (or the equivalent of any such event in the jurisdiction of such other Party).

12.6 Unless explicitly provided otherwise in writing in the Order, upon the termination of an Order all rights and obligations of the Parties thereunder shall terminate, without the Customer having any right to reimbursement by Eurofiber of any fees and/or other payments, including any Charges paid by the Customer to Eurofiber (in advance).

12.7 Upon termination of the Agreement: (a) the rights of the Parties accrued up to the date of such termination shall remain unaffected; and (b) the Customer shall co-operate fully with Eurofiber to recover any Eurofiber Equipment.

13. Intellectual Property

All intellectual property rights relating to the Services and the Eurofiber Network in whatever form, including, but not confined to, as-built drawings and maintenance data, shall at all times remain the property of Eurofiber or its licensors.

14. Confidentiality

14.1 Each Party agrees to maintain in strict confidence all Proprietary Information of the other Party which is disclosed in connection with the Agreement. Neither Party shall disclose to any third party Proprietary Information without the express prior written consent of the other Party.

- 14.2 All Proprietary Information shall remain the property of the disclosing Party, shall only be used by the receiving Party for the execution of the Agreement, and such Proprietary Information, including all copies thereof, shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the first request of the disclosing Party.
- 14.3 The provisions of article 14.1 and 14.2 shall not apply to any Proprietary Information which:
- (a) becomes publicly available other than through a breach of this article 14 by the receiving Party;
 - (b) is required to be disclosed by a governmental or judicial law, order, decision or regulation;
 - (c) is demonstrably independently developed by the receiving Party; or
 - (d) becomes available to the receiving Party without any restriction imposed by a third party.

15. No partnership

Nothing contained in the Agreement may be deemed to constitute the establishment of a cooperation, a partnership, association, joint venture, any other co-operative entity or agency agreement between the Parties for any purpose.

16. Personal data and privacy

- 16.1 Customer shall provide to Eurofiber correct contact data, such as, for example, name, address and contact details for the performance of this Agreement. Any changes shall be notified to Eurofiber in writing in a timely manner after the Customer has become aware of the change.
- 16.2 [Eurofiber's Privacy Notice](#) contains information on how Eurofiber handles Personal Data.
- 16.3 In the event Eurofiber provides the use of IP addresses in order to facilitate the rendering of the Service, such IP addresses shall remain the property of Eurofiber and may be amended at any time. Eurofiber shall notify any amendment in advance.
- 16.4 In the event the Agreement and/or the Service is terminated, for whatever reason, Eurofiber may, where applicable, withdraw all identification data, IP addresses and/or codes immediately following the termination of the Agreement and/or Service.

17. Dispute Resolution

- 17.1 The Parties shall use all reasonable efforts to amicably resolve any dispute. The Parties shall, at a minimum, use the following procedure in the event a dispute arises with respect to any aspect of this Agreement. Upon written notification by one Party to the other that a dispute exists, working level managers of the respective Parties shall attempt in good faith to work out a resolution within thirty (30) calendar days following the day of written notification of a dispute.
- 17.2 If an agreement cannot be reached by the end of this period, the Parties shall prepare a document containing information that is designed to assist resolution of the dispute containing what has been agreed and what remains in dispute between them. No later than ten (10) Working Days thereafter, or at some other time as mutually agreed by the Parties, representatives of the Parties at CEO level shall meet to further attempt to resolve the matter or to agree on a course of action to resolve the matter.

17.3 If the Customer is not satisfied with the processing by Eurofiber of a complaint following the closing of a ticket, he may submit a request to the Office of the Ombudsman for Telecommunications (Koning Albert II-laan 8 bus 3, 1000 Brussels, tel. 02 223 09 09, klachten@ombudsmantelecom.be, plaintes@mediateurtelecom.be, www.ombudsmantelecom.be).

17.4 In the event that the Parties are unable to resolve the matter or agree on a course of action at this executive level within thirty (30) calendar days, either Party shall have the right to pursue legal or equitable remedies as it deems useful.

18. Notices

18.1 Except for notices given in accordance with article 4.4, all notices given under this Agreement shall be in writing and in English, unless the Parties agree otherwise or local law and regulations provide otherwise, and shall be sent by prepaid post or by electronic mail to the other Party at the address, or email address set out in the Order, or any other address notified from time to time including as updated in an Order.

18.2 Notices given under this Agreement are deemed to be given by the sender and received by the addressee: (a) if sent by prepaid post, three (3) Working Days from and including the date of postage; or (b) if sent by electronic mail, when sent to the addressee.

19. Change Management

19.1 Eurofiber may change these General terms & Conditions, the Charges, the Service Description and Service Level Agreement at any time. In that case, Eurofiber will notify the Customer of such change at least one (1) month before the change is intended to take effect.

19.2 In the event that the Customer does not accept the change, the Customer may terminate the Agreement free of charge and in writing, no later than three (3) months following the notification mentioned above. This termination right shall not apply if:

- The proposed changes are exclusively for the benefit of the Customer, have a purely administrative character and do not have a negative impact on the Customer;
- The proposed changes result from new legislation or decrees that leave Eurofiber no choice concerning its implementation, or if;
- The proposed changes consist in a price increase resulting from an adjustment in accordance with the price indexation set forth in article 8.4.

19.3 If the Customer makes use of the termination right set forth in 19.2, Eurofiber will terminate the provision of the Service at the end of the current billing period following the notice of termination.

20. Miscellaneous

20.1 In the event Eurofiber provides the use of IP addresses in order to facilitate the rendering of the Service, these shall remain the property of Eurofiber and may be amended at any time. Eurofiber shall notify any amendment in advance.

20.2 In the event the Agreement is terminated, for whatever reason, Eurofiber may, where applicable, revoke or withdraw all identification data, IP addresses and/or codes immediately following the termination of the Agreement.

- 20.3 This Agreement may not be amended, modified or supplemented except by a document in writing signed by authorised representatives of both Parties. The Parties to an Order may amend, modify or supplement the terms of that Order by a document in writing executed by authorised representatives of both Parties to that Order.
- 20.4 The articles which by their nature are intended to remain operative even after the termination of the Agreement, such as articles 11, 14 and 16, shall remain in force even after the end of the Agreement.
- 20.5 If any provision, covenant or condition in the Agreement is deemed to be invalid or unenforceable by a court, Eurofiber may replace such provision with a similar provision which is enforceable at law, without this affecting the legal validity of the remaining provisions in the Agreement.
- 20.6 The Agreement replaces all prior agreements, arrangements and commitments between the Parties with regard to the Service(s) concerned.
- 20.7 The administrative records kept by Eurofiber constitute full and conclusive evidence between the Parties, subject to evidence to the contrary to be provided by the Customer.
- 20.8 Any dispute relating to or concerning the Agreement shall be governed by and construed exclusively in accordance with the laws of Belgium.
- 20.9 In the event of a dispute and/or conflict arising from or relating to the Agreement, the Parties agree to submit to the exclusive jurisdiction of the commercial courts of Brussels.