

# Reference Access and Interconnection Offer

## Annex J Non-Disclosure Agreement

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## 1 Definition

- 1.1 The Definitions in Annex L shall apply to this Annex J in addition to the following definitions.
- 1.1.1 Owner: either party that own the information or have the information in its custody about the party or its customers.

## 2 Non-Disclosure Agreement.

- 2.1 Whereas, in their business, the Parties (“the Parties”) to this Agreement have valuable information and it is necessary to protect some of this information as Confidential Information and as valuable trade secrets.
- 2.2 Whereas, pursuant to the performance of this Agreement, either Party may become acquainted with or come into possession of Confidential Information belonging to the other Party. In such cases the Party providing this information shall be designated “the Owner”, and the Party receiving this information shall be designated “the Recipient”.
- 2.3 For the purpose of this Agreement "Confidential Information" includes information of whatever nature relating to either Party or its customers which is not publicly available and which is obtained as a result of or in connection with this Agreement or the negotiations thereof or the activities of either Party in relation to the Access Agreement including without limitation information acquired either in writing, electronically or orally from or pursuant to discussions with:
- 2.3.1 the directors, officers or employees of either Party, and/or
- 2.3.2 either Party’s professional advisers;
- 2.3.3 analyses, compilations, studies and other documents prepared by or on behalf of either Party and of their employees or advisers;
- 2.3.4 information of whatever nature which is not in the public domain relating to either Party obtained by observation by the other Party; and
- 2.3.5 Confidential Information, if disclosed in writing shall be clearly marked as “Confidential” at the time of disclosure and Confidential Information, if disclosed orally shall be identified as being “Confidential” at the time of disclosure and this fact shall be confirmed by the Owner in writing within 5 working days of the disclosure.
- 2.4 These terms and conditions will not apply to any Confidential Information which:

- 2.4.1 is or becomes publicly available through no fault of the Recipient;
- 2.4.2 can be demonstrated to be already known to the Recipient at the time of disclosure;
- 2.4.3 information that is received without obligation of confidentiality from a Third Party who did not acquire it under an obligation of confidentiality from either Party or that is independently developed by the Recipient; and
- 2.4.4 is required to be disclosed by a government regulatory body or a court or other comparable authority of competent jurisdiction.

Therefore, in consideration of the disclosure to each Party of Confidential Information by the other and in consideration of the mutual promises contained in this Non-Disclosure Agreement, it is agreed as follows:

- 2.5 Each Party undertakes with the other that the Confidential Information shall be used by it only for the purpose of or to facilitate Access or Interconnection and for no other purposes whatsoever.
- 2.6 Subject to Clauses 2.7.3, 2.7.6 and 2.7.7 below, neither Party will without the prior written consent of the other disclose or cause to be disclosed or used by any third party at any time any Confidential Information.
- 2.7 In order to secure the confidentiality attaching to Confidential Information, each Party and those allowed access to Confidential Information pursuant to Clause 2.7.3 below shall:
  - 2.7.1 keep all documents and any other material bearing or incorporating any of the Confidential Information at the Recipient's usual place of business;
  - 2.7.2 in relation to the reproduction, transformation, or storage of any of the Confidential Information in an externally accessible computer or electronic retrieval system, shall exercise no lesser security or degree of care than that Party applies to its own Confidential Information of an equivalent nature;
  - 2.7.3 allow access to Confidential Information exclusively to those agents, professional advisers and employees of the Recipient who have a reasonable need to see and use it to facilitate

- Access or Interconnection and shall inform each of the said agents, professional advisers and employees of the confidential nature of the Confidential Information and of the obligations on the Recipient in respect thereof and undertake to use all reasonable endeavors to ensure that such agents, professional advisers, and employees honor these obligations;
- 2.7.4 on reasonable request of the Owner shall make available to the Owner, as far as reasonably practicable, the documents and other material in possession, custody or control of the Recipient that incorporate any part of the Confidential Information;
- 2.7.5 treat in the same manner as is agreed to treat Confidential Information, all copies of any analyses, compilations, studies or other documents prepared by it or its advisers containing or reflecting or generated from any Confidential Information;
- 2.7.6 allow access to the Confidential Information only to suppliers of the Recipient who have reasonable need to see and use this Confidential Information for the purposes of supply of services and products to the Recipient. In which case the Recipient undertakes to ensure that such suppliers comply with conditions 2.7.1 to 2.7.5 as described above for their use of the Confidential Information;
- 2.7.7 allow access to the Confidential Information only to the TRA or other governmental authorities.
- 2.8 Each Party understands and acknowledges that neither is making any representation or warranty, express or implied as to the accuracy or completeness of the Confidential Information and neither of them will have any liability to the other or any other person resulting from the Confidential Information or its use thereof.
- 2.9 The Parties acknowledge and agree that damages would not be an adequate remedy for any breach of this undertaking by either of them. In the event of a breach or threatened breach of this Agreement by either Party, the other Party (“the aggrieved Party”) shall be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of this Agreement and, without prejudice to the foregoing, the other Party agrees to indemnify the aggrieved Party against any loss, claims, damages or

liabilities by it as a result of or arising out of any such breach provided always such liability is limited to five hundred thousand Omani Rial (OMR 500,000) for any one event or series of connected events and one million Omani Rial (OMR 1,000,000) for all events (connected or unconnected) in any period of 12 calendar months.

- 2.10 Any dispute arising out of or in connection with this Annex shall be finally settled by Omani Courts.
- 2.11 This Annex shall continue and survive the completion of the purpose of this Agreement and shall remain binding for a period of three (3) years thereafter.