

## VOCUS - NEXT DC | COLOCATION AND AXON SERVICE SCHEDULE

### 1. Definitions and Interpretation

- 1.1. Defined terms in the Standard Terms and Conditions have the same meaning in this Service Schedule unless expressed to the contrary. In this Service Schedule, unless the context otherwise requires:

**Add-On Services Fees** means the fees for the Add-On Services.

**Add-On Services** means (a) Cross Connect Services; (b) Remote Hands Services; (c) provision of IDACS, (d) AXON Ports, (e) EXC's (f) Data Centre Interconnectivity Services and (g) any other services that the Customer may order from NEXTDC from time to time, with further details on the scope of these services set out in clause 1 of Schedule 2 to this Service Schedule.

**AXON Port** means the interface that allows the Customer to interconnect with their own or third party ports over a ethernet service.

**AXON Service Fees** means the fees for the AXON Services as specified in the relevant Service Order.

**AXON Service** means the AXON services provided to the Customer including AXON Ports and EXCs.

**Block** means an agreed number of Racks, the specifics of which are outlined in an applicable Service Order.

**Caged Area** means a caged area which may include Blocks or Racks, the specifics of which are outlined in an applicable Service Order.

**Colocation Space** means, in respect of a Customer Contract, the portion of the Facility designated for the Customer to occupy as a licensee which may include Racks, Blocks, Suites, White Space, and a Caged Area.

**Confidential Information** of a party means the terms of this Service Schedule and any other Agreement(s) between VOCUS and the Customer: (a) relating to the business and affairs of that party; (b) relating to the customers, clients, employees, contractors, sub- contractors or other persons doing business with that party; (c) which is by its nature confidential; (d) which is designated as confidential by that party; or (e) which the other party knows or ought to know, is confidential, and includes all trade secrets, knowhow, financial information and other commercially valuable information of that party and includes each party's Material. Confidential Information does not include any information: (f) that is in the public domain otherwise than as a result of a breach of the Customer Contract or other obligation of confidence; or (g) that is already known by, or rightfully received, or independently developed, by the recipient of that Confidential Information free of any obligation of confidence.

**Control** has the meaning given to it in the Corporations Act.

**Corporations Act** means Corporations Act 2001 (Cth).

**CPI** means the Consumer Price Index (Weighted Average Eight Capital Cities) published by the Australian Bureau of Statistics and calculated as the percentage increase between the CPI for the Quarter preceding the previous Review Date and the CPI for the Quarter immediately preceding the current Review Date.

**Cross Connect** means any connection between the Colocation Space and any other space within, between or external to the Facilities (whether or not that space is provided by NEXTDC to the Customer or to a third party (including to a carrier) and includes, without limitation, intra data centre cross connects, data centre interconnects, dark fibre and any like connectivity services.

**Cross Connect Service** means the installation and ongoing provision of a Cross Connect that NEXTDC agrees to provide to the Customer in accordance with this Service Schedule and any other Agreement(s) between the Customer and Vocus.

**Customer Contract Commencement Date** means the date the Customer Contract is fully executed by the parties.

**Customer's Equipment** means all hardware, software, accessories, tools and other information technology and telecommunications equipment owned, leased, licensed, controlled or otherwise used by or in the possession of the Customer from time to time which is located in the Facility, including the Data Centre Space. Customer's Equipment will not be construed as fixtures or fittings. Data Centre Interconnect Service means a Data Centre Interconnect Ethernet service (DCIe), a point to point managed ethernet network connectivity Service (in whatever form) between two NEXTDC Facilities in a single city.

**Customer's Personnel** means the Customer's employees, officers, consultants, agents, contractors, invitees, licensees and customers and the end users of the Services, or any of them.

**Emergency** means any event or circumstance which in the reasonable opinion of NEXTDC endangers or threatens to endanger the safety or health of any person or destroys or damages or threatens to destroy or damage the Facility, any part of the Facility, or the property of any other party.

**Establishment Fees** means the Establishment Fees specified in the Service Order.

**Establishment Services** means the preparation, establishment and provisioning of the Colocation Space by NEXTDC.

**EXC** (Elastic Cross Connect) means an ethernet virtual circuit between two or more AXON Ports within a single metropolitan area,

**Exit Date** means, for the purposes of clause 9: if the Customer Contract expires – the date of expiry; or the date on which termination takes effect.

**Facility** means, in respect of a Customer Contract, the NEXTDC data centre facility specified in the Service Order and includes all fixtures, fittings, plant, machinery, equipment or other property of NEXTDC in or on the Facility.

**Facility Rules** means rules relating to the operation and management of the Facility and the provision of the Services as available at [www.nextdc.com](http://www.nextdc.com), and as added to, amended or replaced by NEXTDC from time to time.

**Fees** means the Establishment Fees, Colocation Space Fees, Power Fees, if applicable, Add-On Services Fees, and any other fees as agreed between the parties.

**Force Majeure Event** means an event or cause beyond the reasonable control of a party and which prevents a party from performing, or delays the performance of, any of its' obligations under this Agreement including, without limitation, Emergency, acts or omissions of third party network operators or suppliers, pandemic, quarantine, lightning, storm, flood, fire, earthquake, forces of nature, any act of God, acts of war, terrorism, riot, insurrection, civil disorders, rebellions or revolution, strike, explosion, blockade, lockout, other industrial disturbance or labour difficulty, any action or inaction by an organ of government or government agency or other competent authority.

**High Severity Service Level** means a Service Level identified in the SLA as having "High" level of criticality.

**IDAC** means a NEXTDC issued access card to enable access to the Data Centre Space.

**Initial Term** means, in respect of a Service, the minimum contract period specified in a Service Order applicable to that Service, the term of which shall be deemed to commence on the RFS Date.

**Insolvency Event** in the context of a party means: (a) the party enters or proposes to enter into a deed of arrangement or deed of assignment or composition with its' creditors without the consent of the other party; (b) a liquidator or provisional liquidator of the party is appointed; (c) an order is made for the winding up of the party; (d) a receiver and/or manager, trustee, administrator, other controller (as defined in the Corporations Act (2001) or similar official is appointment over any of the assets or undertaking of the party; (e) is or becomes unable to pay its' debts when they are due or is presumed to be insolvent within the meaning of the Corporations Act (2001); and (f) the party ceases or indicates it is about to cease to carry on business.

**Laws** means, including but not limited to, any statute, law, rule, regulation, proclamation, order in council, ordinance, by-law or statutory instrument (including but not limited to: orders, directions, guidelines or standards with legislative force).

**Material** means NEXTDC's Material and/or the Customer's Material, as relevant.

**Medium Severity Service Level** means a Service Level in the SLA identified as having a "Medium Severity" level of criticality.

**NEXTDC** means NEXTDC and all of its subsidiaries, affiliates and Related Bodies Corporate.

**NEXTDC's Personnel** means NEXTDC's employees, officers, consultants, agents, contractors, invitees and licensees, or any of them.

**Operational Requirements** means the operational requirements set out in Schedule 1 to this Service Schedule.

**Power Allocation** means, in respect of the Data Centre Space, the kW or MW power draw allocation specified in the Service Order.

**Power Fees** means, in respect of a month, the power consumed by the Customer during that month (measured in kWh at the power distribution unit located in the Data Centre Space) multiplied by the Power Rate.

**Power Rate** means the per kW h rate specified in the Service Order.

**PPSA** means the Personal Property Securities Act 2009 (Cth).

**Quarter** means the three-month period ending 31 March, 30 June, 30 September or 31 December, in any given calendar year.

**Rack** means a physical rack with an agreed Power Allocation, the specific details of which are outlined in an applicable Service Order.

**Related Bodies Corporate** has the meaning given to it in the Corporations Act.

**Remote Hands Services** means minor technical services that the Customer requests NEXTDC to provide as set out on NEXTDC's website as amended from time to time. It does not include services or work that requires a greater level of skill than the services listed above.

**Review Date** means 1 July every year.

**Scheduled Maintenance** has the meaning given to it in clause 10(a)(i) of Schedule 1 to this Service Schedule.

**Service** means the NEXTDC services to be supplied by Vocus as described in this Service Schedule or the Service Order.

**Service Levels** has the meaning given to it in the SLA.

**Service Order** means an order in Vocus' standard written format for the provision of a Service, which includes details of the Initial Term and Charges for the Services provided, which has been agreed by Vocus.

**SLA** means the Service Levels set out in Schedule 3.

**Small Business Customer** means a customer who at the time of signing a Service Order (a) employs fewer than 100 people or (b) has annual turnover of less than AUD \$10 million.

**Suite** means a separately enclosed area within a data hall comprised of Racks and or Blocks or as fitted out by the Customer (as the case may be), the specific details of which are outlined in an applicable Service Order.

**Tax Charge** means any tax, duty or governmental charge relating to carbon, emissions, trading scheme, pollution, electricity, carbon dioxide, greenhouse gas or similar emissions or other regulatory charges or schemes.

**White Space** means built to order data centre space, within the Facility, under an agreed scope of works that has been allocated to the Customer based on their specific power and space requirements.

## 2. Ordering

- 2.1. The Customer may place a Service Order with respect to the provision of Colocation and/or Axon Service(s), which will form part of the agreement between Vocus and the Customer. The Agreement will comprise of the terms and conditions specified in the Service Order, this Service Schedule and, the applicable Standard Terms and Conditions available at: <https://www.vocus.com.au/legal/contracts>.
- 2.2. Customer may order additional Service(s) by placing subsequent Service Order(s).

## 3. Term and termination

- 3.1. The Customer may add Services to the Agreement between the parties by placing additional Service Order(s). Each Service Order will carry its own term.
- 3.2. On or from 9 April 2024, if you are a Small Business Customer:
  - (a) At the end of the Initial Term, the Service Order will be automatically extended for successive three (3) months terms (each a “**Renewed Term**”), unless or until terminated in accordance with clause 3.4.
  - (b) During the Renewed Term, the Fees will be adjusted to NEXTDC’s then current fees for 3-month term rate.
- 3.3. For all other Customers:
  - (a) At the end of the Initial Term, the Service Order will be automatically extended for successive twelve (12) months terms (each a “Renewed Term”), unless or until terminated in accordance with clause 3.4.
- 3.4. A party may provide the written notice to the other party at least ninety (90) days’ before the end of the Initial Term or the end of a Renewed Term, that it wishes to terminate before the end of the then current period.
- 3.5. Vocus may terminate the entire Agreement or specific Service(s) provided by NEXTDC that form part of this Agreement by written notice to the Customer if:
  - (a) the Customer commits a material breach of the Agreement which is incapable of remedy, or is capable of remedy and the Customer fails to remedy the breach within thirty (30) days of receiving a notice from Vocus requiring it to do so;
  - (b) the Customer suffers an Insolvency Event or Change in Control and does not obtain Vocus’ prior written approval
  - (c) NEXTDC is subject to a Force Majeure Event that prevents it from performing all or substantially all of its obligations under the Customer Contract for a period exceeding sixty (60) days; or
  - (d) a change in law makes it commercially unviable (in the reasonable opinion of Vocus or NEXTDC), or illegal, for NEXTDC to continue to provide the Services; or
  - (e) Vocus or NEXTDC ceases to have the right to use the Facility, in which case Vocus shall use reasonable endeavours to assist the Customer to transfer the Services to the new owner, lessee or licensee of the Facility.
- 3.6. The Customer may terminate the Customer Contract by written notice if:
  - (a) Vocus commits a material breach of the Agreement which is incapable of remedy, or is capable of remedy and either Vocus or NEXTDC fail to remedy the breach within thirty (30) days of receiving a notice from the Customer requiring NEXTDC to remedy the breach; or

- (b) a Force Majeure Event prevents NEXTDC from performing all or substantially all of its obligations under the Customer Contract for a period exceeding sixty (60) days.

#### **4. Colocation space**

- 4.1. NEXTDC will allocate the Colocation Space in its sole discretion (acting reasonably) and grants Customer an exclusive licence to access the Colocation space for the term of the Agreement, including any Extended Term. This Agreement does not constitute a lease of any real or personal property.
- 4.2. The Customer must and shall ensure that Customer Personnel:
  - (a) use the Colocation Space for the sole purpose of installing, inspecting, repairing, operating and maintaining the Customer's Equipment;
  - (b) comply with all Operational requirements, Facility Rules and applicable Laws and must ensure that it has obtained all relevant consents, permits, approvals, authorities and licences required; and
  - (c) not knowingly do or fail to do anything that may invalidate or breach the terms of any agreement between NEXTDC and the owner, lessor or licensor of the Facility.

#### **5. Service levels**

- 5.1. The SLA in Schedule 3 sets out the Service Levels to which the Colocation Space and Services will be delivered and; and the remedies available for any failure(s) to do so.
- 5.2. The remedies in the SLA are the Customer's sole and exclusive remedies for any failure to achieve the Service Levels provided that, if NEXTDC fails to achieve any High Severity Service Level on more than three (3) occasions in any continuous six (6) month period, then the relevant failure shall be deemed to be a material breach. For the purposes of this clause 5.2, one occasion shall mean one occurrence or series of related occurrences attributable to one event, fault or cause.

#### **6. PAYMENT**

- 6.1. Unless specified otherwise in writing, the Fees will be charged monthly in advance. Fees must be paid within 21 days of the date of the invoice, without set-off, counterclaim, withholding or deduction and are payable regardless of whether or not the Customer is using the Data Centre Space.
- 6.2. Vocus may:
  - (a) charge interest on any overdue amount, such interest to be calculated on the daily balances at the higher of (A) 1.5% per month and (B) 3% above the Bank Bill Rate; and
  - (b) continue to charge Customer for any period beyond the Customer Contract Term if the Colocation Space is not emptied by the end of that period to NEXTDC's reasonable satisfaction.
  - (c) Vocus is not responsible for the payment of fees and charges for services provided by third parties contracted by the Customer, including carriers.
  - (d) For the avoidance of doubt, the Customer will not be relieved from any obligation under the Customer Contract to pay an invoice solely as a result of Vocus issuing an invoice after the date specified in clause 6.1.

- 6.3. Fee adjustment:
- (a) On the Review Date, the Fees will increase by CPI. For the avoidance of doubt, where there is no increase (or where there is a downturn) in the CPI, the Fees immediately prior to the most recent Review Date will continue to apply.
  - (b) Vocus may, by notice in writing to the Customer, adjust the Colocation, Axon Service(s) and Power Fees where the cost of supplying the Services have increased due to changes associated with any change in Tax Charge; or if, in the reasonable opinion of Vocus or NEXTDC, there has been a material change in the cost of power. Upon written request from the Customer, Vocus shall provide the Customer with evidence of the increase in the cost of power, provided that such evidence will not breach any confidentiality obligations that may be owed to a third-party.
  - (c) On the Review Date, the Fees for any Add-On Services will increase by CPI. Any other changes to the Fees for any Add-On Services are subject to Vocus providing no less than 21 days' written notice to the Customer.

## **7. SUSPENSION**

- 7.1. Vocus may, by providing no less than 7 days written notice:
- 7.2. suspend the Customer's access to the Facility, the Colocation Space and any other service(s) if an amount payable under the agreement is seven (7) days or more overdue; and/or
- 7.3. suspend the provision of power to the Colocation Space and/or the provision of all other services, including
- 7.4. discontinuing or disconnecting some or all Add-On Services and Cross-Connect Services, to the Customer if an amount payable under the Customer Contract is 21 days or more overdue.
- 7.5. Vocus may continue any suspension under clause 7(a) and 7(b) until all overdue amounts owing under the Agreement are paid and may:
- (a) reinstate the suspended services within a reasonable timeframe after Vocus is satisfied that the Customer has paid all undisputed amounts, charging a reinstatement fee in relation to the costs incurred by it in suspending and resuming the Services; and
  - (b) continue to charge Customer for the use of the Colocation Space whilst the Agreement is on foot and the Colocation Space is occupied by it.

## **8. RESALE OR SUBLICENCE**

- 8.1. Customer may resell or sublicense any Service(s) provided under the Agreement on terms that are no less favourable than this Agreement, provided that:
- (a) the Customer remains fully liable and responsible for all its obligations under the Customer Contract, including its obligation to pay all Fees under the Customer Contract; and
  - (b) the Customer will require the sub-licensee to abide by this Agreement and the applicable NEXTDC policies and fully indemnify both Vocus and NEXTDC for their acts and omissions.

## **9. SUBCONTRACTING**

- 9.1. Vocus or NEXTDC may subcontract the performance of any Service(s), in whole or in part, to any person provided that Vocus remains fully liable for all its obligations under the Agreement with the Customer.

## **10. OBLIGATIONS AT THE END OF THE AGREEMENT**

- 10.1. Subject to clause 7.1(a), on or before the Exit Date the Customer must:
- (a) remove the Customer's Equipment from the Colocation Space and the Facility.
  - (b) return NEXTDC's property and equipment, including IDACs;
  - (c) subject to fair wear and tear, make good the Colocation Space to the condition it was at the customer Contract Commencement Date (and in carrying out any such works, the Customer must comply with clause 6 of Schedule 1 of this Service Schedule; and
  - (d) deliver any of Vocus' or NEXTDC's Confidential Information to the relevant party.
  - (e) If the Customer does not remove the Customer's Equipment in accordance with clause 9(1)(a), Vocus or NEXTDC may treat it as abandoned and deal with it as it sees fit, including removing any of Customer's Equipment and storing it at Customer's expense at an on-site or off-site location or shipping such property to the Customer's address at the Customer's risk.
  - (f) In complying with its obligations under this clause, the Customer must not disturb or cause interruption to NEXTDC or other users of the Facility.
  - (g) If, at the Exit Date, the Customer's access is suspended in accordance with clause 7.1(a), Vocus may, at its option, continue the access suspension, remove the Customer's Equipment, make good the Colocation Space and store or return the Customer's Equipment to the Customer's address for notices at the Customer's risk and expense. If VOCUS exercises its rights under this clause, Vocus will be entitled to recover from the Customer all costs which are reasonably incurred by it in exercising those rights.
  - (h) The Customer grants Vocus a security interest over the Customer's Equipment as security for any amount payable to Vocus under the Agreement. If the Customer's Equipment remains uncollected for a period of 30 days after the Exit Date or the Customer's access to the Facility remains suspended for a period of 30 days or more under clause 7.1(a), then the Customer hereby authorises Vocus to remove the Customer's Equipment from the Colocation Space and:
    - (i) destroy such equipment and charge the Customer for the cost of such destruction, to be paid upon demand; or
    - (ii) sell any or all of the Customer's Equipment to recover any amount then owing. Vocus shall be entitled to charge Customer for the costs of storing, destroying or and selling the Customer's Equipment and for any other expenses reasonably incurred in the course of such activities

- (i) Vocus is not required to enforce the security interest in paragraph (h) before seeking to recover any unpaid amounts from the Customer in the manner provided for in that clause. Further Customer agrees to indemnify Vocus in relation to any claim relating to the loss, corruption, release or transfer of any data of any nature held on Customer Equipment dealt with by Vocus as part of its removal under this clause.
- 10.2. The Customer agrees that the Agreement is not intended to and will not constitute a lease nor grant any interest in any real or personal property (including the Facility or Colocation Space) or equipment of NEXTDC.

## SCHEDULE 1: OPERATIONAL REQUIREMENTS

### 11. Access

- 11.1. Subject to clauses 1(b) and (c) of this Schedule 1, the Customer will have 24/7 access to the Colocation Space for the purpose of exercising the Customer's rights specified in the Agreement.
- 11.2. NEXTDC may suspend the Customer's access to the Colocation Space or may require the Customer's Personnel to leave the Colocation Space and the Facility:
  - (a) in an Emergency;
  - (b) in any event or circumstance where NEXTDC, as a prudent operator of a data centre facility such as the Facility, reasonably considers it appropriate to do so;
  - (c) if required to do so by a government agency or any law or court order; or
  - (d) in the circumstances contemplated by clause 7 of this Service Schedule.
- 11.3. NEXTDC's facilities are co-location, and as such NEXTDC may refuse access to the Facility or remove from the Facility any of the Customer's Personnel whose admission or presence is, or would be, in the reasonable opinion of NEXTDC detrimental to the security of the Facility.

### 12. Power allocation

- 12.1. Conditioned power is a finite resource. Customers are required to enter into a Customer Contract that is reflective of their Power Allocation requirements.
- 12.2. Any consumption by a Customer in excess of its Power Allocation may adversely:
  - (a) affect the supply of power to the Customer;
  - (b) affect the supply of power to another customer; and
  - (c) impact upon the proper operation of NEXTDC's cooling system.
- 12.3. The Customer must ensure that its power utilisation does not exceed the Power Allocation.
  - (a) Customer responsibilities:
    - (i) The Customer must ensure that the Customer's power utilisation does not exceed the Power Allocation.
    - (ii) If the Customer's power utilisation exceeds the Power Allocation for a period of more than 24 hours on more than 2 occasions (with each continuous period exceeding 24 hours being a separate occasion) in any rolling 60-day period Vocus or NEXTDC may, having regard to operational requirements and the availability of additional power within the Facility, increase the Power Allocation, in which case the Customer will pay Vocus standard rates pro-rated for the remainder of the Customer Contract Term in 1 kW increments for the Colocation Space with the increased Power Allocation from the date upon which the Power Allocation is increased ("Power Allocation").

- (iii) If, the Customers power utilisation exceeds the Power Allocation and, having regard to operational requirements and the availability of additional power within the Facility, NEXTDC deems it impractical to increase the Customer's Power Allocation, Vocus may give notice to the Customer requiring the Customer to rectify the breach. The Customer must rectify the breach as soon as reasonably practicable, but in any event within 48 hours of receiving notice under this clause. If the Customer fails to rectify the breach within the period specified in this clause, Vocus or NEXTDC may take whatever remedial action deemed necessary, which may include disconnecting power to the Colocation Space or immediately exercise its right under this Service Schedule and immediately terminate the Customer Contract for a material breach that is incapable of remedy.

- (b) Notwithstanding the above, if NEXTDC considers it necessary for the protection of the Facility, the Data Centre Space, other property of NEXTDC or any third party or the safety or health of any person, or for NEXTDC's compliance with any requirement of any government agency, any applicable law or court order or any obligation owed to any third party, NEXTDC may exercise its rights under clause 2(d)(iii) of this Schedule 1 without first being required to issue the notice in clause 2(d)(iii) of this Schedule 1 or wait for the Customer to rectify the breach under this clause.

### 13. **POWER BALANCE**

- (a) The Customer acknowledges and agrees that:
  - (i) the Customer must use reasonable efforts to ensure that its power utilisation is evenly spread across each power feed to the Colocation Space and, where applicable, between phases on a three phase supply;
  - (ii) the Customer must maintain an aggregate power factor between 0.95 and 1 across all the power feeds in each Data Centre Space;
  - (iii) regardless of any aggregated Power Allocation the Customer must ensure that no individual Rack draws in excess of 6kW unless agreed to in writing by Vocus; and
  - (iv) if in the reasonable opinion of Vocus there is a material imbalance in the Customer's power utilisation, Vocus may give the Customer a notice requiring the Customer to rectify the imbalance. The Customer must rectify the imbalance as soon as reasonably practicable, but in any event within 7 days of receiving notice under this clause.

#### 14. CUSTOMER EQUIPMENT

- (a) The Customer must:
  - (i) install, inspect, operate, repair and maintain the Customer's Equipment in accordance with the Facility Rules and any requirements and instructions of NEXTDC;
  - (ii) ensure that all of the Customer's Equipment is clean and in good repair and condition at the time it is installed in the Colocation Space and that it is kept in good repair and condition; and
  - (iii) ensure that it minimises the use of any space external to the Colocation Space when installing, inspecting and repairing the Customer's Equipment.
- (b) Vocus may require the Customer to remove any of the Customer's Equipment from the Colocation Space and the Facility that does not comply with the Customer Contract or the Facility Rules.
- (c) The Customer is responsible for all loss or damage to the Customer's Equipment however caused, except to the extent caused by NEXTDC's recklessness, unlawful conduct, or gross negligence.
- (d) The Customer is solely responsible for ensuring that the Customer's Equipment and cabling is properly maintained and compatible with the connectivity services and equipment provided by Vocus and/or NEXTDC.

#### 15. REPAIR AND MAINTENANCE

- (a) The Customer must, if requested by NEXTDC, promptly repair damage to the Colocation Space or the Facility caused or contributed to by the Customer.

#### 16. WORKS

- (a) The Customer must not carry out alterations, modifications or other works to the Colocation Space without seeking prior written approval from Vocus.
  - (b) Vocus may impose conditions if it gives its approval (including what works are to remain, what are to be removed and what are to be reinstated and to what condition when the Customer vacates the Data Centre Space).
  - (c) The Customer must ensure that, with respect to the carrying out of works, it has satisfied both Vocus and NEXTDC that all works are carried out:
    - (i) under all insurances required by applicable laws or that NEXTDC reasonably requires are in place;
    - (ii) in a proper and workmanlike manner;
    - (iii) subject to NEXTDC's requirements and instructions;
- 1. in accordance with all plans, specifications and schedule of finishes approved by NEXTDC;**
- (iv) using contractors approved by NEXTDC (approval not to be unreasonably withheld); and
  - (v) without disturbing or causing interruption to others.

## 17. EMERGENCY

17.1. If there is an Emergency, Vocus or NEXTDC may modify, substitute, replace or change the Colocation Space("Replacement").

- (a) Vocus will:
  - (i) provide the Customer with such notice of the Replacement as is reasonable in the circumstances; and
  - (ii) will use reasonable endeavours to minimise any disruption or inconvenience to the Customer during any Replacement.

## 18. CUSTOMER GENERAL OBLIGATIONS

- (a) The Customer must not do any act or thing (including in connection with the installation, inspection, operation, repair, maintenance or replacement of the Customer's Equipment):
  - (i) in the Facility or the Colocation Space that is fraudulent or illegal or that, in the reasonable opinion of NEXTDC, is dangerous, annoying, offensive or immoral;
  - (ii) that interferes with, obstructs access to, damages or overloads the Facility, the Colocation Space or other property of NEXTDC or any third party;
  - (iii) that causes nuisance to or interference with the use of the Facility or any part of the Facility by NEXTDC or any other customer of Vocus or NEXTDC (or its
  - (iv) customers) (and, for the purposes of this clause, interference shall include technical interference); and
  - (v) that may cause NEXTDC to be in contravention of any applicable law or any approval, licence, consent, authority or permit held or required to be held by NEXTDC.

## 19. **VOCUS OR NEXTDC's RIGHT TO ENTER**

- (a) Vocus or NEXTDC's Personnel may enter the Colocation Space after giving the Customer reasonable notice:
  - (i) to inspect the condition or state of repair of the Colocation Space;
  - (ii) to do repairs to the Colocation Space or the Facility or other works that cannot reasonably be done unless NEXTDC enters the Data Centre Space;
  - (iii) to do anything Vocus or NEXTDC must or may do under this agreement or must do under applicable laws or any approval, licence, consent, authority or permit held or required to be held by NEXTDC or Vocus;
  - (iv) to exercise its rights under clauses 2(d) of this Schedule 1; and
  - (v) to remedy any breach by the Customer under the Customer Contract, provided that Vocus has given the Customer a notice of such breach and the Customer has failed to remedy that breach within the time specified in the notice.
- (b) Vocus or NEXTDC's Personnel may enter the Colocation Spaces reasonably required in order to perform any Add-On Services.
- (c) Vocus or NEXTDC's Personnel may enter the Colocation Space at any time for the purpose of carrying out Scheduled Maintenance on the Facility or the Data Centre Space.
- (d) Vocus or NEXTDC's Personnel may enter the Colocation Space at any time without notice and remain in the Colocation Space for as long as necessary if there is an Emergency.

## 20. **SCHEDULED MAINTENANCE**

- (a) NEXTDC will use reasonable endeavours to minimise:
  - (i) the need for maintenance work ("Scheduled Maintenance") that in the reasonable opinion of NEXTDC will cause, or is likely to cause NEXTDC to fail to achieve a Service Level; and
  - (ii) any disruption or inconvenience to the Customer caused by the Scheduled Maintenance.
- (b) In the event that, in the reasonable opinion of NEXTDC, any Scheduled Maintenance will cause, or is likely to cause, NEXTDC to fail to achieve a Service Level, NEXTDC will give the Customer at least 21 days' notice of the Scheduled Maintenance, with the notice, where possible, to include:
  - (i) details of the nature of the Scheduled Maintenance;
  - (ii) the likely effect on the NEXTDC's ability to achieve the Service Levels;
  - (iii) the dates and times for carrying out the Scheduled Maintenance; and
  - (iv) an estimated time scale for completing the Scheduled Maintenance.

## SCHEDULE 2: ADD-ON SERVICES

### 1. GENERAL

- (a) Any request for Add-On Services must be made in the manner advised by Vocus from time to time.
- (c) If Vocus agrees to provide the Add-On Services, Vocus will advise the Customer in writing (electronically) that it accepts the Customer's request. The terms of the Customer Contract shall apply to any Add-On Services unless otherwise specified by Vocus due to the nature of the Add-On Services requested.
- (d) Vocus is not obliged to provide any Add-On Services requested by the Customer unless and until Vocus advises the Customer in writing that it accepts the Customer's request.
- (e) Notwithstanding any provision to the contrary in the Customer Contract, the aggregate liability of Vocus for any loss or damage, howsoever caused (including by the negligence of NEXTDC), suffered by the Customer in relation to the Add On Services under this Schedule 2 is limited to (i) where the Customer suffers loss or damage as a result of a failure by NEXTDC to meet a Service Level, the relevant Service Credit specified in the SLA; or (ii) in every other case, an amount equal to the Add On Services Fees paid by the Customer to Vocus in the twelve (12) months prior to the Customer first suffering loss or damage.
- (f) Subject to clause 7.2, Vocus does not warrant that any Add-On Services will be free from interruptions, scheduled outages, errors, defects or failures and does not accept liability in connection with same, nor shall Vocus be liable for any delay or loss suffered as a result of its implementation in accordance with the instructions of the Customer or steps reasonably taken by NEXTDC to implement it.

### 2. CROSS CONNECTS

- (a) Cross Connect Service delivery:
  - (i) All data connectivity delivered to the Colocation Space must be delivered by way of a Cross Connect Service.
  - (ii) If any Cross Connect Service involves Colocation Space made available by Vocus or NEXTDC to a third party, the Customer must obtain the consent of the third party to the provision of the Cross Connect Service.
  - (iii) Vocus is not under any circumstances liable for any acts or omissions of any carrier or third party in connection with the supply of any products or services by the carrier to the Customer.

## SCHEDULE 3: SERVICE LEVEL AGREEMENT (SLA)

This SLA covers the following elements of the Colocation Space : supply of power, maintenance of temperature, maintenance of humidity levels and availability of Data Centre Interconnect Services and AXON services. This SLA does not apply to any feature of the Services not specifically identified in this SLA. The remedies set forth in this SLA are the Customer’s sole and exclusive remedies for any failure by NEXTDC to achieve a Service Level.

### 1. SERVICE LEVELS

NEXTDC will achieve the Service Levels set out in the table below (each a “Service Level”). If NEXTDC fails to achieve a Service Level (a Failure), Vocus will provide the Customer with the corresponding Service Credit (each a “Service Credit”) set out in the table below, subject to the terms and conditions of this SLA.

No.	Severity	Service Level	Service Credit
1	High	<p><b>Supply of power</b> Supply of continuous power up to and including at least one of the UPS output boards servicing the Colocation Space for 100% of the time in any calendar month.</p>	10% of the Colocation Space Fees payable in respect of that part of the Colocation Space affected by the Failure for that calendar month, increasing by an additional 10% for each 10 minutes until it has been resolved (up to a maximum of 100% of the Colocation Space Fees payable in respect of that part of the Colocation Space affected by the Failure for that calendar month).
2	High	<p><b>Maintenance of temperature</b> The average and aggregate temperature measured at any two consecutive five minute intervals at the air flow point at or within 1 metre of the nominated cold air output, or such other measuring point nominated by NEXTDC located in the Colocation Space is no greater than 35 degrees Celsius. This Service Level will not apply, and the Service Credit will not be available: (a) during any period where Customer’s Equipment exceeds the Power Allocation; or (b) during any period where the Customer has not populated the Data Centre Space: (i) within the Rack, with either Customer Equipment or blanking panels (or similar item as approved in writing by NEXTDC); and (ii) when applicable, if Customer supplied racks are installed in a manner that is inconsistent with NEXTDC’s airflow containment requirements.</p>	10% of the Colocation Space Fees payable in respect of that part of the Colocation Space affected by the Failure for the calendar month in which the five minute intervals occur, increasing by an additional 10% for each 10 minutes until it has been resolved (up to a maximum of 100% of the Colocation Space Fees payable in respect of that part of the Colocation Space affected by the Failure for the calendar month in which the five minute intervals occur).
3	Medium	<p><b>Maintenance of temperature</b></p>	

		<p>The average and aggregate temperature measured in any calendar month at the air flow point at or within 1 metre of the nominated cold air output, or such other measuring point nominated by NEXTDC located in the Colocation Space is no greater than 27 degrees Celsius.</p> <p>This Service Level will not apply, and the Service Credit will not be available:</p> <p>(a) during any period where Customer's Equipment exceeds the Power Allocation; or</p> <p>(b) during any period where the Customer has not populated the Data Centre Space:</p> <p>(i) within the Rack, with either Customer Equipment or blanking panels (or similar item as approved in writing by Vocus); and</p> <p>(ii) when applicable, if Customer supplied racks are installed in a manner that is inconsistent with NEXTDC's airflow containment requirements.</p>	<p>10% of the Colocation Space Fees payable in respect of that part of the Colocation Space affected by the Failure for the calendar month. The Customer will only be able to claim this Service Credit once in respect of any calendar month.</p>
4	Medium	<p><b>Maintenance of Humidity</b></p> <p>The averaged and aggregated supply air humidity measured at the point nominated and measured by NEXTDC reasonably near to the Colocation Space will not deviate from the acceptable humidity range of 20-80% for a continuous period of more than 60 minutes in any calendar day.</p>	<p>5% of the Colocation Space Fees payable in respect of that part of the Colocation Space affected by the Failure for the calendar month in which the calendar day occurs.</p> <p>The Customer will only be able to claim this Service Credit once in respect of any calendar month.</p>
5	Medium	<p><b>Data Centre Interconnectivity</b></p> <p>Where the Customer has at least two diverse Data Centre Interconnect Services between two NEXTDC Facilities, availability of at least one of the Customer's diverse Data Centre Interconnect Services for 100% of the time in any calendar month.</p>	<p>10% of the Add-On Service Fees payable in respect of the Data Centre Interconnect Service affected by the Failure for that calendar month, increasing by an additional 10% for each minute until it has been resolved (up to a maximum of 100% of the fees payable in respect of the Data Centre Interconnect Service affected by the Failure for that calendar month).</p>
6	Medium	<p><b>AXON Services</b></p> <p>AXON Ports and EXCs will have a Service Availability of 99.95%. Service Availability = <math>\frac{((T_m - T_{po}) - T_o)}{(T_m - T_{po})} \times 100</math></p> <p>Where: T<sub>m</sub> = time in the month (in minutes) that the service should have been available to the Customer.</p> <p>T<sub>po</sub> = planned outage time in the month, including outages beyond NEXTDC's control (in minutes)</p> <p>T<sub>o</sub> = outage time for the relevant service in the month (in minutes)</p> <p>EXCs will be considered as available until it fails to meet a packet loss ratio of &lt;0.1% for three consecutive five minute intervals (PLR Target), at which point it will be unavailable until such time that it once again meets the PLR Target, in which case the time of availability will start from the first of the intervals.</p> <p>The PLR Target does not apply to an EXC where a five-minute average traffic load of more than 70% of the available bandwidth is</p>	<p>25% of the Add-On Service Fees payable in respect of the particular for the calendar month for any AXON Service that did not meet a Service Availability of 99.95%, increasing to 50% of the AXON Service Fees payable for the calendar month for any AXON Service that did not meet a Service Availability of at least 99.5%</p>

		measured for either incoming or outgoing traffic or where packet loss is due to rate limiting.	
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## 2. SERVICE CREDIT REQUIREMENTS

- (a) Vocus is not required to provide a Service Credit unless the following requirements are met:
  - (i) The Customer gives Vocus notice of the Failure immediately upon becoming aware of the Failure; and
  - (ii) The Customer requests the Service Credit in respect of the Failure within 30 days of its occurrence.
- (b) Any such notice or request must be made in the manner, and include the information, advised by Vocus from time to time. Any such notice or request must be made in the manner, and include the information, advised by Vocus from time to time.

### 3. SERVICE CREDIT LIMITATIONS

- (a) The maximum of all Service Credits required to be provided by Vocus in respect of any calendar month is 100% of the Fees payable in respect of that part of the Services affected by a Failure for the calendar month.
  
- (g) Service Credits will apply only to future Services provided under the Customer Contract under which the Service Credits arise. Vocus is not required to apply Service Credits against any future Services provided under any other Customer Contract (including any Customer Contract with the same Customer) or to provide refunds under the Customer Contract. If upon termination of a Customer Contract there are outstanding Service Credits, such Service Credits are forfeited.
  
- (h) Notwithstanding any provision to the contrary in this SLA, the following do not constitute Failures:
  - (i) Failures that occur while any undisputed amount is due and payable outside of any contractual payment terms remains unpaid;
  - (i) Failures caused by or in connection with Customer Equipment, Customer supplied racks or the acts or omissions of the Customer;
  - (ii) Failures caused by physical interference with, or damage to, communications infrastructure outside of the perimeter of a NEXTDC Facility;
  - (iii) Failures caused by property of a third party or the acts or omissions of any third party, including Vocus or NEXTDC's sub-contractors, unless such sub-contractors are acting under the direction or instruction of Vocus;
  - (iv) Failures caused by the Customer exceeding their Power Allocation or by the Customer failing to remedy a power imbalance.
  - (v) Failures caused by Vocus's exercise of its rights pursuant to clauses 7 of this Service Schedule.
  - (vi) Failures that, in the reasonable opinion of Vocus, are attributable to a defect in or failure of a monitoring or reporting device, where in fact there has been no Failure; and
  - (vii) Failures caused by Force Majeure Events.
  
- (i) Notwithstanding any provision to the contrary in this SLA, and in addition to the items listed in clause 3(c) of this SLA, Failures due to Scheduled Maintenance notified by Vocus or NEXTDC in accordance with clause 10(b) of Schedule 1 of this Service Schedule do not constitute Failures in respect of any Service Level described above as having 'Medium' criticality

#### **4. RECTIFICATION OF FAILURES**

- (a) The Customer must immediately notify Vocus of the Failure.
- (j) On becoming aware of a Failure (including following notification in accordance with clause 2(a)(i) of this SLA), NEXTDC shall:
  - (i) where possible, specify to the Customer an estimated time scale for rectification of the Failure or the cause of the Failure and update the Customer as required until the Failure or the cause of the Failure is remedied; and
  - (i) use its reasonable endeavours to remedy the Failure or the cause of the Failure as soon as practicable.