

LICENCE

**GRANTED BY THE MINISTER
UNDER THE
TELECOMMUNICATIONS ACT No [-] of 200[-]**

TO

[New Entrant]

FOR THE

**LANDING OF A SUBMARINE CABLE
AND THE ESTABLISHMENT AND OPERATION
OF A
SUBMARINE CABLE TELECOMMUNICATIONS NETWORK
AND THE PROVISION OF
CERTAIN TELECOMMUNICATIONS SERVICES**

IN

[ECTEL Member State]

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SUBMARINE NETWORKS AND SERVICES LICENCE

THE MINISTER in accordance with the Telecommunications Act No.[-] of 200[-], and acting upon the recommendation of ECTEL, hereby grants this Licence to Southern Caribbean Fibre Limited (hereinafter referred to as the Licensee) to establish and operate a Submarine Telecommunications Network and Service within [[ECTEL Member States] as specified herein.

PART I - THE LICENCE

1. LICENCE

- 1.1 This Licence shall be known as the [New Entrant] Submarine Landing, Networks and Services Licence.

2. INTERPRETATION

- 2.1 In this Licence:

“**Act**” means the Telecommunications Act 200[-] and Regulations made thereunder;

“**Affiliate**” means, in relation to this Licensee, any body corporate that is a subsidiary of this Licensee or if this Licensee and another body corporate are subsidiaries of the same body corporate or if each of them is controlled by the same person; and if the Licensee and another body corporate are affiliated with the same body corporate at the same time, they are affiliated with each other.

“**Annual Licence Fee**” means the fee prescribed in the Telecommunications (Fees) Regulations and payable annually by the Licensee;

“**Backhaul Circuit**” means a high capacity inland circuit representing the connection between a Cable Landing Point and the existing domestic infrastructure of a Telecommunications Provider in [ECTEL Member States];

“**Cable Landing Point**” means the point at which the international submarine telecommunications cable arrives and terminates;

“**Conditions**” means the conditions contained in the Licence, as supplemented or amended from time to time;

“**Control**” means the Licensee is controlled by a person if any shares of the Licensee carrying voting rights sufficient to elect the majority of the directors of the Licensee are, except by security only, held, directly or indirectly, by or on behalf of that person;

“**Customer**” means any Person who is, or who wishes to be, provided with any of the Licensed Services by the Licensee;

“**Effective Date**” means the date on which the Minister grants this licence;

“**Financial Year**” means the accounting period of twelve (12) months commencing from the effective date of the licence and continuing from every anniversary date of the said licence;

“**Government**” means the Government of [ECTEL Member States];

“**Interconnection Services**” means services relating to the interconnection of the Licensee’s Licensed Networks to the network of another Telecommunications Provider;

“**Interconnection Obligations**” means the obligations relating to the provision of Interconnection Services as set out in **Annex C**;

“**Leased Line Services**” means the provision of a part of the Licensed Networks reserved for the exclusive use of a customer without inter-exchange switching arrangements;

“**Leased Line Obligations**” means the obligations relating to the provision of Leased Line Services as set out in **Annex C**;

“**Licence**” means this Licence together with the Annexes;

“**Licence Term**” means twenty years from the Effective Date;

“**Licensed Area**” means the territory of [ECTEL Member States];

“**Licensed Networks**” means domestic and international Submarine Cable Telecommunications Networks.

“**Licensed Services**” means those Telecommunications Services detailed in **Annex B**;

“**Licensee**” means Southern Caribbean Fibre Limited;

“**Meet-Me-Room**” means a secure area, cage or room located in or in close proximity to the Cable Landing Point where licensed telecommunications providers may install interconnection equipment and apparatus for the purpose of interconnecting their network to the network of the licensee.

“**Order**” means an Order issued by the Minister under the Act;

“**Renewal Fee**” means a fee payable by the Licensee on the renewal of this Licence as prescribed by the Telecommunications (Fee) Regulations;

“**Submarine Cable Telecommunications Network**” means a Telecommunications Network consisting of submarine telecommunications cables and terminating in a Cable Landing Point;

“**Technical Specifications**” means the full description of the Licensed Network including the location and technical specifications of the submarine telecommunications cables and Cable Landing Points, and all related facilities, the type and number of channels and the capacity thereof in [ECTEL Member States], the landing points in other countries, the Backhaul Circuit in [ECTEL Member States], and the Wet Link, as set out in **Annex A**;

Universal Service includes the provision of -:

- (a) public voice telephony;
- (b) internet access;
- (c) telecommunications services to schools, hospitals and similar institutions, and the disabled and physically challenged; or
- (d) other service by which people access efficient, affordable and modern telecommunications.

“**Wet Link**” means that portion of the submarine telecommunications cable that is submerged and the associated equipment.

- 22 Any word, phrase or expression used in the Licence shall, unless the context requires otherwise have the same meaning as it has in the Act.
- 23 Words importing the singular shall include the plural and vice versa.

3. SCOPE

- 3.1 The Licensee is hereby authorized to connect the Licensed Networks to:
- 3.1.1 any other Telecommunications Network operated under a licence granted by the Minister in accordance with the Act;
 - 3.1.2 any Telecommunications Network outside [ECTEL Member States];
 - 3.1.3 any Terminal Equipment approved for connection in accordance with Section [-] of the Act.

- 3.2 The Licensee is hereby authorized to provide the Licensed Services by means of the Licensed Networks.
- 3.3 The Licensee shall have the right to provide the following Licensed Services on a non-exclusive basis by means of the Licensed Networks:
- 3.3.1 Interconnection Services; and
 - 3.3.2 Leased Line Services.
- 3.4 This Licence is non-exclusive and is not intended to convey proprietary rights

4. PRECONDITION

- 4.1 The rights of the Licensee set out herein shall not take effect until Southern Caribbean Fibre Limited pays the Fees set out in the Act.

5. DURATION AND RENEWAL

- 5.1 This Licence is granted from the Effective Date for a period of twenty years.
- 5.2 The Minister shall renew the Licence upon request by the Licensee for an additional period determined by the Minister, upon expiration of the Licence Term provided that none of the provisions of section [-] of the Act would cause the Minister to refuse a request for renewal.
- 5.3 Where a Licensee wishes to renew the Licence, it shall apply to the Minister in writing one year prior to the expiry date of the Licence or at a later date if the Minister so determines.
- 5.4 On granting a renewal of the Licence the Minister may vary the terms of the Licence if the conditions then prevailing require such variation and it is reasonable to do so.
- 5.5 The provisions of sections [-] and [-] of the Act relating to suspension, revocation, etc. shall apply *mutatis mutandis* to the renewal of a Licence.
- 5.6 Renewal of the Licence shall not take effect until the Licensee has paid the prescribed fee and any other fees owed under the Licence.

6. ASSIGNMENT

- 6.1 The Licensee shall not assign or otherwise transfer this Licence or any of its rights or obligations under this Licence without the prior written consent of the Minister, subject to clause 6.2 below.

62 The prior written consent of the Minister shall not be required by the Licensee where the assignment or transfer results from an internal reorganization of a body corporate that involves no change in the beneficial ownership thereof. The Licensee shall give prior notification to the Minister of the nature and extent of such assignment or transfer.

7. MODIFICATION, SUSPENSION AND REVOCATION

7.1 This Licence is subject to modification, revocation, suspension and variation according to Sections [-] and [-] of the Act.

7.2 In deciding whether to agree to an amendment proposed by the Licensee, the Minister shall give due consideration to any submissions received from the Licensee and other interested parties in relation to the proposed amendment.

7.3 If after seven months from the date of issuance of this licence the licensee does not commence operations leading to the provision of customer services for which this licence has been granted, then the licensee shall forfeit this licence. Upon forfeiture of this licence there shall be no refund of any fees or bonds that have been paid in respect of this licence.

7.4 If after 18 months from the date of issuance of this licence the licensee does not provide full customer service for which this licence has been granted, the licensee shall forfeit this licence. Upon forfeiture of this licence under this clause, there shall be no refund of any fees, bonds payments or charges whatsoever that have been paid in respect of this granting of the licence.

8. CHANGE OF LAW

8.1 Notwithstanding any provision to the contrary, where the Act is amended, or repealed and replaced, the amendments or the new enactment as the case may be, shall apply to this licence and this licence shall, immediately upon the coming into force of any such amendments or new enactment, be read as if the licence were issued under and in accordance with the provisions of the amended Act or new enactment.

PART II - LICENCE CONDITIONS

1. LICENCE FEES AND MONIES OWED

1.1 The Licensee shall pay all fees prescribed under the Act.

1.2 If the Licensee owes any prescribed fees payable in respect of this Licence, the Licensee shall be in breach of the Licence.

2. TECHNICAL SPECIFICATIONS AND EMERGENCIES

2.1 The Licensee shall comply with the Technical Specifications set out in **Annex A**.

2.2 The Licensee shall obtain the Commission's prior written approval together with the approvals, licences and permits required under the Laws of [ECTEL Member States] in relation to any of the following changes to be made to any portion of the Licensed Network within the territorial waters of [ECTEL Member States].

2.2.1 any change in the location of that portion of the Licensed Network within the territory of [ECTEL Member States] when such relocation involves a change in the geographic co-ordinates of latitude or longitude by as much as one second; or

2.2.2 any change in the location of the Cable Landing Point when such relocation involves a change in the geographic co-ordinates of latitude or longitude by as much as one second, or when such relocation involves a change in street address.

2.3 The Licensee shall provide access to emergency services by means of the Licensed Networks.

2.4 In the event of hurricanes, earthquakes, floods and similar emergencies, the Minister may require the Licensee to provide free of charge to Government or to such Institutions or Person, such Telecommunications Services as the Minister reasonably determines are necessary in the public interest, provided that if the emergency extends beyond thirty (30) days, the Government will compensate the Licensee for any days in excess of thirty (30) days.

3. PROVISION OF INTERCONNECTION, INFRASTRUCTURE SHARING AND LEASED LINES

3.1 The Licensee shall provide Interconnection and Infrastructure Sharing in relation to its Licensed Networks on the request of any Telecommunications Provider according to the Interconnection Service Obligations set out in **Annex C** and the Act.

3.2 The Licensee shall provide Leased Line Services on the request of any Telecommunications Provider according to the Leased Lines Services Obligations set out in **Annex C** and the Act.

4. NON-DISCRIMINATION AND FAIR TRADING

- 4.1 Licensed Networks shall be established and operated and the Licensed Services shall be provided, by the Licensee on arm's length commercial basis with respect to all Affiliates of the Licensee.
- 4.2 In providing the Licensed Services, the Licensee shall not discriminate as between similar types of customers in relation to Licensed Services provided to those customers in the Licensed Area and shall offer the Licensed Services on the same terms and conditions to similar types of customers.
- 4.3 The Licensee shall not discriminate against any Customer using Customer Equipment, in connection with the Licensed Networks, which are not sold or leased by the Licensee provided that any such Customer Equipment is of a type approved under the Act.
- 4.4 The Licensee shall not engage in any activities, whether by act or omission, which have, or are intended to or likely to have, the effect of unfairly preventing, restricting or distorting competition in relation to the Licensed Services as specified in Regulations issued by the Minister.
- 4.5 Without limiting the generality of Condition 4.3 above, any such act or omission shall include:
- 4.5.1 any abuse by the Licensee, either independently or with others, of a dominant position; or
 - 4.5.2 entering into any contract or engaging in any concerted practice with any other party;
- Where the effect of the conduct defined in Conditions 4.5.1 and 4.5.2 is, or is likely to be, a substantial lessening of competition in that or any other market.
- 4.6 For the purposes of Condition 4.5.1 of this Part, a Licensee may be considered as having a dominant position if the Commission has designated the Licensee as a dominant telecommunications provider pursuant to Condition 4.8 hereafter.
- 4.7 A Telecommunications provider shall be considered dominant in respect of a particular telecommunications market or markets in [ECTEL Member States] in accordance with the Act.
- 4.8 A Licensee may make an application for a declaration on non-dominance in accordance with the Act.

5. PRIVACY AND CONFIDENTIALITY

- 5.1 The Licensee shall ensure the privacy and confidentiality of information and business secrets obtained in the course of its business from any Person to whom it provides Licensed Services by establishing and implementing procedures for maintaining confidentiality of such information as set out in the Act.

6. INFORMATION REQUIREMENTS

- 6.1 The Licensee shall provide the Minister, the Commission and ECTEL with any relevant agreements (including agreements with any Affiliate of the Licensee) and such relevant accounting, financial, costs, technical and other information (including but not limited to a complete audited financial report) reasonably required to enable the Minister, the Commission or ECTEL to carry out their functions under the Act in the manner and at the times that the Minister, the Commission and ECTEL may request.

7. PRE-NOTIFICATION OF CHANGES IN SHAREHOLDING

- 7.1 The Licensee shall notify the Minister of any acquisition of shares or change in shareholding of the Licensee, if by reason of that acquisition or change, the total number of shares held by a Person or any nominee or trustee for that Person, immediately after the change or acquisition exceeds 25 per cent of the total number of shares in the Licensee (where such shareholding did not already exceed 25 per cent prior to that change or acquisition).
- 7.2 The Licensee shall notify the Minister in writing thirty (30) days prior to the taking effect of such change or acquisition stated above.
- 7.3 Upon receipt of such information the Minister may modify, suspend or revoke such licence pursuant to sections [-], [-] and [-] of the Act.
- 7.4 The Licensee shall notify the Minister in writing thirty (30) days prior to the taking effect of such change or acquisition stated above.

8. RIGHTS OF ACCESS

- 8.1 Where the Licensee needs to traverse Crown lands or private property for purposes associated with this licence, it shall first seek the permission, consent and/or approval of any Person including any Ministry of Government or Statutory Agency.
- 8.2 In the exercise of any permission, consent and/or approval granted under clause 8.1, the Licensee shall cause as little inconvenience or damage as is reasonably practicable and

the Licensee shall be liable to pay compensation to any person who suffers damage to his property in consequence of the exercise of such permission, consent and/or approval. For the avoidance of doubt, this condition shall also apply to public lands, public buildings and other public property.

- 8.3 Subject to the provisions of this section, nothing in this licence shall be interpreted as granting or permitting the Licensee rights of access over, through or across Crown Lands or private property.

9. FORCE MAJEURE

- 9.1 Force Majeure refers to an event or accident which is beyond the control of the Licensee and includes:

- (a) acts of God, action by or against enemies of the State, riot or civil commotion;
- (b) strikes, lock-outs and other industrial disturbances;
- (c) wars, blockades or insurrection;
- (d) earthquake, hurricane, flood, fire or explosion;
- (e) outbreak of pestilence or epidemics;
- (f) government rationing of electricity or other wartime or emergency controls imposed by Government;
- (g) embargoes or trade restrictions;

- 9.2 The Licensee shall not be in breach of this Licence if and to the extent that it is prevented from fulfilling its obligations are for reasons of Force Majeure.

10. UNIVERSAL SERVICE OBLIGATION

- 10.1 The Licensee shall fulfill the Universal Service Obligations pursuant to section [-] of the Act.
- 10.2 The Licensee shall make and receive payments into and from the Universal Service Fund in accordance with the Act or Regulations issued by the Minister pursuant to Section [-] of the Act.
- 10.3 The Licensee agrees that after consultation appropriate Universal Service Obligations shall be included as an Annex to this licence.

10.4 The Licensee shall meet those Universal Service Obligations and a failure to comply with a Commission’s directive to meet such obligations shall be regarded as a breach of this Licence.

11. COMPLIANCE

11.1 The Licensee shall comply with all applicable Acts, Regulations, Directions, Orders and Recommendations, including but not limited to the Act and shall comply with the Directions, Orders and Recommendations issued by the Minister and the Commission.

Granted by the Minister at.....on thisday of.....2019.

.....
Minister responsible for Telecommunications

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ANNEX A

TECHNICAL SPECIFICATIONS

The licensee is authorised pursuant to this licence to land, install and operate a Submarine Cable and Submarine Cable Network, as described and specified, including the ‘Wet Link’, the Cable Landing Point, Technical Points of Interconnection, and Backhaul System.

1. System Description

A submarine cable joining [Member State and...]

2. System Configuration

- a. A System design capacity of a maximum of up to 640 Gigabits/second
- b. With an initial system capacity of 10 Gigabits/second between [-]
- c. Featuring a Wet Link cable length as detailed in the summary table below, and attached map:

Segment	Landing Points	Length (km)
1	[-]	[-]
2	[-]	[-]
Total	[-]	[-]

- d. [Additional fibre network redundancy to be provided through use of satellite earth stations.]

3. Terminating Point Design and Specification including:-

- a. Technical Points of interconnection of the following specifications:-
 - i. T1 and E1
 - ii. OC-3/STM-1
 - iii. OC-48/STM-4
 - iv. OC-192/STM-64
- b. Using the following interfacing technologies:-
 - i. Optical connectivity
 - ii. Streaming IP (Internet Protocol)
 - iii. Asynchronous Transfer Mode (ATM)
 - iv. Electrical-to-optical connectivity
 - v. Optical-to-wireless connectivity
- c. Access for interconnection parties facilitated by the provision of a ‘Meet-me Room’ located at the Cable Landing Point facility.

- d. Backup power to be provided at the cable landing facility with a capacity for coverage of a minimum period of 72 hours continuously.

4. Backhaul System Design and Specification including:-

- a. System design capacity of 20 Gigabits/second in a redundant configuration with the backup being able to provide redundant capacity in the event of a failure of the primary network.
- b. An initial system capacity of [10] Gigabits/second.

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ANNEX B

LICENSED SERVICES

1.1 The Licensee is authorised pursuant to this Licence to provide telecommunications services to other Licensed Operators including:

- (i) domestic or international services;
- (ii) transit or terminating services;
- (iii) any-to-any services;
- (iv) information services;
- (v) services using wireline or wireless technology, or any combination thereof; and
- (vi) services provided using packet technology, or any other form of transmission, or any combination thereof.

Licensed services include:

- (a) Voice, Text, Data, Video, and Inter-active Services, including Internet;
- (b) Lightwave Services, including infrared and other systems inside and outside the visible spectrum;
- (c) Facilities management including:
 1. Data network hubs;
 2. Voice and Data network distribution and terminal equipment including data storage and business continuity services;
 3. Services for audio, text, data and video programme transmission:

In this context, the term "transmission" relates to the transport of these signals, and is not intended to include the production of broadcast audio or television programming. However under this licence, the licensee may provide systems and services to transport or broadcast signals or programming produced by an entity appropriately authorized by the Government.

1.2 For the avoidance of doubt, nothing in this Licence grants a person the right to establish or operate an international telecommunications network or to provide international telecommunications services that have not been granted in accordance with the Act and Regulations.

ANNEX C

INTERCONNECTION AND LEASED LINE OBLIGATIONS

1. Interconnection Obligations

- a. Subject to the Act, the Licensee shall provide interconnection to any licensed telecommunications operator at any technically feasible point.
- b. The Licensee shall provide for the facilities and equipment of any licensed telecommunications operator requesting interconnection.
- c. The Licensee shall provide Interconnection that is at least equal in quality provided to itself or to any other party to which the Licensee provides Interconnection.
- d. The Licensee shall provide the Interconnection using interfacing as provided for in Annex-A subject to all applicable international technical standards and regulations.

2. Leased Line Obligations

- a. The Licensee shall provide Leased Line facilities and circuits directly or indirectly to any licensed telecommunications operator in [ECTEL Member States].
- b. The Licensee shall provide Leased Line facilities and circuits using interfacing as provided for in Annex-A subject to all applicable international technical standards and regulations.

ANNEX D

UNIVERSAL SERVICE OBLIGATIONS

In addition to any other Universal Service Obligation that may be included in this Annex after consultation the Licensee shall make available on terms agreed with the Minister:

- Capacity to provide access to public places for Broadband Internet Services;
- Broadband capacity to facilitate Regional Information and Communication Technology (ICT) initiatives.

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