



MASTER SERVICE AGREEMENT

This Master Service Agreement ("Agreement") is between **Theo Services Germany GmbH**, Rüsselsheimer Straße 22, 60326 Frankfurt am Main (registered at Amtsgericht Frankfurt am Main under HRB 136676, VAT No. (USt-IdNr.) DE454718799) ("Theo Services"), a member of the Colt group of companies (Colt Group Holdings Limited, Colt House, 20 Great Eastern Street, EC2A 3EH, United Kingdom, registered in England and Wales, under company number 11530966. Corporate and contact information for the Colt Group entities can be found at <https://www.colt.net/legal/colt-group-of-companies>); and [Customer], [address and registration], VAT No.[xxxx] ("Customer") and is effective on the date the last party signs it (the "Effective Date"). This Agreement provides the general terms and conditions applicable to Customer's purchase of all communications and other products and services ("Service") from Theo Services based on individually agreed Orders (as defined below). The applicability of any deviating terms is excluded, even in the case that Theo Services provides the Services and does not expressly contradict such terms.

1. Term of the Agreement. The term of the Agreement will commence on the Effective Date and continue until the expiration of the last Service Term (as defined in Section 3 below), unless earlier terminated in accordance with the Agreement ("Term").

2. Service. Theo Services will provide Service in accordance with the Agreement, including all applicable Service Schedules, Service Exhibits, Statements of Work, Order(s), pricing attachments, and any other documents that are attached or expressly incorporated into the Agreement ("Service Attachments"). Additional Service Attachments may be added by Amendment or by Customer placing an Order.

3. Order(s); Service Term. Customer may submit individual requests for Service in a form designated by Theo Services ("Order"). The term for a Service is defined in the applicable Service Attachment ("Service Term"). The Service Term starts with the date of the billing commencement according to Section 10.1 below. Unless otherwise set forth in a Service Attachment, Service will continue month-to-month at the expiration of the Service Term at the existing rates, subject to adjustment by Theo Services on 30 days' written or electronic notice. Theo Services will notify Customer of acceptance of the requested Service in the Order by delivering (in writing or electronically) the date by which Theo Services will install Service (the "Customer Commit Date"), by delivering the Service, or by the manner described in a Service Attachment. Renewal Orders will be accepted by Theo Services' continuation of Service. For moves, adds or changes agreed to by Theo Services, Customer will pay Theo Services' then current charges unless otherwise specifically stated in a Service Attachment.

4. Cancellation; Termination Charges. Unless otherwise set forth in a Service Attachment:

(a) Customer may cancel an Order (or portion of an Order) prior to the delivery of a Connection Notice upon written notice to Theo Services identifying the affected Order and Service. If Customer does so, Theo Services may agree to such termination if Customer will pay Theo Services a cancellation charge equal to the sum of: (1) for "Off-Net" Service, third party termination charges for the cancelled Service; (2) for "On-Net" Service, one month's monthly recurring charges for the cancelled Service; (3) the non-recurring charges for the cancelled Service; and (4) Theo Services' out-of-pocket costs (if any) incurred in constructing facilities necessary for Service delivery. "Off-Net" is defined as local access circuits not provided on the network owned and operated by Theo Services and its Affiliates. "On-Net" is defined as local access circuits provided on the network owned and operated by Theo Services and its Affiliates. "Affiliate" means any entity which is affiliated with a party as defined in § 15 German Stock Corporation Act ("Aktiengesetz").

(b) Customer may terminate a specified Service after the delivery of a Connection Notice but prior to the end of the Service Term for reasons that Theo Services is not accountable for upon 30 days' written notice to Theo Services. If Customer does so, Theo Services may agree to such termination if Customer will pay Theo Services a termination charge equal to the sum of: (1) all unpaid amounts for Service actually provided; (2) 100% of the remaining monthly recurring charges for months 1-12 of the Service Term; (3) 50% of the remaining monthly recurring charges for month 13 through the end of the Service Term if Service Term longer than 12 months has been agreed upon; and (4) if not recovered by the foregoing, any termination liability payable to third parties resulting from the termination and any out-of-pocket costs of construction to the extent such construction was undertaken to provide Service under this Agreement.

(c) If Service is terminated by Theo Services as the result of Customer's breach, (1) Customer will pay Theo Services a termination charge equal to the sum of: (i) all unpaid amounts for Service actually provided; (ii) 100% of the remaining monthly recurring charges for months 1-12 of the Service Term; (iii) 50% of the remaining monthly recurring charges for month 13 through the end of the Service Term, if a Service Term longer than 12 months has been agreed upon; and (iv) if not recovered by the foregoing, any termination liability payable to third parties resulting from the termination, and (2) Customer will retain the right to prove lower damages while Theo Services has the right to prove higher damages.

5. Scheduled Maintenance; Local Access. Scheduled maintenance will not normally result in Service interruption. Unless otherwise set forth in a Service Attachment, if scheduled maintenance requires Service interruption Theo Services will: (1) provide Customer seven days' prior written or electronic notice, (2) work with Customer to minimize interruptions and (3) use commercially reasonable efforts to perform such maintenance between midnight and 6:00 a.m. local time in the country where the work is being undertaken. If third-party local access services obtained by Customer are required for the Services, Customer will: (1) provide Theo Services with circuit facility and firm order commitment information and design layout records to enable cross-connects to Theo Services Service(s) (provided by Theo Services subject to applicable charges), (2) cooperate with Theo Services (including changing demarcation points and/or equipment and providing necessary Letters of Authorization ("LOAs")) regarding circuit grooming or re-provisioning, and (3) where a related Service is disconnected, provide Theo Services a written disconnection firm order commitment from the relevant third party provider. Theo Services may, upon 30 days' notice to Customer, re-provision any local access circuits

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obtained by Theo Services from one Off-Net provider to another or to the Theo Services On-Net service, and such changes will be treated as scheduled maintenance.

6. Service Levels.

(a) Any "Service Level" commitments applicable to Services are contained in the Service Attachments applicable to each Service. If Theo Services does not meet a Service Level and is accountable for such failure (see also Section 9.2 below), Theo Services will issue to Customer a credit as stated in the applicable Service Attachment on Customer's request, except that credits will not be provided for Excused Outages. Theo Services' maintenance log and trouble ticketing systems are used to calculate Service Level events.

(b) Unless otherwise set forth in a Service Attachment, to request a credit, Customer must submit a written or electronic request with sufficient detail to identify the affected Service. The request for credit must be made within 60 days after the end of the month in which the event occurred.

(c) Total monthly credits will not exceed the charges for the affected Service for that month. Save where the Customer has the right to terminate this Agreement in accordance with Sections 4. or 8., Customer's sole remedies for any non-performance, outages, failures to deliver or defects in Service are contained (1) in the Service Levels applicable to the affected Service, and (2) in Section 7. Theo Services' liability pursuant to Sections 9.1 and 9.2 remains unaffected whereby credits will count against any liability claims of Customer.

7. Right of Termination for Installation Delay. Unless otherwise set forth in a Service Attachment, in lieu of installation Service Level credits, if Theo Services' installation of Service is delayed by more than 30 Business Days beyond the Customer Commit Date, Customer may terminate the affected Service without liability upon written notice to Theo Services, provided such written notice is delivered prior to Theo Services delivering a Connection Notice for the affected Service. This Section will not apply where Theo Services is constructing facilities to a new location not previously served by Theo Services. "Business Days" are defined as Mondays to Fridays excluding public holidays.

8. Default; Suspension.

(a) **Default.** If (a) Customer fails to make any payment when due and such failure continues for five Business Days after Theo Services' written notice, or (b) either party fails to observe or perform any other material term of this Agreement and such failure continues for 30 days after the other party's written notice, then the non-defaulting party may: (i) terminate this Agreement and/or any Order, in whole or in part, and/or (ii) subject to Sections 9.1 (Liability Limitations and Exclusions) and 6. (Service Levels), pursue any remedies it may have at law or in equity. The statutory right of each Party to terminate this Agreement for cause due to other important reason (*wichtiger Grund*) remains unaffected.

(b) **Suspension.** If Theo Services is entitled to terminate this Agreement and/or any Order due to reasons that Customer is accountable for, Theo Services may, without prejudice to its right to terminate this Agreement or any Order, suspend, in whole or in part, Customer's Service(s) until the failure or default is cured. Customer will be liable to pay all charges in respect of the suspended Service(s) during any period of suspension.

9. Liabilities and Disclaimers.

9.1 Liability Limitations and Exclusions.

(a) Theo Services will be liable for damages caused by intent ("*Vorsatz*") or gross negligence ("*grobe Fahrlässigkeit*"), for death and personal injury, under the Product Liability Act ("*Produkthaftungsgesetz*") and other mandatory law pursuant to the applicable statutory provisions. For pecuniary damages ("*Vermögensschäden*") caused in conjunction with providing electronic communications services, Theo Services will be liable pursuant, or to the extent foreseen in Sec. 70 of the German Telecommunications Act ("*Telekommunikationsgesetz*" - "*TKG*").

(b) For damages not falling under Section (a), Theo Services will only be liable for damages, whether arising from contractual or non-contractual liability or otherwise, which have been caused by culpable violation of essential contractual duties, or by lack of guaranteed qualities. An essential contractual duty is a duty the fulfilment of which enables the proper performance of the contract in the first place (e.g. the provision of the Service), or the violation of which endangers the achievement of the purpose of the Agreement, and the compliance with which Customer may typically rely upon.

(c) With respect to Section (b), Theo Services' liability for violations of essential contractual duties due to slight or simple negligence ("*einfache Fahrlässigkeit*") will be limited to the amount of the typically foreseeable damages. Any liability for violations of any other contractual duties due to slight or simple negligence, and any strict liability ("*verschuldensunabhängige Garantiehaftung*"), in particular for deficiencies pursuant to Sec. 536a para. 1, 1. alt. of the German Civil Code ("*Bürgerliches Gesetzbuch*" - "*BGB*"), is excluded.

(d) Neither party will be liable for consequential or indirect damages (including but not limited to damages for lost profits (whether directly or indirectly); loss of revenues, business goodwill, anticipated savings, customers, data; arising out of interference with business and other indirect, incidental, or consequential damages) arising out of or in connection with this Agreement or any Order or any other cause whatsoever. The liability of Theo Services under Section (a) remains unaffected.

(e) Subject to Section (a), Theo Services' liability for any non-performance, outages, failures to deliver or defects in Service is finally regulated in the Service Level and chronic outage provisions (if any) applicable to the affected Service (see also Section 6.).

(f) Subject to Section (a), Theo Services' total aggregate liability for damages to goods ("*Sachschäden*") or pecuniary damages ("*Vermögensschäden*"), whether arising from contractual or non-contractual liability or otherwise, under or in connection with this Agreement will not exceed 100% of all charges paid during the 6-month period immediately prior to which the relevant claim arises. If the Agreement has not yet reached a term of 6 months at this point in time, the amount paid for the previous term, extrapolated to 6 months, is decisive. If the term of the Agreement had not yet begun, the agreed initial and minimum remuneration for the first 6 months of the contract is decisive. The Parties agree that the above limitation is a bona fide and adequate estimation of the amount of typically foreseeable damages.

(g) The foregoing limitations of liability will also inure to the benefit of the employees of Theo Services and any Affiliates of Theo Services involved in the performance of this Service Agreement and/or any Order as well as their respective employees and other vicarious agents.

9.2 Accountability („Vertretenmüssen“). Theo Services cannot be made accountable for the following impairments of performance: (i) Any default, non-availability, delay or other quality degradation of the Service caused by events of force majeure according to Section 15.1; (ii) impairments of performance for which the customer is accountable for or caused by equipment or power supply services provided by the customer; (iii) impairments of performance attributed to scheduled maintenance according to Section 8; and (iv) any default, non-availability, delay or other quality degradation of the Service caused by third parties (except suppliers of Theo Services – but especially other carriers or network interconnection points controlled by third parties, equipment or power supply services provided by third parties, or cable cuts caused by third parties beyond Theo Services' reasonable control). All these events under (i) to (iv) are considered and defined as "Excused Outages", unless otherwise defined in a Service Attachment.

9.3 Disclaimer of Warranties. Theo Services makes no warranties or representations, express or implied, either in fact or by operation of law, statutory or otherwise, including warranties of merchantability or fitness for a particular use, except those expressly set forth in the Agreement or any applicable Service Attachment.

10. Billing and Payment.

10.1 Commencement of Billing. Unless otherwise set forth in a Service Attachment, Theo Services will deliver written or electronic notice to Customer when Service is installed (a "Connection Notice"), at which time billing will commence ("Service Commencement Date"). If Customer notifies Theo Services within three Business Days after delivery of the Connection Notice that Service is not functioning properly, Theo Services will correct any deficiencies and, upon Customer's request, credit Customer's account in the amount of 1/30 of the applicable monthly recurring charge (MRC) for each day the Service did not function properly. If Theo Services cannot complete installation due to Customer delay or inaction, Theo Services may begin charging Customer for the Service, and Customer will pay such charges.

10.2 Payment of Invoices and Disputes. Unless otherwise set forth in a Service Attachment, invoices are delivered or made available monthly and due immediately, i.e. to be paid within 30 days after the invoice date. Fixed charges are billed in advance and usage-based charges are billed in arrears. Customer's payments to Theo Services must be made via the payment method designated by Theo Services in the currency stated on the invoice, free of currency exchange costs or bank charges. Theo Services may charge administrative fees where Customer's payment and invoice preferences deviate from Theo Services' standard practices. Past due amounts bear interest at 1.5% per month or the highest rate allowed by law (whichever is less). Theo Services may charge Customer reasonable attorneys' fees and any third-party collection costs Theo Services incurs in collecting such amounts. Customer is responsible for all charges regarding the Service that Customer is accountable for, even if incurred as the result of unauthorized use. If Customer reasonably disputes an invoice, Customer must pay the undisputed amount and submit written or electronic notice of the disputed amount (with details of the nature of the dispute and the Services and invoice(s) disputed). Disputes must be submitted in writing within 90 days from the date of the invoice. If Theo Services determines in good faith that a disputed charge was billed correctly, Customer must pay such amounts within 10 days after Theo Services provides notice of such determination. Customer may not offset disputed amounts from one invoice against payments due on the same or another account.

10.3 Taxes and Fees. Charges for Service are exclusive of Taxes and Fees. Customer is responsible for all taxes and fees arising in any jurisdiction imposed on Customer, Theo Services, or a Theo Services Affiliate incident to the provision, sale or use of Service. This includes value added, consumption, sales, use, gross receipts, withholding, excise, ad valorem, franchise or other taxes, fees, duties or surcharges (e.g., regulatory and emergency service call number surcharges), along with similar charges stated in a Service Attachment (collectively "Taxes and Fees"). This does not include taxes based on Theo Services' net income. Some Taxes and Fees, and costs of administering them, are recovered through a percentage surcharge(s) on the charges for Service. If Customer is required by law to make any deduction or withholding of withholding Taxes from any payment due under this Agreement to Theo Services, then Customer must increase the gross amount payable so that, after any deduction or withholding for such withholding Taxes, the net amount paid to Theo Services will not be less than Theo Services would have received had no such deduction or withholding been required. Customer may present Theo Services with an exemption certificate that eliminates Theo Services' obligation to pay certain Taxes and Fees. The exemption will apply prospectively.

10.4 Credit Approval; Deposits. Customer will provide Theo Services with credit information as requested. Theo Services may require Customer to make a deposit as a condition of Theo Services' acceptance of any Order or continuation of: (a) usage-based Services; or (b) non-usage based Services where Customer fails to timely pay Theo Services or Theo Services reasonably



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determines that Customer has had an adverse change in financial condition. Deposits will not exceed two months' estimated charges for Service and are due upon Theo Services' written request. When Service is discontinued, the deposit will be credited to Customer's account and the balance refunded.

10.5 Regulatory and Legal Changes. If changes in applicable law, regulation, rule or order materially affect delivery of Service, the parties will negotiate appropriate changes to this Agreement. If the parties cannot reach agreement within 30 days after Theo Services' notice requesting renegotiation, Theo Services may, on a prospective basis after such 30-days period, pass any increased delivery costs on to Customer. If Theo Services does so, Customer may terminate the affected Service on written notice to Theo Services delivered within 30 days of the cost increase taking effect.

10.6 Sanctions. If any type of economic, trade or other governmental or transnational sanction applies to the performance of Theo Services' obligations under this Agreement or to Customer's use or permitted resale of a Service, Theo Services may immediately terminate the affected Service without liability, upon written notice to Customer.

11. Customer Premises; Title to Equipment. If access to non-Theo Services facilities is required for the installation, maintenance, grooming, movement, upgrade and/or removal of Theo Services network or equipment, Customer will, at its expense: (a) secure such right of access and (b) arrange for the provision and maintenance of power and heating, ventilation and air condition ("HVAC") as needed for the proper operation of such equipment and network. Title to Theo Services-provided equipment (including software) remains with Theo Services. Customer will not create or permit to be created any encumbrances on Theo Services-provided equipment.

12. Acceptable Use Policy. Customer must comply with the Theo Services Acceptable Use Policy ("AUP"), which is available at <https://www.colt.net/legal/terms-and-conditions/>, for Services purchased under this Agreement. Theo Services may reasonably modify this policy to ensure compliance with applicable laws and regulations and to protect Theo Services' network and customers.

13. Data Protection. The terms of the attached Data Protection Addendum will apply to the processing of Personal Data under this Agreement and Theo Services and Customer will each comply with the requirements of the Data Protection Addendum in performing their obligations under this Agreement.

14. International Services. For Services provided outside the United States, Customer or its local Affiliate may be required to enter into a separate local country addendum/agreement (as approved by local authorities) ("LCA") with the respective Theo Services Affiliate that provides the local Service(s). Such Theo Services Affiliate will invoice Customer or its local Affiliate for the respective local Service(s).

15. General Terms.

15.1 Force Majeure. Neither party will be liable, nor will any credit allowance or other remedy be extended, for any failure of performance or equipment due to causes beyond such party's reasonable control ("force majeure event").

15.2 Assignment and Resale. Neither party may assign its rights or obligations under this Agreement or any Service Attachment without the prior written consent of the other party, which will not be unreasonably withheld. However, either party may assign its rights and obligations under this Agreement or any Order without the consent of the other party: (1) to any Affiliate; (2) pursuant to the sale or transfer of substantially all of the business or relevant assets of that party; or (3) pursuant to any financing, merger, or reorganization of that party. The assigning party will though inform the other party in writing without undue delay about any such assignment. This Agreement and all Service Attachments will apply to any permitted transferees or assignees. Any assignee of Customer must have a financial standing and creditworthiness equal to or better than Customer's. Unless otherwise set forth in a Service Attachment, Customer may provide Service to third parties or use the Services in connection with goods or services provided by Customer to third parties ("Customer Provided Services"). Customer will indemnify, defend and hold Theo Services and its Affiliates harmless from any claims arising from or related to any Customer Provided Services. If Customer sells telecommunications services, Customer certifies that it has filed all required documentation and will at all times have the requisite authority with appropriate regulatory agencies respecting the same. Nothing in this Agreement confers upon any third party any right, benefit or remedy hereunder.

15.3 Affiliates. Theo Services may use a Theo Services Affiliate or a third party to provide Service to Customer, but Theo Services will remain responsible to Customer for Service delivery and performance. Customer's Affiliates may purchase Service under this Agreement, and Customer will be jointly and severally liable for all claims and liabilities related to Service ordered by any Customer Affiliate.

15.4 Notices. Notices will be in writing and deemed received if delivered personally, sent via facsimile, pre-paid overnight courier, electronic mail (if an e-mail address is provided below) or sent by U.S. Postal Service (in the US) or First Class International Post. Unless otherwise provided for in a Service Attachment, requests for disconnection of Service (other than for default) must be submitted to Theo Services via Customer's portal at <https://controlcenter.colt.net/login> and will be effective 30 days after receipt (or such longer period set forth in a Service Attachment). Notices for billing inquiries/disputes or requests for Service Level credits must be submitted to Theo Services via Customer's portal at <https://controlcenter.colt.net/login> or via Email at: emeabilling@colt.net. Customer failure to follow this process and/or provide complete information may result in continued charges that will not be credited. All legal notices will be addressed to Theo Services at: 260-266 Goswell Road, London, EC1V 7EB; and EMEA.Legal@colt.net Attn.: General Counsel; and to any electronic or physical address of Customer as provided in the Agreement or in its absence, to Customer's address identified on the Order or as reflected in Theo Services' records, Attn. General Counsel.

15.5 Confidentiality. Neither party will: (a) disclose any of the terms of the Agreement; or (b) disclose or use (except as expressly permitted by, or required to achieve the purposes of, the Agreement) the Confidential Information received from the other party. A party may disclose Confidential Information if required to do so by a governmental agency, by operation of law, or if necessary, in any proceeding to establish rights or obligations under the Agreement. Each party will limit disclosure and access to confidential information to those of its employees, contractors, attorneys or other representatives who reasonably require such access to accomplish the Agreement's purposes and who are subject to confidentiality obligations at least as restrictive as those contained in the Agreement. "Confidential Information" means any commercial or operational information disclosed by one party to the other in connection with the Agreement and does not include any information that: (a) is in the public domain without a breach of confidentiality; (b) is obtained from a third party without violation of any obligation of confidentiality; or (c) is independently developed by a party without reference to the Confidential Information of the other party.

15.6 Intellectual Property Ownership; Use of Name and Marks. Nothing in the Agreement or the performance under the Agreement will convey, license, or otherwise transfer any right, title, or interest in any intellectual property or other proprietary rights held by either party or its licensors. Neither party will use the name or marks of the other party or any of its Affiliates for any purpose or issue any press release or public statement relating to this Agreement without the other party's prior written consent.

15.7 Governing Law; Amendment. This Agreement and any dispute or claim arising out of it or in connection with it (including non-contractual disputes or claims) will be governed by and construed in accordance with the laws of the Federal Republic of Germany, without regard to its choice of law rules; Legal venue is Frankfurt am Main. Theo Services remains entitled to bring action against the Customer at any competent court. Each party will comply with all applicable laws, rules and regulations associated respectively with Theo Services' delivery or Customer's use of the Service under the Agreement. This Agreement, including any Service Attachments, constitutes the entire and final agreement and understanding between the parties with respect to the Service and supersedes all prior agreements relating to the Service. Theo Services is not subject to any obligations that are not explicitly identified in this Agreement. Any other terms that the Customer seeks to impose or incorporate, whether through handwritten mention on any component of the Agreement or through any terms and conditions, including clickwrap terms and conditions, contained in Customer purchase orders or Customer portal(s) are hereby excluded. This Agreement may only be modified or supplemented by an instrument executed by an authorized representative of each party. No failure by either party to enforce any right(s) under this Agreement will constitute a waiver of such right(s). In the event of any conflict between this Agreement, and any Service Schedule, Service Exhibit, Statement of Work and/or Order, the order of precedence is: (i) the Service Schedule; (ii) the Service Exhibit; (iii) this Agreement; (iv) the Statement of Work; and (v) the Order.

15.8 Relationship; Counterparts. The relationship between the parties is not that of partners, agents, or joint venturers. This Agreement may be executed in one or more counterparts, all of which taken together will constitute one instrument. Digital signatures and electronically exchanged copies of signed documents will be sufficient to bind the parties to this Agreement.

15.9 Dispute Resolution Proceedings Before the National Regulatory Authority ("Bundesnetzagentur"). If the Customer wishes to institute conciliation proceedings to settle any dispute between Theo Services and the Customer as to whether Theo Services has fulfilled its obligations vis-à-vis the Customer in accordance with the provisions of the German Telecommunications Act, the Customer may address a request to that effect to the Bundesnetzagentur in Bonn. Further details are available on the Website of the Bundesnetzagentur: www.bundesnetzagentur.de.

Signed for and on behalf of:

Theo Services Germany GmbH

Signed for and on behalf of:

Customer

Signature: _____

Name: _____

Title: _____

Date: _____

Signature: _____

Name: _____

Title: _____

Date: _____

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DATA PROTECTION ADDENDUM

1. Applicability. This Data Protection Addendum ("DPA") forms part of and is subject to the governing services agreement between Customer and Theo Services ("Agreement") and is applicable to the provision of certain Services of Theo Services. In the event of a conflict between the Agreement and this DPA, the terms of this DPA will control.

2. Definitions. In this DPA, the following definitions apply:

"Controller", "Processor", "Data Subjects", "Personal Data", "Personal Data Breach" and "Processing" will have the meanings ascribed to them in the EU General Data Protection Regulation (Regulation 2016/679) ("GDPR").

"Data Protection Laws" means the provisions of applicable laws regulating the use and processing of Personal Data, as may be defined in such provisions, including a) prior to 25 May 2018, the EU Data Protection Directive 95/46/EC, b) after 25 May 2018 the GDPR, c) the Electronic Communications Data Protection Directive 2002/58/EC, d) the Privacy and Electronic Communications Directive 2002 as amended and e) all other applicable laws and regulations relating to processing of personal data – notably the German Telecommunications Act (*Telekommunikationsgesetz – TKG*).

"Services" means the Theo Services Processing Services to be provided to Customer under the Agreement.

3. Compliance with Data Protection Laws.

Each party is an independent Controller with respect to Personal Data collected from the other which is necessary for administering its business relationship with the other (e.g. name, address, email address). Customer is a Controller (or effectively the Controller to Theo Services as Processor/subprocessor) with respect to Personal Data Processed by Theo Services. Theo Services is a Controller with respect to billing, utilization, usage patterns/counts/statistics, traffic data and other business and operational information, to the extent it is Personal Data, and a Theo Services Privacy Notice applicable to the foregoing can be found at: <https://www.colt.net/legal/data-privacy/#privacy>. Each party will comply at all times with its Controller obligations under Data Protection Laws with respect to any Personal Data processed under the Agreement, including providing individuals with notice, required consents and ensuring a valid legal basis of processing.

4. Data Processing.

(a) Theo Services acknowledges that it is a Processor on behalf of the Customer when providing Services and performing its related obligations (including incident resolution, support or consultancy services). The subject matter, duration, and nature of the processing are described in the applicable Service Exhibits. Further details of the processing for Theo Services' services can be found in its Privacy Data Sheets which are available upon request.

(b) In so far as Theo Services processes Personal Data on behalf of Customer as a Processor, Theo Services will (and will procure that Theo Services Affiliates will):

(i) Process Personal Data only in accordance with the Customer's documented instructions, including as set out in the Agreement and this DPA and ensure that Theo Services personnel process Personal Data only on such instructions of the Customer, unless processing is required by EU or member state law to which Theo Services is subject, in which case Theo Services will, to the extent permitted by such law, inform Customer of that legal requirement before processing that Personal Data;

(ii) Restrict the disclosure and processing of Personal Data to the extent necessary to provide the Services, or as otherwise permitted under the Agreement and this DPA, or by Customer in writing, and disclose Personal Data only on a need to know basis in connection with the Services to those who have committed themselves to confidentiality, or as required by applicable law;

(iii) Taking into account the state of the art, costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, implement and maintain appropriate technical and organizational measures designed to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and against all other unlawful forms of processing and ensure a level of security appropriate to the risk presented by the processing;

(iv) Ensure that only those personnel who need to have access to Personal Data are granted access to it, and that such access is granted only for the proper provision of the Services; and

(v) If and to the extent Theo Services retains a copy of any Personal Data, not retain that Personal Data for longer than is necessary to perform the Services and at Customer's option, securely destroy or return such Personal Data, except where required to retain the Personal Data by law or regulation. The parties agree that Theo Services will not actively process such Personal Data and will be bound by the provisions of this DPA in respect of any such retained Personal Data. Theo Services will delete such data promptly after it ceases to be obliged to retain it and will only process it to the extent required to comply with applicable laws.

5. Subprocessing.

(a) Prior to disclosing any Personal Data to any subprocessor, Theo Services will ensure that it has undertaken appropriate due diligence with respect to such subprocessor, and will ensure the subprocessor enters into a written agreement on terms which provide

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that the subprocessor has equivalent obligations to those set out in this DPA. Theo Services will remain fully liable to Customer for any breach of such obligations by the subprocessor. The Customer generally authorizes Theo Services to appoint subprocessors in accordance with the terms of this DPA and the Agreement.

(b) Theo Services will maintain an up to date list of its subprocessors which is available upon request, and Theo Services will inform Customer with details of any intended change in subprocessors at least 30 days prior to any such change. The Customer may object to Theo Services' appointment or replacement of a subprocessor prior to its appointment or replacement, provided such objection is based on reasonable grounds. In such event, Theo Services will either not appoint or replace the subprocessor or, if this is not possible, the Customer may terminate the applicable Service (without prejudice to any fees incurred by the Customer prior to termination).

6. Cooperation.

(a) Theo Services will, in so far as is possible, promptly notify Customer of any inquiry, complaint notice or other communication it receives from any supervisory authority, or from any Data Subject relating to the Services (including any requests to access, correct, delete, block or restrict access to their Personal Data or receive a machine-readable copy thereof) and, insofar as is possible and to the extent technically feasible, assist Customer with Customer's obligation to respond to any notification or Data Subject rights request in accordance with the timeframes set out in the Data Protection Laws.

(b) If Customer reasonably believes that Theo Services' processing of Personal Data is likely to result in a high risk to the data protection rights and freedoms of Data Subjects, Theo Services will, on request from Customer, assist Customer in connection with any data protection impact assessment and prior consultation that may be required under Data Protection Laws, taking into account the nature of the processing and the information available to Theo Services. This assistance from Theo Services may be subject to additional, mutually agreed fees and terms.

7. **Breach Reporting.** Theo Services will notify Customer without undue delay on becoming aware of any Personal Data Breach involving Personal Data Processed on behalf of Customer using the Services, and thereafter co-operate with Customer and provide assistance as may be reasonably required by Customer in the investigation, remediation and mitigation of such breach. Theo Services will provide reasonable assistance to Customer with respect to any breach reporting obligations Customer may have, and provide additional information relating to such breach as Customer may reasonably require. The parties will agree in advance and in writing on any material remediation responsibilities and costs that exceed Theo Services' standard incident response process.

8. **Audits.** Theo Services will maintain all information necessary to demonstrate compliance with its obligations identified in this DPA and a written record of all processing of Personal Data on behalf of Customer and, upon reasonable request grant Customer and its auditors and agents a right of access to and to take copies of records relating to compliance and all processing of such Personal Data on behalf of Customer in order to assess whether Theo Services has complied with its obligations in respect of the processing of Personal Data. Upon reasonable notice, Theo Services will allow Customer to, or where applicable, will cooperate with Customer and Theo Services' third-party providers to arrange for access to premises and other materials and personnel and will provide reasonable assistance in order to assist Customer in exercising its audit rights under this clause provided that: (i) such access will occur at a mutually agreeable time and the scope of the visit will be mutually agreed upon; (ii) such access will not unreasonably interfere with Theo Services' operations; and (iii) access to Theo Services premises, documentation and systems will be subject to Theo Services' reasonable access requirements and security policies.

9. **Transfers.** Theo Services will not transfer any Personal Data outside the EEA except to the extent authorized by Customer and in accordance with this paragraph. At the date of this DPA Customer authorizes Theo Services to transfer Personal Data outside the EEA, including to the United States, for the specific purpose of providing Services and performing its obligations under the Agreement. Such transfer will be subject to the Standard Contractual Clauses (in the form adopted by decision 2010/87/EU of 5 February 2010 as superseded and replaced by the standard contractual clauses set out in Commission Implementing Decision (EU) 2021/914 of 4 June 2021).

10. **Future Amendments.** The parties may amend this DPA at any time during the term of the Agreement by written agreement if necessary to comply with any legal requirement or guidance from a supervisory authority, or if required to take account of any changes to the processing of Personal Data pursuant to the Agreement.

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TECHNICAL AND ORGANIZATIONAL MEASURES FOR SECURITY (TOMS) FOR THEO SERVICES SYSTEMS HOUSING PERSONAL DATA

As used in this TOMS, “Personal Data” means any information relating to an identified or identifiable person, as defined in the European Union General Data Protection Regulation, that is stored, transmitted, or otherwise processed by Theo Services. Theo Services has implemented the data security measures described in this description of Technical and Organizational Measures for Security (TOMS) for Theo Services Systems Housing Personal Data and will maintain them, or equally secure measures indefinitely. These measures generally apply to Theo Services’ information globally, whether stored on a Theo Services server or hosted by a Theo Services vendor, and to all Theo Services employees and contractors and third parties who handle Personal Data. These measures have been implemented by Theo Services to protect, directly or indirectly, the confidentiality, integrity and availability of Personal Data.

1. COMPLIANCE WITH LAW, AUDIT REPORT

Theo Services has adopted and implemented a corporate information security program as described below, which is subject to reasonable changes by Theo Services from time to time. Theo Services has completed an American Institute of Certified Public Accountants (AICPA) sanctioned Type II audit report (SSAE18/ISAE3402 SOC 1 or SOC 2) for certain facilities/services and will continue to conduct such audits pursuant to a currently sanctioned or successor standard.

2. INFORMATION SECURITY PROGRAM

Theo Services has implemented an information security program (the “Program”) that includes reasonable measures designed to: (1) secure the confidentiality and integrity of Personal Data; (2) protect against foreseeable threats to the security or integrity of Personal Data; (3) protect against unauthorized access to, disclosure of or unauthorized use of Personal Data; and (4) provide that Theo Services employees are aware of the need to maintain the confidentiality, integrity and security of Personal Data. Theo Services will limit access to Personal Data to only those employees, agents, contractors or service providers of Theo Services who need the information to carry out the purposes for which Personal Data was provided to Theo Services.

The Theo Services Program is modelled on the ISO 27001:2013-based *Information Security Management System* (“ISMS”), which establishes the guidelines and general principles used for establishing, implementing, operating, monitoring, reviewing, maintaining and improving protections for Theo Services information and Personal Data. The Theo Services Program, in alignment with the ISMS, is designed to select adequate and proportionate security controls to protect information and provides general guidance on the commonly accepted goals of information security management and standard practices for controls in the following areas of information security management:

- Security policy
- Organization of information security
- Asset management
- Human resources security
- Physical and environmental security
- Communications and operations management
- Communications security
- Access control
- Information systems acquisition, development, and maintenance
- Information security incident management
- Business continuity management
- Compliance
- Cryptography
- Supplier relationships

Theo Services has also implemented a formal information security policy and supporting methods and procedures, technical standards, and processes to reinforce the importance of information security throughout the organization (“Information Security Policy”). The Information Security Policy is in alignment with ISO 27002:2013 and is approved by the Chief Security Officer. The Information Security Policy outlines the requirements to maintain reasonable security for Confidential Information, including Personal Data. Employees, contractors and third parties with access to systems containing Personal Data are required to complete annual security awareness training.

3. SPECIFIC SECURITY CONTROLS

Theo Services’ security controls include:

- Logical access controls to manage access to Personal Data on a least privilege and need-to-know basis, including through the use of defined authority levels and job functions, unique IDs and passwords, strong (i.e., two-factor) authentication for remote access systems (and elsewhere as appropriate), and promptly revoking or changing access in response to terminations or changes in job functions.
- Password controls to manage and control password complexity and expiration. Any password controlling access to the Theo Services infrastructure must be of a minimum length and complexity.

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- Operational procedures and controls to securely configure and maintain technology and information systems according to prescribed internal standards.
- Network security controls, including the use of firewalls, layered DMZs, and updated intrusion detection/prevention systems to help protect systems from intrusion and/or limit the scope or success of any attack or attempt at unauthorized access.
- Vulnerability management procedures and technologies to identify, assess, mitigate and protect against new and existing security vulnerabilities and threats, including viruses, bots, and other malicious code.
- Approved anti-malware software is installed on Theo Services equipment capable of running it where the risk of infection is high. It is configured to prevent users disabling the software where possible or altering its configuration without authorization. Periodic evaluations are performed to confirm whether systems continue to require (or not) antivirus software.
- Change management procedures outlining that modifications to Theo Services technology and information assets are tested, approved, recorded, and monitored.
- Organizational management designed to ensure the proper development and maintenance of information security and technology policies, procedures and standards.
- Disposal procedures for different types and classifications of information which are documented and communicated to personnel. Employees have access to secure shredders for hardcopy. Electronic media are disposed of through certified disposal vendors.
- Pre-employment screening and background checks are conducted on incoming personnel in accordance with Theo Services Human Resource on-boarding practices and applicable local law. The checks are dependent on, amongst other things: the role, location, any custom requirements, and can include identity, drug, criminal, academic and credit checks.
- Annual security awareness training is required for Theo Services employees and contractors working on Theo Services premises. The training reflects current threats and encourages security best practices, access to and knowledge of *Information Security Policy* and procedures such as how to report an incident. Employees in particular positions receive supplementary security training. If a training or testing issue arises (e.g., internal phishing exercises), further guidance is provided. Theo Services conducts a continuous program of phishing tests to reinforce the requirement for awareness and good email and browsing habits and to assess the effectiveness of security awareness training. The company intranet and email system are used to disseminate flash announcements on security matters as appropriate.
- Regarding Physical Security:
 - The Physical Security Team has global responsibility for all physical security operations; with security systems, access administration, and security controls within all Theo Services-owned facilities. Third-party data centers are utilized for certain services and, in such cases, certain physical security and other controls are reviewed by Theo Services.
 - The Physical Security Team is responsible for controlling data center access, monitoring security alarms and managing all reported physical security-related events.
 - Closed Circuit Television (CCTV) is commonly deployed as a physical security control in high value facilities to deter, detect and identify intruders. The Physical Security Operations Center (PSOC) provides global, 24/7 support with remote monitoring, management, administration and maintenance of the CCTV video surveillance systems used throughout Theo Services.
 - The Physical Security Team supports the distribution of all Theo Services access badges and administration of access permissions within the access control system.

4. SECURITY INCIDENTS AND RESPONSE.

For purposes hereof, "Security Incident" means any unlawful or unauthorized access, theft, or use of Personal Data while being stored, transmitted or otherwise processed by Theo Services. In the event Theo Services determines that a Security Incident has impacted Personal Data, Theo Services will promptly take the following actions:

- If appropriate, notify affected parties of such Security Incident and provide periodic updates as appropriate given the nature of the Security Incident and as information becomes available;
- Take reasonable steps to remediate and mitigate the Security Incident, to the extent such steps are technically feasible and appropriate in the circumstances;
- Conduct a preliminary investigation into the Security Incident to determine, to the extent reasonably feasible, its root cause; and
- Reasonably cooperate with affected parties and law enforcement in their efforts to remediate or mitigate the Security Incident and to comply with applicable law and legal authorities, as necessary.

WAVELENGTH LEASE SERVICE SCHEDULE

1. General. This Service Schedule incorporates the terms of the Master Service Agreement between Theo Services and Customer (the "Agreement") and is applicable only where Customer orders Intercity Wavelength Service, Metro Service, or International Wavelength Service (collectively "Wavelength Service" or "Service") on a lease basis. "Theo Services" is defined for purposes of this Service Schedule as an EMEA Theo Services Technologies legal entity that is now a member of the Colt group of companies (Colt Group Holdings Limited, Colt House, 20 Great Eastern Street, London, EC2A 3EH, United Kingdom, registered in England and Wales, under company number 11530966. Corporate and contact information can be found at <https://www.colt.net/legal/colt-group-of-companies>). All capitalized terms that are used but not defined in this Service Schedule are defined in the Agreement or Order.

1.1 Additional General Terms. Customer will pay all charges for the Service. All invoices will be issued to the Customer and paid in the currency specified in the Order. Service charges are exclusive of taxes and presented without reduction for any Withholding Tax, all of which are the responsibility of the Customer. "Withholding Tax" means any amount or account of tax on sources of income which a payor is obliged to deduct from payments due to a recipient and account for or to any tax authority. If any payment to be made to Theo Services under this Service Schedule should be subject to reduction by reason of a Withholding Tax, Customer agrees to pay Theo Services such amounts as would have been necessary so that the aggregate net amount received by Theo Services after application of a Withholding Tax is the same amount as would have been received by Theo Services if there had been no requirement to deduct or withhold such tax. For Services provided outside the United States, Customer or its local affiliate may be required to enter into a separate local country addendum/agreement (as approved by local authorities) ("LCA") with the respective Theo Services affiliate that provides the local Service(s). Such Theo Services affiliate will invoice Customer or its local affiliate for the respective local Service(s).

2. Service Description. Wavelength Service is a dedicated, transparent, optical wave signal for transport of high bandwidth between two Termination Nodes offered on a Protected or Unprotected basis. Customer interface consists of 2.5Gb, 10Gb, 1GbE, 10GbE, 40GbE, 100GbE and 400GbE, OTU1, OTU2, OTU2e, OTU3, OTU4 and 1Gb, 2Gb, 4Gb, 8Gb, and 10Gb Fibre Channel.

2.1 Service Levels. Service is subject to the Theo Services Service Level Agreement available at www.colt.net/ccp/ColtNeo01 and is subject to change. If Theo Services changes the Theo Services Service Level Agreement and the change is material and detrimental, Customer may request and receive the last version of the Service Level Agreement in effect before the change.

3. Customer Responsibilities.

3.1 Interconnection.

(A) Demarc. To use the Wavelength Service, Customer must provide to Theo Services, at each Termination Node, a SONET or SDH-framed 2.5Gb or 10Gb signal, as defined by Telcordia GR-253-CORE, a 1Gb, 10Gb, 40Gb or 100Gb Ethernet signal, as defined by IEEE 802.3ae, a 400Gb signal as defined by IEEE 802.3bs, a OTU1, OTU2, OTU2e, OTU3, OTU4 signal, as defined by ITU G.709, or a 1Gb, 2Gb, 4Gb, 8Gb, or 10Gb Fibre Channel signal, as defined by T11 Technical Committee within INCITS (the International Committee for Information Technology Standards (collectively, "Traffic"), which Traffic will then be delivered by Theo Services, in like format, to the opposite and corresponding Termination Node.

The demarcation point for the Wavelength Service will be the Theo Services OSX or fiber termination panel at the Termination Node. Customer will be solely responsible for providing all interconnection equipment used both to deliver Traffic to, or to accept Traffic from Theo Services in the formats described above and for any and all protection schemes Customer chooses to implement respecting the Traffic. For a Termination Node at a location other than a Theo Services gateway, Customer will provide Theo Services with space and power (at no charge to Theo Services), as reasonably requested by Theo Services, for placement and operation of an OSX, fiber termination panel or other equipment within the Customer premises.

(B) Construction of Facilities. With respect to construction of facilities to the Customer premises and installation, maintenance and repair of facilities within the Customer premises, Customer will provide Theo Services with access to and the use of Customer's entrance facilities and inside wiring, and will procure rights for Theo Services allowing the placement of facilities necessary for installation of facilities to deliver the Wavelength Service to the Customer premises. All costs associated with procuring and maintaining rights needed to obtain entry to the building (and the real property on which the building is located) within which the Customer premises are located, and costs to procure and maintain rights within such building to the Customer premises, will be Customer's responsibility.

(C) Third Party Providers. Where Wavelength Service is being terminated Off-Net at the Customer premises through a third party provider to be provisioned by Theo Services on behalf of Customer, the charges set forth in the Order for such Wavelength Service assumes that such Wavelength Service will be terminated at a pre-established demarcation point or minimum point of entry (MPOE) in the building within which the Customer premises is located, as determined by the local access provider. Where the local access provider determines that it is necessary to extend the demarcation point or MPOE through the provision of additional infrastructure, cabling, electronics or other materials necessary to reach the Customer premises, (i) Theo Services may charge Customer additional non-recurring charges and/or monthly recurring charges not otherwise set forth in the Order for such Wavelength Service, and (ii) installation of Service may be delayed. Theo Services will notify Customer of any additional non-recurring charges and/or monthly recurring charges as soon as practicable after Theo Services is notified by the local access provider of the amount of such charges.

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In addition, where Wavelength Service is being terminated Off-Net at the Customer premises through an Off-Net local loop to be provisioned by Theo Services on behalf of the Customer, the charges and the Service Term set forth in the Order for such Wavelength Service assumes that such Wavelength Service can be provisioned by Theo Services through the local access provider selected by Theo Services or Customer for the stated Service Term. In the event Theo Services is unable to provision such Wavelength Service through the selected local access provider or the selected local access provider requires a longer Service Term than that set forth in the Order, Theo Services reserves the right, regardless of whether Theo Services has accepted the Order, to suspend provisioning of such Wavelength Service and notify Customer in writing of any additional non-recurring charges, monthly recurring charges and/or Service Term that may apply. Upon receipt of such notice, Customer will have five (5) business days to accept or reject such changes. If Customer does not respond to Theo Services within the five (5) business day period, such changes will be deemed rejected by Customer. In the event Customer rejects the changes (whether affirmatively or through the expiration of the five (5) business day period), the affected Wavelength Service will be cancelled without cancellation or termination liability of either party. Theo Services does not guarantee that any Wavelength Service will be provided by a specified local access provider.

4. Reserved.

5. Definitions. All capitalized terms that are used, but not defined in this Service Schedule are defined in the Agreement or Order.

"Off-Net" means Services that are not On-Net.

"On-Net" means Service provided on the network owned (or operated and controlled) by Theo Services between two locations that are served directly by Theo Services owned (or operated and controlled) fiber and Theo Services owned equipment.

"OSX" means optical shelf cross-connect.

"Protected" means any Service that includes a Theo Services managed protection scheme that allows traffic to be re-routed in the event of a fiber cut or equipment failure.

"Termination Node" means the locations within Theo Services' facilities or within Customer premises in each of the cities in which termination is available. Each Wavelength Service will contain two (2) Termination Nodes, the exact location of which will be set forth in the Order.

"Unprotected" means any Service that does not include a Theo Services managed protection scheme that would allow traffic to be re-routed in the event of a fiber cut or equipment failure.