



## WAVELENGTH AND PRIVATE LINE SERVICE LEVEL AGREEMENT

This Service Level Agreement (“SLA”) is subject to, and made a part of, the Master Service Agreement (“MSA”) entered into between the parties. BCM One is in the business of providing certain telecommunications wavelength services (“Wavelength” or “Services”) described herein. Capitalized terms not defined herein will have the meaning ascribed to them in the MSA.

1. **DEFINITIONS.** The following additional definitions shall apply to Wavelength Services:
  - 1.1 **Allocated MRC** means a portion of a Monthly Recurring Charge allocated by circuit on a pro-rata basis.
  - 1.2 **Bandwidth** means the amount of data made available to Client as specified in a Service Order.
  - 1.3 **Costs** mean any applicable cancellation, termination or other charges from Third Party Providers (as defined below), charges for make ready work, permitting and engineering fees, building access or license fees, special construction charges and/or capital equipment costs.
  - 1.4 **Metro** is a Wavelength Service between two or more locations within the same metropolitan service area.
  - 1.5 **Long Haul** is a Wavelength Service between two or more different metropolitan service areas over providers long haul network.
  - 1.6 **On-Net** is any Service which connects two locations to which the provider is already providing the same type of Service at the time of the Service Order and which is provisioned entirely on providers facilities and does not include any Third-Party Services (defined below) or special construction.
  - 1.7 **Off-Net** is any Service which does not meet the definition of On-Net.
  - 1.8 **Handoff** means the optical frequency that will reach the Client handoff and sync with Client’s Equipment.
  - 1.9 **Point of Demarcation** is the network interface point where provider hands off Service to Client.
  - 1.10 **Protocol** is the rules determining the format and transmission of data between Wavelength equipment.
  - 1.11 **Service Specifications** means both the definitions and performance specifications of a Service detailed in a Service Order.
  - 1.12 **Third Party Provider** means a provider of a Third-Party Service.
  - 1.13 **Third Party Service** is a circuit or fiber optic infrastructure provided by a Third-Party Provider that enables an Off-Net Service.
  - 1.14 **POP** refers to provider’s point of presence where it provides interconnectivity to its network routes and facilities.
2. **SERVICE DESCRIPTION.** Wavelength Services are optical transport circuits enabled by wavelength division multiplexing (WDM) equipment. The bandwidth for each ordered Wavelength will be stated in a Service Order. Wavelength includes, without limitation, the following types:
  - (a) **Standard Wavelength:** A linear, unprotected point-to-point optical transport circuit between two (2) or more sites provisioned over a shared WDM infrastructure.

- (b) **Protected Wavelength:** A linear, protected point-to-point optical transport circuit between two (2) sites provisioned over shared and/or dedicated WDM infrastructure utilizing diversely routed OSP optical fiber paths, separate line cards and a protection mechanism managed by the underlying service provider. Additional configuration options may include, but are not limited to, partial diversity and route specifications.
- (c) **Private Wavelength Network:** One (1) or more optical transport circuits provisioned over a dedicated WDM infrastructure utilizing dedicated optical fibers and dedicated optical transport equipment at each Client location. Additional configuration options may include, but are not limited to, diversity requirements and route specifications.

### 3. SERVICE REQUESTS AND DELIVERY

- 3.1 **Order Acceptance.** Unless otherwise agreed, Client's Service Order is a non-cancellable, binding obligation for the purchase of the Service for the Service Term stated therein.
- 3.2 **Firm Order Commitment Date.** BCM One will provide a firm order commitment date ("**FOC Date**"), a date by which BCM One estimates it will turn over Service for Client's use. For Off-Net Services, BCM One shall notify Client of the FOC Date within two (2) business days after BCM One receives an installation date from its underlying service provider.
- 3.3 **Service Activation.** After BCM One has determined that the Service conforms to the relevant Service Specifications, BCM One will notify Client that the Service is activated, meets the Service Specifications and is available for use by Client ("**Service Activation Notice**"). The "**Service Activation Date**" shall be the earlier of (i) the date on which Client begins using the Service for any purpose other than testing; or (ii) the date that BCM One has sent the Service Activation Notice to Client. Client shall have two (2) days in which to notify BCM One that it is rejecting the Service because the Service does not meet the Service Specifications. If Client has notified BCM One within such two (2) day period that the Service does not meet the Service Specifications, then BCM One shall take such steps reasonably necessary to cause the Service to meet the Service Specifications, at which time BCM One shall issue a new Service Activation Notice and the acceptance process above shall be repeated. Client's failure or delay to test the Service or failure or delay to utilize the Service on or after the Service Activation Notice date shall not prevent BCM One from billing Client for the Service. If the Service Activation Date is delayed as a result of Client's failure to meet its responsibilities under the Agreement, the Service Activation Date will be deemed to occur as of the FOC Date or the date that BCM One is ready to deliver the related Service, whichever is later.
- 3.4 **Incrementally Delivered Services.** Unless otherwise specified in a Service Order, BCM One may incrementally deliver individual Services, when ready, which may result in different Service Activation Dates for such incrementally delivered Services. For multipoint Services, BCM One may incrementally deliver Service to each Client location when ready. The Service Term for incrementally delivered multipoint Services shall begin as set forth in the applicable Service Order. Unless otherwise set forth in a Service Order, the charges associated with a delivered service will be based upon Section 1.1.

### 4. EQUIPMENT AND INSTALLATION.

- 4.1 **BCM One Equipment.** BCM One, or its agent, may provide, install, maintain, repair, operate and control BCM One's equipment ("**BCM One Equipment**"). BCM One's Equipment shall remain the sole and exclusive property of BCM One, and nothing contained herein shall give or convey to Client, or any other person, any right, title or interest whatsoever in BCM One's Equipment, notwithstanding that it may be, or become, attached to, or embedded in, realty. Client shall not tamper with, remove or conceal any identifying plates, tags or labels identifying ownership interest in BCM One's Equipment. Client shall not adjust, align, attempt to repair, relocate or remove BCM One's Equipment, except as expressly authorized in writing by BCM One. Client shall be liable for any loss of or damage to BCM One's Equipment caused by Client's negligence, intentional acts, or unauthorized maintenance and shall reimburse BCM One for the same, within thirty (30) days after receipt by Client of a request for reimbursement. Client at its sole cost and expense shall be required to obtain rack space and power to support

BCM One Equipment for the Service for the duration of the Service Term. Unless specifically specified in a Service Order, Client shall be responsible for all third-party cross-connections to BCM One Equipment and related costs.

**4.2 Access and Client Premises Obligations.** Client, at its sole cost and expense, shall provide BCM One and its providers with access to all Client locations for purposes of installation, maintenance, repair and removal of BCM One Equipment on Client premises. For purposes of the preceding sentence, “access” shall include without limitation any necessary license(s) to access the building and or property for the duration of the Service Term. However, notwithstanding Client’s responsibility, if BCM One is required by a third party to obtain and maintain any such license to access the building or property, Client agrees to reimburse BCM One for its Costs related to obtaining and maintaining such licenses during the Service Term. BCM One shall provide reasonable notice under the circumstances to Client prior to entering Client’s point of presence to install, maintain, repair or remove any of the BCM One Equipment. Client will permit BCM One to install software revisions released by the related third-party equipment manufacturers. Client will provide a safe place to work and comply with all applicable laws regarding the working conditions on the Client premises.

**4.3 Client Equipment.** Client is responsible, at its sole cost and expense, for connecting to the Point of Demarcation specified in the Service Order. Equipment and service beyond the Point of Demarcation and/or interconnection between BCM One’s facilities and terminal equipment and the wiring at the Point of Demarcation shall be the responsibility of Client (“**Client Equipment**”). Client must procure and maintain, at its sole cost and expense, Client Equipment which is technically compatible with the Service and the BCM One Network. BCM One shall have no obligation to install, maintain or repair any non-BCM One Equipment, including any Client Equipment. If, on responding to a Client initiated service call, BCM One reasonably determines that the cause of the service deficiency was a failure, malfunction or the inadequacy of equipment other than BCM One’s Equipment, Client shall compensate BCM One for actual time and materials expended during the service call.

**5. SERVICE LEVEL OBJECTIVES.** Following are the Service Level Objectives for the provision of Wavelength Services. The Service Level Objective for Private Wavelength Network Services will correlate with the Wavelength Service availability stated below and identified in an applicable Service Order.

Service Availability Objective	Measurement Timeframe	Service Credit	
		Cumulative Duration of Service Outage(s)	% of MRC
<b>Standard Services</b>			
99.9%	One Month	0 to 43.2 min.	0%
		>43.2 min. to 10 hrs.	5%
		>10 hrs. to 16 hrs.	10%
		>16 hrs. to 24 hrs.	20%
		>24 hrs. to 36hrs.	40%
		> 36 hrs.	50%
<b>Protected Services</b>			
99.99%	One Month	0 to 4.32 mins.	0%
		>4.32 min. to 30 min.	5%
		>30 min, to 1 hr.	10%
		>1hrs. to 8 hrs.	20%
		>8 hrs. to 16 hrs.	30%
		>16 hrs. to 24 hrs.	40%
>24 hrs.	50%		

**6. SERVICE OUTAGES**

**6.1 Service Outages.** A service outage (“**Service Outage**”) occurs when Client experiences complete break(s) in transmission measured from the first ten (10) consecutive severely erred seconds (“**SESSs**”) on the affected Service until the first ten (10) non-SESSs which is known by BCM One. A SES is measured with a bit error ratio of greater than or equal to 1 in 1000.

- 6.2 Excused Outages.** A Service interruption will not be deemed a Service Outage if the Service is unavailable as a result of: (a) any act or omission of the Client or its end users, or its representatives, contractors, agents, authorized invitees, successors or assigns; (b) any act or omission by a third party not in BCM One's control; (c) the configuration, failure or malfunction of non-BCM One equipment or systems; (d) any Service Outage caused by an emergency, scheduled maintenance or planned enhancements or upgrades to the network; (e) BCM One not being given access to premises; or (f) a Force Majeure Event. Each of the foregoing events shall be deemed an "Excused Outage."
- 6.3 Service Outage Credit.** Notwithstanding the Service Availability Objectives outlined above, in the event of a Service Outage not due to an Excused Outage, Client shall be entitled to service outage credit per the table in Section 5 above ("Service Outage Credit"). For the purpose of measuring the Service Outage Credit, the duration of a Service Outage begins when BCM One records a trouble ticket number and ends when the Service is restored ("Service Outage Duration"). Service Outage Duration is applicable to specific affected circuits and shall not be aggregated among circuits for purposes of determining Service Outage Credit. The maximum Service Outage Credit in a calendar month for any affected circuit shall not exceed seventy-five percent (75%) of the MRC for the affected circuit.
- 6.4 CHRONIC SERVICE OUTAGES.** If Client experiences three (3) or more Service Outages on the same circuit each lasting more than twelve (12) hours in any thirty (30) day period, and the Service Outages are not Excused Outages, Client may (a) give BCM One notice that it wishes to replace the problematic circuit with a circuit provided by a different BCM One Supplier, and (b) BCM One shall comply at no cost to Client, provided that (i) Client has documented in writing (through the opening of a trouble ticket) the Non-Excused Outage with BCM One as soon as Client becomes aware of the problem, but no more than thirty (30) days following the Non-Excused Outage, (ii) Client cooperates with all reasonable requests for information from BCM One, (iii) Client gives BCM One notice of the event giving rise to its request for a replacement circuit within thirty (30) days thereof; and (iv) Client cooperates with BCM One in effectuating a replacement of the circuit. Client shall remain responsible for the payment of all charges for the Services incurred prior to the termination date of such Services at the particular service location. Any change to Client's Agreement resulting from an application of this clause must be in writing and signed by both parties.
- 7. ISSUANCE OF CREDITS.** To receive Service Outage Credit, Client must immediately report the Service Outage to the BCM One's client services. For Clients with US & Canadian Services experiencing a Service Outage, report to **BCM One's Client Services at (888) 543-200 or [troubleticket@bcmone.com](mailto:troubleticket@bcmone.com)** and open a trouble ticket, and (b) make a written request for a credit within seven (7) days following the end of the month in which the Service Outage occurred. Upon receipt of Client's request, BCM One will investigate the claim under the terms described in this SLA. Credits will be granted only if Client has afforded BCM One reasonable access to Client's premises for appropriate repairs, maintenance, testing and any other work in order to remedy the cause of the Service Outage. Subject to Section 6, the issuance of credits pursuant to this Section is BCM One's sole obligation and Client's sole remedy for any failure or non-performance of Wavelength Service under this SLA. Service credits shall be deducted from the charges payable by Client hereunder and shall be expressly indicated on the Client invoice.
- 8. THIRD PARTY SERVICES.** If BCM One purchases Third Party Services pursuant to a Third-Party Provider's applicable tariff, Client is responsible for any incremental charges imposed on BCM One based on changes to the Third-Party Provider's applicable tariff. In the event Client impermissibly cancels a Service enabled by Third Party Services, Client shall reimburse BCM One for any such cancellation to the extent such amounts are unrecoverable by BCM One.
- 9. MAINTENANCE WINDOW.** BCM One's underlying service provider must occasionally perform work on its network to provide improved performance, upgrades to services, new features, and/or for other network activities. The underlying service provider, in its discretion, will normally perform such work between the hours of 12 AM and 6 AM local time. In some cases, performing such work may require premium protected circuits to operate briefly on a single non-protected path, and may briefly interrupt service on basic unprotected circuits.