

Business Support Function For Alternative Home Area Networks

Appendix 4 Non-Disclosure Agreement (For RFP Stages)

Version	2.0 Final
Author	Alt HAN Delivery Project
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Document Revision History

Revision History

Version	Issue Date	Description of Version / Changes	Author
0.1	3 June 2016	Initial Draft	Adrian Rudd
0.2	08 July 2016	Quality and Technical Review	Chris Cook / Haz Elmamoun / Paul Coyle
0.3	13 July 2016	AHF Review	Adrian Rudd
1.0	20 July 2016	Ops Services RFI	Paul Coyle
1.1	22 July 2016	Ops Services Vendor Review	Paul Coyle

Approvals

Name	Responsibility	Date of Signature	Version
Alt HAN Forum	Industry Forum responsible for the delivery of Alternative HAN services		2.0

Related Documents

Description of Version / Changes	Version
00_Business Support Function RFP	1.0
A1_Business Support Service Requirements	1.0
A2_Business Support Pricing Schedule for RFP	1.0
A3_Draft Terms and Conditions for RFP	1.0
A5_Indicative High Level Plan	1.0
A6_Alternative HAN Target Operating Model	2.0

1. Draft Non-Disclosure Agreement

THIS CONFIDENTIALITY AGREEMENT is made the [date]

BETWEEN:

..... of, the "Disclosing Party"

Signed

and

..... of, the "Receiving Party"

Signed

Each a Party and together the Parties.

WHEREAS:

..... will be responding to in connection with a request for proposal "RFP" leading towards a contract award for services.

2.1 Definitions

2.1.1 "Confidential Information" shall mean and include:-

- any information of whatever nature, including without limitation, documents, letters, plans, diagrams, sketches, drawings, photographs, processes, models, specifications, software, programs, data, marketing or business development, business operations, business affairs, products, processes, technology, trade secrets, suppliers and customers associations, transactions, financial arrangements and any other material bearing or incorporating any information relating to the Disclosing Party and/or its know-how, business, affairs, customers, suppliers and/or assets disclosed whether in writing, orally or by any other means by the Disclosing Party or a third party acting on its behalf, whether

before, after or on the date of this Agreement and which is made available to the Receiving Party in connection with the Purpose which is marked as such or which should by its nature be reasonably understood to be confidential by the other party;

- but shall exclude any part of such disclosed information which (and which can be shown by documentary evidence):-
 - is or becomes available in the public domain without breach of this Agreement;
 - was lawfully in the Receiving Party's possession, free of any restrictions as to its use or disclosure before the date of disclosure;
 - is received from any third party not acting on behalf of the Disclosing Party having the right to disclose such information; or
 - the Disclosing Party has given written approval to the Receiving Party for its disclosure.

2.1.2 "Purpose" means responding to the RFP and the use of such information in relation to the tendering processes.

2.1.3 "Affiliate" means in relation to the Receiving Party, any subsidiary or holding company of the Receiving Party together with any other subsidiaries of such holding company (as such expressions are defined in Section 1159 of the Companies Act 2006).

2.1.4 References to statutes or statutory provisions shall include any statutory modification or re-enactment thereof.

2.2 Obligations of the RECEIVING PARTY

2.2.1 As part of his contractual obligations the Receiving Party undertakes that it shall:-

- use the Confidential Information solely for the Purpose and only disclose the Confidential Information to those persons who are required in the course of their duties to receive and consider the same;
- treat and safeguard as private and confidential all of the Confidential Information and not by any means whatsoever disclose or allow access to Confidential Information (or permit such disclosure or access) to any person whatsoever without the prior written consent of the Disclosing Party and in strict accordance with the terms of such consent;
- not without the prior written consent of the Disclosing Party copy by any means whatsoever any of the Confidential Information supplied or disclosed to it;
- not make any commercial use of the Confidential Information or any part thereof;
- procure that any of its advisers, contractors or agents to whom disclosure of any Confidential Information is to be made agree prior to such disclosure, to be bound by the

obligations in this Agreement as if they were a party hereto and the Receiving Party shall be responsible for any breach of such obligations as they apply to such persons;

2.3 General

2.3.1 Notwithstanding the provisions of Clause 2, the Receiving Party shall be entitled to make any disclosure of the Disclosing Party's Confidential Information required by or essential to comply with any law or the requirements of any government or regulatory authority acting within the scope of its powers, provided that it gives the Disclosing Party as much notice as is reasonably practicable prior to such disclosure. The Receiving Party shall take all the necessary measures at its expense to limit the Confidential Information disclosed to the minimum required.

2.3.2 Any Confidential Information supplied or disclosed shall remain the property of the Disclosing Party.

2.3.3 This Agreement is personal to the Parties and may not be assigned, unless both Parties agree in writing.

2.3.4 Nothing in this Agreement shall confer, or is intended to confer, on any third party (save for Affiliates) any benefit or right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

2.3.5 Nothing in this Agreement shall impose or be deemed to impose on either Party an obligation to disclose Confidential Information or to enter into any agreement or transaction pursuant to the Purpose.

2.3.6 Neither shall use or permit to be used the name of the other Party or the existence of and contents of this Agreement.

2.3.7 This Agreement shall not be waived in whole or part except where agreed by both Parties in writing.

2.4 Terms

2.4.1 This Agreement shall remain in force for a period of one (1) year unless otherwise agreed by mutual written consent.

2.5 Severability

2.5.1 The invalidity or unenforceability of any part of this Agreement for any reason whatsoever shall not affect the validity or enforceability of the remainder.

2.6 Governing Law

2.6.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales and each of the Parties hereto submit to the exclusive jurisdiction of the Courts of England and Wales.