

PUBLIC SERVICE CONTRACT

between

The Telecommunication Fund

and

Farice ehf.

concerning

**Electronic Communication Connectivity
between Iceland and Europe**

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The Telecommunication Fund (Fjaraskiptasjóður), National ID No. 530306-0110, c/o the Ministry of Transport and Local Government, Sölvhólsgrötu 7, 150 Reykjavík on behalf of the Icelandic Government, hereinafter referred to as *The Fund*, and Farice ehf., National ID No. 511203-2950, Smaratorg 3, 201 Kópavogur, hereinafter referred to as *Farice*; jointly referred to as the Parties, enter into the following:

Contract

1. Purpose of Contract

- A. To improve the security and availability of Iceland's connectivity and future needs, the parties agree that The Fund will compensate Farice for a seabed research to be carried out in 2019 for a possible optic fibre cable between Iceland and Europe (Ireland) according to article 12 of this agreement.
- B. The Parties acknowledge that submarine electronic communications cables, providing international connectivity to the territory of Iceland, are to be considered essential infrastructure. The Parties furthermore acknowledge that Farice is the only undertaking in possession of submarine cables connecting Iceland to other parts of Europe. The operation of the cables is a service of general economic interest, imperative for both security and economic reasons. To secure the provision of the service, Farice undertakes to provide universal electronic communications connectivity in the territory of Iceland via the submarine electronic communications cables FARICE-1 and DANICE as further defined in Article 2, based on Commission Decision 2012/21/EU.¹ The Fund on behalf of the Icelandic Government undertakes to compensate Farice for discharging the public service defined in Article 2, subject to the conditions laid down in this Contract.

2. Public Service Obligation

Farice undertakes to offer connectivity for electronic communications between Iceland, the Faeroe Islands and the UK via the FARICE-1 submarine cable system and also between Iceland and Denmark via the DANICE submarine cable system. The service entails wholesale data transmission on the Farice network and it will be made available to any electronic communications undertaking established within the European Economic Area (EEA) or in a member state of the World Trade Organisation (WTO), for the purpose of providing electronic communication services consisting wholly or partly of conveyance of signals to and from Iceland.

¹ Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest. The Decision was incorporated into point 1h of Annex XV to the EEA Agreement by Joint Committee Decision No. 66/2012 of 30.3.2012.

Points of Presence (POPs) are in the following cities:

- Reykjavik, Iceland
- Torshavn, The Faroe Islands
- London, United Kingdom
- Copenhagen, Denmark
- Amsterdam, Netherlands

Services provided to other undertakings than electronic communication undertakings falling under Paragraph 1 are not a part of the public service obligation.

3. Performance Target

Farice shall endeavour to make the service available, 24 hours a day, 365 days a year with an annual cumulative target service availability of 99.85% for customers who wish to buy service with full redundancy. Service with less availability may be offered to customers who do not wish for full redundancy.

Farice shall compile and maintain for a period of two years following the end of the Contract relevant information on service availability. Farice shall prepare an annual report on service availability and deliver it to The Fund no later than 1 April the following year.

4. Technical Neutrality

The Farice network shall be as technologically neutral as possible. No particular technologies or platforms shall be *a priori* excluded from interconnection with the Farice network. However, customer's equipment must follow the international telecommunications standards and recommendations that apply in the Farice network.

5. Non-discrimination

Farice shall apply equivalent conditions in equivalent circumstances to all buyers of equivalent public services covered by this Contract. This applies *inter alia* to pricing, quality and provision of information regarding the public service.

6. Transparency

A price schedule for the services offered to electronic communications undertakings on the basis of this Contract shall be approved by Farice's board of directors. The price schedule and any changes thereto shall be notified to The Fund and the Post and Telecom Administration of Iceland (PTA). The price schedule shall be available to all upon request.

The Fund shall publish on its website the following information:

- a. Analysis of the need for the public service covered by this Contract
- b. A copy of this Contract

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- c. The name and address of the company providing the public service and the territory in which the service is available.
- d. The amount of compensation paid each year.
- e. Annual statement of compliance.

7. Pricing

Farice undertakes to execute a non-discriminatory method of pricing its public services. Pricing shall be decided with regard to an analysis of the costs incurred taking into account acceptable rate of return.

Farice may provide services outside the scope of the public service obligation. The pricing of such services will be decided by Farice on market terms. Farice shall keep separate accounts for such services as further described in Article 11.

The prices for public services offered by Farice will be benchmarked against prices for trans-national connections in the EEA and shall not be lower than the average prices for such connections in the EEA internal market, for the duration of this contract.

8. Compensation

The Fund may compensate Farice for discharging the public service inasmuch as revenue is not sufficient to cover the costs of providing the public service taking into account a reasonable rate of return.

Farice shall retain all service fees paid by its customers. This applies equally to revenue from the public service and revenue from other services.

According to Farice's business plan the operation of Farice will be sustainable in the near future, when income from services other than the public service increases. However, there may be a period, before a significant increase in revenue from non-public services occurs, where revenue is not sufficient to cover the cost of operating the public service.

Farice shall in the first quarter of 2019 prepare a forecast for all revenue and costs of that year. If the forecast shows a deficit The Fund may pay an amount to Farice equal to the deficit plus an acceptable rate of return, insofar as the deficit relates to the provision of the public service. The compensation shall be paid 1 October the same year.

The payment for the seabed survey shall be made as the project develops.

9. Repayment of over-compensation

The Parties agree that a profit of 5% is within the limits of an acceptable rate of return. If, in the contract period, the annual accounts for the overall-operation of Farice in a particular year,

show a profit of more than 5% and Farice has received a payment from The Fund according to Article 8 Paragraph 4 in the relevant year, then profit exceeding 5% shall be used, inasmuch as it is sufficient, to repay the compensation.

Where the amount of over-compensation does not exceed 10% of the amount of annual compensation, such over-compensation may be carried forward to the next year. However, all over-compensation discovered at the end of the contract period shall be repaid.

10. Efficient Operation.

Farice will endeavour to make its operation as economical and efficient as possible. The same applies to the seabed survey.

Farice will endeavour to give its customers and The Fund the economical and qualitative benefits resulting from technical developments in communications technology.

Farice must obtain a written consent from The Fund for any unusual measures, such as major investments, loan agreements or other measures of significance, which could weaken the undertaking's economic situation or otherwise reduce the undertaking's possibility of fulfilling its obligations under this Contract.

11. Accounting Separation.

Farice shall keep separate accounts for the public service within its internal accounting system in order to clearly distinguish between costs of the public service and costs of other services that the company provides or will provide in the future.

12. Seabed Survey

The Fund intends to do a seabed survey on a route between Europe (Ireland) and Iceland for an optic fibre cable to be possibly laid in the near future. Farice undertakes the execution of the project as an intermediary. Preliminary time and cost schedule is described in annex 1. Farice shall aim to deliver a final marine route survey report to The Fund before December 31st 2019.

13. Surveillance

Implementation of the Contract shall be monitored as decided by The Fund. The Fund may nominate an independent supervisor to ensure surveillance of the Contract.

The Fund may carry out such inspections of Farice's services and seek and obtain promptly such information as it considers necessary or useful to monitor compliance with this Contract.

Farice shall satisfy The Fund, with such information and in such form as The Fund may reasonably specify, including information, in respect of:

- a. compensation for the performance of public service, that the compensation does not exceed that which is necessary to cover all or part of the costs incurred in discharging the public service taking into account the relevant receipts and a reasonable profit for discharging the obligation;
- b. the costs incurred in discharging the public service, that such costs do not exceed those, which in the opinion of The Fund, an operator that is well run would be expected to incur in discharging the public service.

14. Audit Provisions

The Fund may at any time require an audit to be carried out, for the purpose of verifying the adequacy of the record keeping in place to fulfil the requirements of this Contract provided that, if such audits confirm that the record keeping is adequate, the number of such audits in respect of the contract shall not exceed one per year. The Fund shall provide Farice with not less than ten working days prior written notice of any requirement for an audit.

If the audits identify inadequate record keeping of a material nature then Farice will use its reasonable endeavours to improve forthwith its record keeping arrangement in accordance with The Fund's written recommendation and The Fund may require as many audits as may be necessary to confirm that adequate record keeping has been achieved in accordance with its written recommendation.

Not later than four months after the end of each financial year Farice shall submit to The Fund audited accounts in respect of the business covered in this contract along with a consolidation and reconciliation with statutory accounts. The separate accounts shall be consistent in all respects with Farice's published accounts.

15. Default

This contract can be terminated in case of failure to perform contractual obligations if the failure is significant and the party in breach of the contract has received a written notice where it is given a reasonable period to remedy the breaches.

16. Force Majeure

No party shall be liable for any breach of its obligations herein resulting from Force Majeure and any non-performance shall not for so long as such event continues constitute a default in relation to the affected obligation under this contract or entitle the other party to terminate this contract by virtue of any non-performance arising from such event provided that the party affected by the Force Majeure:

- a. has taken all reasonable steps to have overcome, avoided or minimise the effects of any such occurrence; and
- b. has notified the other party as soon as is reasonably practicable.

Without prejudice to any other provision in this Contract, if an event referred to in Paragraph 1 above shall continue for a period of ninety days the other party may therefore terminate this Contract upon giving 21 working days' written notice.

17. Indemnity and limitation of liability

Neither The Fund, The Ministry of Transport and Local Government, nor the Icelandic state will be a party to any service agreements between Farice and its customers.

Farice shall indemnify The Fund and the State, their servants and agents (each an "Indemnified Person") against any action, expense, cost, claim, demand, and any other liability arising from:

- a. death or personal injury;
- b. damage to property
- c. breach of statutory duty;
- d. third party claims;

in respect of the provision of services under this Contract provided always that Farice's liability to indemnify an indemnified person shall be reduced proportionately to the extent that the negligence, breach of duty or a breach of statutory duty of such indemnified person or a breach of this contract by The Fund caused or contributed to the matters specified in subsections a. to d. above.

18. Subcontracting

Farice may use subcontractors for various activities related to the provision of the public service including network management.

The Fund shall be informed of all subcontracts.

19. Assignment

A Party to this contract is not authorised to assign any rights contained in the contract except subject to a written consent by the other Party.

20. Payment Moratorium and Bankruptcy

This Contract automatically becomes void in the event of Farice being subject to payment moratorium or bankruptcy.

21. Confidentiality

The contents of this Contract are not confidential. Access to the Contract will be granted in accordance with the Information Act No. 140/2012.

Information which is to be published according to this Contract is not confidential. The parties may agree that parts of such documents are not made public, if they concern important financial or commercial interests.

Other information regarding the Contract and the operation of service is to be regarded confidential unless both Parties agree otherwise. Both Parties shall exercise utmost confidentiality regarding documents and information which they come aware of regarding the

implementation of the Contract. The Parties are committed not to reveal any confidential information they have received from each other, including information on the managerial, financial or technical circumstances of the other Party, other matters regarding the operation, business or matters that may be deemed as confidential and should be kept confidential.

Information, which may be anticipated is known by everyone or is accessible by anyone, shall not be considered confidential, except when resulting from a breach of this Provision. The duty of confidentiality shall remain for five years after the end of this Contract's period of validity.

22. Contacts

The Fund and Farice shall each appoint a contact person who shall supervise the Contract and its execution on behalf of each party.

23. Duration

The extended contract period shall be one year, starting on 1 January 2019.

24. Review

The parties will review the contract together by the end of September 2019 based on the experience of its implementation.

25. Jurisdiction

This contract shall be governed by and construed according to Icelandic law. Matters of disagreement pertaining to the execution of this contract that the parties cannot resolve shall be brought before the District Court of Reykjavik.

26. Language and copies

The language of the contract is English. This contract is made in two identical copies, one for each party to the contract.

Done in Reykjavik, 21 December 2018,

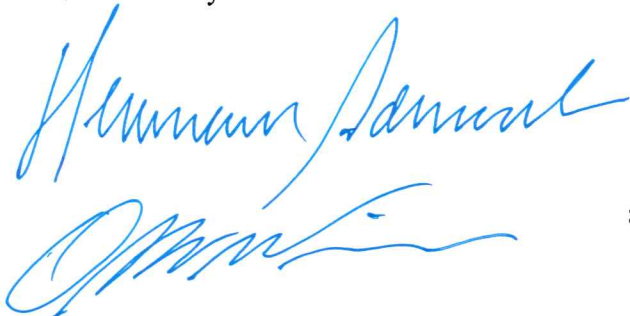
On behalf of The Telecommunication Fund



On behalf of Farice ehf.



Witnessed by:



	no. of units	Cost	Total
Desk Top Study			
Employee travel cost	14 trips	2.000 /trip/pers	28.000
Survey			
Employee travel cost	8 trips	2.000 /trip/pers	16.000
Cost of Farice rep on board survey vessels	30 days	1.200 /trip/pers	36.000
Inshore survey			
Lump sum (excl. weather delays etc.)	1	120.000	120.000
Delay not caused by contractor (f.ex. waiting on permits)		8.000 /day	0
Weather delay (if survey cannot be continued because of wea	5 days	8.000 /day	40.000
Main survey (excluding Inshore survey)			
Mob/demob (mobilization/demobilization of survey vessel)	1	100.000	100.000
Lump sum (excl. weather)	1	1.100.000	1.100.000
Delay not caused by contractor (f.ex. waiting on permits)		34.000 /day	0
Weather delay (if survey cannot be continued because of wea	5 days	34.000 /day	170.000
Reporting and maps			
Cost of preliminary and final reports			50.000
Overhead cost			240.000
Total cost			1.900.000 EUR
(EUR/ISK=140)			266.000.000 ISK

Remarks

It is expected that the Desk Top Study (DTS) will start in January and it will not be completed until the second half of the year. DTS work will not be continuous throughout that time. The first phase will be selecting the route to be surveyed looking at seabed types, landing sites, fishing among other things. Another part of the DTS is researching backhaul options from the sites to the Farice POP's (for example Reykjavík and London), and preparation for the backhaul contracts.

As soon as the first phase the DTS is completed i.e. the route selection it is important to start tendering out the survey work as soon as possible, preferably no later than the end of February. It is expected that the survey work would start around mid of June and completed no later than the end of August if all goes well. This is the most practical weather window for work in the North-Atlantic (if the project gets delayed much there is increased danger of weather delays and added cost).

It can be expected that the preliminary report work can take around 3-5 weeks after the survey is completed so the overall work will not be completed until October, the earliest.

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