



BERMUDA

**REGULATORY
AUTHORITY**

Communications Operating Licence

Licensee: QuoVadis Services Ltd.

Address: Suite 1640

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Hamilton HM 11

Licence Number: COL2013__Rev1-1045

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The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to QuoVadis Services Ltd. a licence to establish, construct and operate Electronic Communications Networks and provide Electronic Communications Services within the territorial limits of Bermuda, subject to the terms of this Licence, any associated Spectrum licences, the Electronic Communications Act 2011, the Regulatory Authority Act 2011, and any Regulations, General Determinations, Adjudicative Decisions, Orders, and Directions made or issued in accordance with these Acts.

1 DEFINITIONS

In this Licence, unless the context otherwise requires:

“**Authority**” means the Regulatory Authority;

“**Condition**” means a condition, including a Transitional Condition set forth in Annex A, of this Licence.

“**ECA**” means the Electronic Communications Act 2011;

“**Enterprise Customer**” means a Person who subscribes to the Value-Added Services provided by the Licensee;

“**Licence**” means this Communications Operating Licence granted to QuoVadis Services, Ltd.;

“**Licensee**” means QuoVadis Services, Ltd. and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“**Licensee’s Premises**” means the premises set forth in Annex B of this Licence;

“**Mast**” means a tower or similar structure upon which Radio Communication Equipment is installed;

“**Other Licensee**” means another licensee that holds an Individual Licence;

“**Person**” means a natural person or any company or association or body of persons, whether corporate or unincorporated, being a body that is empowered by law to sue or be sued in its own name or in the name of an officer or other person;

“**RAA**” means the Regulatory Authority Act 2011;

“**Transitional Condition**” means a Condition set forth in Annex A of this Licence; and

“**Value-Added Service**” means a service delivered through the use of Electronic Communications that employs computer processing applications that enable users to access, interact with, monitor, store, retrieve and manipulate information. Value-Added Services include: database access and research services; monitoring or alarm services; cloud computing or remote access data processing services; and electronic mail or messaging services.

2 INTERPRETATION

For the purpose of interpreting this Licence:

- (a) unless the context otherwise requires, words or expressions shall have the meaning assigned to them in the Licence, the ECA, RAA and Interpretation Act 1951;
- (b) where there is any conflict between the provisions of this Licence and the ECA or RAA, the provisions of the ECA or RAA, as the case may be, shall prevail;
- (c) terms defined herein and in the ECA and RAA have been capitalised;
- (d) references to Conditions and Annexes are to Conditions and Annexes of the Licence, as modified from time to time in accordance with the Licence and the ECA;
- (e) a document referred to in this Licence shall be incorporated into and form part of the Licence and a reference to a document is to the document as modified from time to time;
- (f) headings and titles used in this Licence are for reference only and shall not affect its interpretation or construction;
- (g) references to any law or statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
- (h) expressions cognate with those used in this Licence shall be construed accordingly;
- (i) use of the word "include" or "including" is to be construed as being without limitation; and
- (j) words importing the singular shall include the plural and vice versa, and words importing the whole shall be treated as including a reference to any part unless explicitly limited.

3 SCOPE OF THE LICENCE

3.1 This Licence grants the Licensee the right to establish, construct and operate one or more Electronic Communications Networks and to provide Electronic Communications Services, within the territorial limits of Bermuda, between the Licensee's Premises and the premises of the Licensee's Enterprise Customers; provided that:

- (a) such Electronic Communications Networks are limited to laser and wireless links;
- (b) such Electronic Communications Networks may only be established, constructed or operated if there is in place an Electronic Communications Network facility

provided by an Other Licensee between the Licensee's Premises and the premises of the Licensee's Enterprise Customer;

- (b) such Electronic Communications Networks and Electronic Communications Services are used exclusively to provide short-term disaster recovery services for the Licensee's Value-Added Services. For the avoidance of doubt, such Electronic Communications Networks and Electronic Communications Services may only be used for the duration of time in which an Electronic Communications Network facility provided by an Other Licensee between the Licensee's Premises and the premises of the Licensee's Enterprise Customer fails to meet the quality of service parameters agreed between the Other Licensee and the Licensee. The Licensee's Electronic Communications Networks and Electronic Communications Services may not be used to provide routine or overflow capacity between the Licensee's Premises and the premises of its Enterprise Customers.

3.2 Notwithstanding the provisions of Condition 3.1, this Licence does not grant the Licensee the right to establish, construct and operate an Electronic Communications Network or provide an Electronic Communications Service if the Authority has made an Administrative Determination that:

- (a) such Electronic Communications Network or such Electronic Communications Service is exempt from the obligation to hold a communications operating licence; or
- (b) such Electronic Communications Network or such Electronic Communications Service should be authorized pursuant to a Class Licence.

In such cases, the Licensee's Electronic Communications Network or Electronic Communications Service shall be subject to the terms and conditions of the relevant exemption or Class Licence. In cases where the Licensee's Electronic Communications Network or Electronic Communications Service may appear to be authorized by both this Licence and the exemption or Class Licence, as the case may be, the terms and conditions of this Licence shall apply unless and until the Authority makes an Administrative Determination to the contrary.

3.3 This Licence does not grant the Licensee, and shall not be construed as an entitlement on the part of the Licensee to, any licences or permits for the use of Radio Spectrum, Radio Stations or Radio Apparatus.

3.4 Nothing in this Licence shall relieve the Licensee of the obligation to comply with any other requirement at law or practice to obtain any additional consents, permissions, authorizations, licences or permits as may be necessary to establish, construct or operate Electronic Communications Networks, provide Electronic Communications Services or exercise the Licensee's rights or discharge its obligations under the Licence, including obtaining any licences or permits required by the ECA for the use of Radio Spectrum, Radio Stations or Radio Apparatus.

4 GRANT AND DURATION OF THE LICENCE

4.1 The Licence is valid and effective from 28 January 2013 and shall remain in effect until the earlier of:

- (a) 28 April 2033;
- (b) the date on which the Licensee surrenders the Licence in accordance with Condition 16.2; or
- (c) the date on which the Licence is revoked or terminated pursuant to Sections 18(5) or 18(6) of the ECA or Section 93 of the RAA.

4.2 The Licence may be renewed for an additional term or terms pursuant to Section 18(4) of the ECA.

5 FEES, CONTRIBUTIONS AND PENALTIES

5.1 The Licensee shall pay to the Authority such Government Authorization Fees as may be prescribed pursuant to Section 52 of the RAA and the Government Fees Act 1965.

5.2 The Licensee shall pay to the Authority such Regulatory Authority Fees as may be prescribed pursuant to Section 11 of the ECA and Section 44 of the RAA.

5.3 The Licensee shall make such contributions to support the provision of Universal Service as may be specified in Regulations made by the Minister pursuant to Section 34 of the ECA.

5.4 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under this Licence and for any other contraventions of this Licence or the Applicable Regulatory Framework.

6 COMPLIANCE

The Licensee shall comply with:

- (a) the terms of this Licence, including the Annexes;
- (b) the terms of any associated licences, authorizations and permits issued to the Licensee for the use of Radio Spectrum, Radio Stations and Radio Apparatus;
- (c) the Applicable Regulatory Framework, including, but not limited to, any:
 - (i) Regulations made by the Minister;
 - (ii) Administrative Determinations made by the Authority pursuant to Section 9(2)(c) of the ECA;

- (iii) Universal Service obligations imposed in accordance with Part 6 of the ECA;
 - (iv) obligations imposed by the Authority to interconnect with the Electronic Communications Networks of Other Licensees that may be designated by the Authority for this purpose by the Authority, promptly and on reasonable terms and conditions;
 - (v) Ex Ante Remedies imposed by the Authority in accordance with Part 4 of the ECA; and
 - (vi) obligations imposed by the Authority to provide performance bonds in respect of compliance with any of the Conditions of the Licence, associated licences, authorizations and permits, or other requirements specified by the Authority;
- (d) the Convention and any other international agreements relating to Electronic Communications to which Bermuda is a party; and
- (e) the ECA, the RAA and any other applicable law, enactment, regulations or order in effect in Bermuda to which the Licensee is subject.

Where there is an irreconcilable conflict among any of the instruments identified above, the following order of precedence shall apply: Acts of Parliament, Regulations and Orders made by the Minister, international agreements that apply to Bermuda, General or other Administrative Determinations made by the Authority, and this Licence.

7 OPERATION OF NETWORKS AND PROVISION OF SERVICES

7.1 The Licensee shall establish, construct and operate the Electronic Communications Networks and provide the Electronic Communications Services authorized by the Licence in a manner that:

- (a) does not prejudice or obstruct, or is likely to prejudice or obstruct, navigation by ships at sea or aircraft on the ground or in the air;
- (b) does not interfere with the operation of Electronic Communications Networks and the provision of Electronic Communications Services by Other Licensees; and
- (c) complies with the terms and conditions of any associated licences or permits for the use of Radio Spectrum, Radio Stations and Radio Apparatus that the Authority may grant to the Licensee.

7.2 The Licensee shall, where technically feasible, share with Other Licensees that may be designated by the Authority Masts and other support structures suitable for the placement of Radio Communication Equipment in an efficient manner that allows for the sharing of such facilities on terms and conditions that are fair, reasonable and transparent. The Licensee shall not enter into any leases, covenants or other agreements that restrict, or have the effect of restricting, the Licensee's ability to comply

with the foregoing requirement. The Licensee shall provide the Authority with advance notice of its intent to construct new Masts or other support structures and such information as the Authority may require to determine the Licensee's compliance with this Condition.

7.3 The Licensee shall:

- (a) provide the Authority with information, in such manner and format as the Authority may require, that separately identifies the personnel, Electronic Communications Network facilities, Associated Facilities and Associated Services relating to the provision of the Electronic Communications Services authorized by this Licence that are located in Bermuda and those that are located outside of Bermuda; and
- (b) comply with any General Determinations or Directions made by the Authority requiring the Licensee to locate in Bermuda some or all of the personnel, Electronic Communications Network facilities, Associated Facilities and Associated Services relating to the provision of any or all of the Electronic Communications Services authorized by this Licence.

7.4 The Licensee shall maintain in Bermuda the original files of all Personal Data relating to the provision of the Electronic Communications Services authorized by this Licence. The Licensee shall ensure that all such Personal Data are capable of being accessed by the Government of Bermuda in real time. The Authority may, with the approval of the Minister, waive this Condition in whole or in part if, and to the extent that, the Authority determines that:

- (a) appropriate inter-governmental arrangements are in place that provide the Government of Bermuda and the Authority with access to such Personal Data on the same terms and conditions and within the same timeframes as if such Personal Data were located in Bermuda; and
- (b) a waiver would be in the public interest, not unduly discriminatory in respect of other similarly situated licensees, and consistent with requirements of Schedule 2 of the ECA.

7.5 The Licensee shall report planned and unplanned outages of the Electronic Communications Networks and Electronic Communications Services authorized by this Licence in accordance with any requirements established by the Authority.

7.6 The Licensee shall procure such insurance or post such performance bonds as the Authority may reasonably require to ensure that any works undertaken by the Licensee are completed and that any property abandoned by the Licensee or that has fallen into disrepair is removed from public property.

7.7 Upon the revocation or termination of the Licence, the Licensee shall make reasonable efforts to sell the Licensee's Electronic Communications business and assets, and facilitate the transfer of the Licensee's Bermudian staff employed in Bermuda, to another provider of Electronic Communications in Bermuda.

8 NUMBERING

The Licensee shall not be eligible to participate in the Numbering Plan.

9 NATIONAL SECURITY, EMERGENCIES AND LAW ENFORCEMENT

- 9.1** The Licensee shall cooperate with, and at the lawful Direction of the Governor, Minister or Authority shall provide assistance to, the relevant Government ministries responsible for national security and emergency services.
- 9.2** The Licensee shall, at the Direction of the Governor, Minister or the Authority, give Telecommunications of the relevant Government ministries responsible for national security and emergency services priority over all other Telecommunications.
- 9.3** The Licensee shall comply with the Authority's Directions regarding the location and concealment of the Licensee's Electronic Communications Networks to protect them from accidental or malicious injury.
- 9.4** If the Licensee receives distress signals and requests for assistance from ships, aircraft and light stations, the Licensee shall re-transmit them, as promptly as possible, to the relevant Government bodies.
- 9.5** The Licensee shall comply with the requirements of Schedule 2 of the ECA.

10 PRIVACY OF COMMUNICATIONS

- 10.1** The Licensee shall take all reasonable measures to ensure the privacy of all Telecommunications.
- 10.2** Except as otherwise provided in the ECA or any other applicable enactment, the Licensee may not intercept, or wilfully divulge the content of, any Telecommunications.

11 CONFIDENTIALITY OF PERSONAL DATA

- 11.1** Subject to Conditions 11.2 and 11.3 and Section 31 of the ECA, the Licensee:
- (a) may not without an End-User's or Subscriber's informed consent collect, use, maintain or disclose Personal Data about an End-User or Subscriber for any purpose; and
 - (b) shall apply appropriate security safeguards to prevent the collection, use, maintenance or disclosure of such Personal Data.
- 11.2** The Licensee shall comply with any General Determinations made by the Authority requiring the Licensee to retain, or prohibiting the Licensee from retaining, specified Personal Data relating to End-Users and Subscribers, including information about billing, beyond a specified period.

- 11.3** The Licensee shall take reasonable steps to ensure that any Personal Data it discloses or retains concerning an End-User or Subscriber is accurate and complete for its intended use.
- 11.4** The Licensee shall permit an End-User or Subscriber to inspect its records regarding Electronic Communications provided to that End-User or Subscriber and shall respond promptly to requests to correct or remove information that is shown to be incorrect, unless the Authority determines that such inspections or requests are unreasonable.
- 11.5** The Licensee shall disclose to End-Users and Subscribers, in a clear and transparent manner, the purpose for requesting or collecting any information about the End-User or Subscriber and may not use or maintain information about the End-User or Subscriber for any undisclosed purposes.
- 11.6** The Licensee shall take appropriate steps to transfer relevant Personal Data relating to End-Users or Subscribers to an Other Licensee that has been selected by an End-User or Subscriber, as the case may be, to replace the Licensee as the provider of an Electronic Communications Service where necessary to facilitate the change in providers, in accordance with any procedures that may be established by the Authority.
- 11.7** The Licensee shall not make use of any End-User or Subscriber information, network and traffic data, or any other information obtained from Other Licensees as a result of entering into Interconnection and other agreements with such Other Licensees, other than for the purpose for which such information and data were provided. The Licensee shall implement reasonable internal measures, including by limiting access to physical records, systems and processes where appropriate, to safeguard and maintain the confidentiality of any such data that is commercially or competitively sensitive.

12 CONSUMER PROTECTION

- 12.1** The Licensee shall, in offering to provide, or providing, Electronic Communications Services, publish clear, transparent and up-to-date information regarding its rates, terms and conditions. Publication shall be effected by:
- (a) placing such information on any relevant website operated by the Licensee or, if no such website exists, placing a copy of such information in every major office of the Licensee such that it is readily available for inspection free of charge by members of the general public during normal office hours; and
 - (b) sending a copy of such information or any appropriate parts of it to any Subscriber who requests such information.
- 12.2** The Licensee shall not render any bill to a Subscriber in respect of the provision of any Electronic Communications Services unless every amount stated in that bill represents and does not exceed the true extent of the service actually provided to the Subscriber. The Licensee shall retain such records as may be necessary for the purpose of establishing the Licensee's compliance with this requirement for at least one year or such other period determined by the Authority.

- 12.3** The Licensee may only charge a Subscriber for the specific Electronic Communications Services or equipment that the Subscriber has ordered, and the Subscriber shall have no liability to pay for any Electronic Communications Service or equipment that it has not ordered.
- 12.4** Prior to any planned interruption to or suspension of service, the Licensee shall give reasonable advance notice to any Subscriber that will be affected by the interruption or suspension.
- 12.5** The Licensee shall not make or cause to be made any claim or suggestion regarding the availability, price or quality of its Electronic Communications Networks or Electronic Communications Services or equipment or those of an Other Licensee if the Licensee knows or reasonably ought to know that the statement or claim is false or misleading.

13 INFORMATION, AUDITS AND INSPECTION

- 13.1** In addition to the information required by Section 53 of the RAA, the Licensee shall promptly provide the Authority with any documents, accounts, reports, returns, estimates or other information required by the Authority to carry out its responsibilities under the RAA and ECA, including information regarding (a) the services or equipment provided to Users, Other Licensees and Persons with Class Licences, (b) the rates and charges for such services and equipment, (c) copies of contracts with Other Licensees, (d) statistics regarding usage of the Licensee's Electronic Communications Networks and Electronic Communications Services, (e) relevant activities, operations, or shareholdings of any Related Persons, and (f) any arrangements or relationships between the Licensee and any Related Persons that the Authority determines to be relevant to competition in the sector. For purposes of Condition 13.1, "Related Person" shall mean any entity that directly or indirectly owns, is directly or indirectly owned by, or is under common ownership with, the Licensee, as evidenced by the ownership of five per cent or more of the shares, stock or other securities or voting rights of the owned entity, including through an arrangement of any type.
- 13.2** The Licensee shall permit the Authority or Persons designated by the Authority to examine, investigate or audit, or procure such assistance as the Authority may require to conduct an examination, investigation or audit of, any aspect of the Licensee's business.
- 13.3** Subject to the provisions of Section 92 of the RAA, the Licensee shall permit the Authority or Persons designated by the Authority to enter the Licensee's premises, and shall facilitate access by them to premises used by the Licensee, to conduct an inspection, examination, investigation or audit of the Licensee.
- 13.4** The Licensee shall place a complete copy of this Licence and any associated Radio Spectrum licences on the Licensee's website or, if no such website exists, in a conspicuous place in the Licensee's principal place of business such that it is readily available for inspection free of charge by members of the general public during normal office hours.

14 MODIFICATION OF THE LICENCE

The Licence may be modified:

- (a) with the mutual consent of the Licensee and the Authority;
- (b) by the Authority pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA; and
- (c) by the Authority following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA.

15 ENFORCEMENT AND REVOCATION

15.1 The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA and Section 18(5) of the ECA if there is reason to believe that the Licensee has contravened the terms of this Licence or the Applicable Regulatory Framework. The Licensee shall participate in good faith in such enforcement proceedings. Upon finding that the Licensee has contravened this Licence or the Applicable Regulatory Framework, the Authority may, among other things, issue a warning, direct the Licensee to remedy the contravention or make restitution, impose financial penalties up to ten per cent of the Licensee's total annual turnover, or modify or suspend this Licence and the associated Spectrum licences.

15.2 The Authority may revoke or terminate this Licence in accordance with the provisions of Sections 18(5) and 18(6) of the ECA. If this Licence is revoked, the Licensee shall make reasonable efforts to transition affected Subscribers and Other Licensees to alternative providers of Electronic Communications Service.

16 DISCONTINUATION OF SERVICE; SURRENDER OF LICENCE

16.1 The Licensee shall not discontinue the general provision of any Electronic Communications Service unless the Licensee first provides the Authority and affected Subscribers with no less than 60 days advance notice, or such other greater or lesser notice as the Authority may determine, of the discontinuation of service. The Licensee shall make such reasonable efforts as the Authority may require to transition affected Subscribers from the discontinued Electronic Communications Service to a reasonable alternative service provided by either the Licensee or an Other Licensee.

16.2 The Licensee may surrender the Licence, with the agreement of the Authority. The Licensee shall submit a request to surrender the Licence no less than 180 days, or such lesser period as the Authority may allow, in advance of the date on which the Licensee proposes to surrender the Licence. If the Authority agrees to the surrender of the Licence, the Licensee shall make such reasonable efforts as the Authority may require to transition affected Subscribers to alternative providers of Electronic Communications Services.

17 ASSIGNMENT

The Licensee shall not sub-license, assign or grant any right, interest or entitlement in the Licence nor transfer the Licence to any other Person, including an Affiliate of the Licensee, without the prior written authorization of the Authority acting with the written consent of the Minister.

18 CHANGE OF CONTROL

The Licensee shall not complete any proposed change in control of the Licensee without first obtaining the prior written authorization of the Authority, acting with the written consent of the Minister, in accordance with Sections 18(6) and 18(7) of the ECA.

19 INDEMNIFICATION

19.1 The Licensee shall indemnify the Regulatory Authority against all actions, claims and demands which may be brought or made by any Person in respect of any injury or death of any Person or damage to any property arising from any act of the Licensee permitted or authorized by the Licence. The Authority shall provide the Licensee with notice of any such actions, claims and demands, but the Authority's failure to do so shall not relieve the Licensee of any obligations imposed on the Licensee by this Condition.

19.2 The Licensee shall indemnify the Government of Bermuda for the reasonable costs of repairing, restoring or replacing any Electronic Communications Networks or Electronic Communications Services used by the Government that are damaged, interrupted or otherwise interfered with, either directly or indirectly, by the Licensee.

20 FORCE MAJEURE; OTHER EVENTS

20.1 If the Licensee is prevented from complying with the Licence by acts of God, war, warlike operations, civil commotion, major strikes or any other significant or protracted industrial action, fire, tempest or any other causes beyond the Licensee's control:

- (a) the Licensee shall notify the Authority, as promptly as reasonably practicable, of the obligations of the Licence with which the Licensee cannot comply, the expected duration of the event of force majeure, and the measures the Licensee is taking to overcome the consequences of the event of force majeure; and
- (b) the Authority may suspend such obligations of the Licence as the Authority concludes the Licensee cannot comply with for as long as the event of force majeure continues.

20.2 In addition to events of force majeure, the Licensee shall notify the Authority of any fact or event likely to affect materially the Licensee's ability to comply with any Condition of this Licence, or an insolvency-related fact or event in respect of the Licensee or any Affiliate, or any preparatory steps being taken that might lead to an insolvency-related event, immediately upon becoming aware of such fact or event.

21 NOTICES

- 21.1** Unless the Authority determines otherwise, notices to the Licensee under the Licence shall be in writing and sent by registered letter to the address shown on the cover page of the Licence to the attention of the Chief Executive Officer.
- 21.2** Unless the Authority determines otherwise, notices to the Authority under the Licence shall be in writing and sent by registered letter to the Chief Executive of the Authority at the business address of the Authority.

ANNEX A

TRANSITIONAL CONDITIONS

The Licensee shall comply with each of the Transitional Conditions set forth below until such time as the Authority makes an Administrative Determination in respect of the subject matter of each such Transitional Condition.

A1 PERSONNEL, FACILITIES AND SERVICES

A1.1 Until such time as the Authority makes a General Determination to the contrary, the Licensee shall maintain in Bermuda all of the personnel, Electronic Communications Network facilities, Associated Facilities and Associated Services relating to the provision of the Electronic Communications Services authorized by this Licence that were located in Bermuda as at the date of this Licence. The Authority may, with the approval of the Minister, waive this Transitional Condition in whole or in part if, and to the extent that, the Authority determines that:

- (a) there are insufficient human or other resources available in Bermuda to enable the Licensee to continue to comply with this Transitional Condition; or
- (b) continued compliance with this Transitional Condition would be economically impractical, deprive Bermuda of new and innovative services or result in higher prices for Bermudian consumers; and
- (c) a waiver would be in the public interest and not unduly discriminatory in respect of other similarly situated licensees.

A1.2 Until such time as the Authority makes a General Determination to the contrary, the Licensee shall provide the Authority with no less than 120 days advance notice, or such other notice as the Authority may determine, before employing outside of Bermuda any personnel, Electronic Communications Network facilities, Associated Facilities and Associated Services relating to the provision of the Electronic Communications Services authorized by this Licence.

