



# **REFERENCE ACCESS OFFER**

**Version 4 – Effective Date: 30 April 2023**

**made by**

**YTL COMMUNICATIONS SDN BHD**

**(COMPANY NUMBER: 200701035605 (793634 – V))**

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# PART A - APPLICABILITY & SCOPE OF RAO

## 1. Introduction

**1.1** This Reference Access Offer (“RAO”) is published by YTL Communications Sdn Bhd (Co. No: 793634-V) (“YTLC”) pursuant to Section 5.3.3 of the Commission Determination on the Mandatory Standard on Access, Determination No.1 of 2022 (“MSA”).

**1.2** This RAO contains terms and conditions which are consistent with the rights and obligations of the Access Providers and Access Seekers and the principles of non-discrimination set out in the MSA. It does not contain terms and conditions which are inconsistent with rights and obligations set out in the MSA.

**1.3** This RAO is divided into the following parts:

Part A	Applicability & Scope of the Reference Access Offer and Appendixes
Part B	List of Forms
Part C	RAO Agreement

**1.4** Unless otherwise defined in this Part A, capitalized words in this Part A shall bear the same meaning as defined in Part C of this RAO.

## 2. Application of RAO

**2.1** This RAO only applies to those network Facilities and/or Services of the Access List and which are set out in Appendix 1 herein of this Part A and is applicable to licensees who are licensed under the Communications and Multimedia Act 1998 as:

- (a) Network Facilities Providers;
- (b) Network Service Providers;
- (c) Applications Service Providers; or
- (d) Content Applications Service Providers

(hereinafter referred to as “Access Seeker”)

**2.2** An Access Seeker may submit an official access request in accordance with Section 5.2.1 of this Part A (“Access Request”) for any of the applicable Facilities and/or Services listed in Appendix 1 herein of this Part A subject to the Application Process for Access as set out in

Section 5 of Part A herein. This RAO is capable of being signed as an access agreement by Access Seeker in accordance with Section 5.3.1(a) of Part A below.

- 2.3** An Access Seeker may request to negotiate with YTLC for access on alternative terms that are different to terms offered in this RAO, and if YTLC is willing to proceed with negotiation on the Access Request of the Access Seeker, such negotiations shall be in accordance with the Negotiation Process and Timeline as set out in Section 6 of this Part A herein.

### **3. Amendment to RAO**

- 3.1** YTLC reserves its right to amend this RAO from time to time with no less than twenty (20) Business Days' notice before giving effect to the proposed changes and access will be considered based on the current RAO published by YTLC.
- 3.2** YTLC will provide a copy of the amended RAO showing the proposed changes to the existing RAO, to
- (a) all Access Seekers who are being provided with access to Access Services under the existing RAO; and
  - (b) all Access Seekers who have requested Access Services under the existing RAO within the period of three (3) months prior to the making of such amendments, excluding any such Access Seeker who has since indicated that it does not wish to proceed with its Access Request.

Access Seekers who have already signed an Access Agreement/RAO Agreement with YTLC will not be affected by the amendments to the RAO, unless both Parties agree to incorporate any part of the amendments into their Access Agreement/RAO Agreement.

### **4. YTLC's Address for Correspondence**

All requests, notices, forms arising out of this RAO, shall be sent to YTLC at the address below:

YTL Communications Sdn Bhd  
18<sup>th</sup> Floor, Menara YTL,  
205 Jalan Bukit Bintang  
55100 Kuala Lumpur

Attention: Chief Regulatory Officer

## 5. Application Process for Access

### 5.1 Introduction

5.1.1 The following Sections set out the process for initiating an Access Request with YTLC as well as the respective obligations of both the Access Seeker and YTLC.

### 5.2 Access Request

5.2.1 If an Access Seeker intends to obtain access to any of the Access Services from YTLC, the Access Seeker must, submit a formal Access Request in writing to YTLC using the Request for Access Form attached as Attachment 1 in Part B herein providing the following:

- (a) the name and contact details of the Access Seeker;
- (b) the Facilities and/or Services in respect of which access is sought from YTLC;
- (c) a list of the relevant licences held by Access Seeker;
- (d) whether the Access Seeker wishes to accept YTLC's RAO, to negotiate amendments to the RAO or to negotiate an access agreement on alternative terms;
- (e) preliminary information regarding the scale and scope of Facilities and/or services that Access Seeker expects to acquire from YTLC pursuant to the Access Request;
- (f) relevant information relating to the Access Seeker's Network and the functionality of its services, to the extent the Access Seeker is aware that such information may affect YTLC's Network;
- (g) all relevant technical information relating to the Access Services which may be the subject of the Access Request, including but not limited to any physical and logical interfaces of its Network necessary to allow the development and deployment of communications services, and communications Equipment that can interconnect to, and interoperate with, that of YTLC's Network;
- (h) execute the Confidentiality Agreement (A copy of the Confidentiality Agreement is attached as Appendix 2 of this Part A);
- (i) information of creditworthiness, insurance and financial security in accordance with the requirements stated in Request For Access Form attached as Attachment 1 in Part B herein; and

- (j) any such information as may be required in the Request For Access Form attached as *Attachment 1 in Part B herein*.

5.2.2 Upon receipt of the Access Request and all the relevant information, YTLC will within ten (10) Business Days respond to the Access Seeker in writing acknowledging receipt of the Access Request and stating that:

- (a) YTLC will provide the access in accordance with the RAO if the Access Seeker is willing to accept the access on YTLC's RAO;
- (b) if Subsection 5.2.2 (a) does not apply, YTLC is willing to proceed to negotiate amendments to the RAO or an Access Agreement on alternative terms;
- (c) if YTLC is unable to comply with the Access Seeker's request for the provision of access to the requested Access Service(s), YTLC will state in writing to the Access Seeker the grounds on which it is relying for the refusal in accordance with Section 5.5 below of this Part A; or
- (d) if YTLC requires specified additional information to make a decision on the Access Request in accordance with Subsection 5.2.2 (a) to 5.2.2 (c) and once such information is received from the Access Seeker, YTLC shall reconsider the Access Request within 10 Business Days from the receipt of the Access Seeker's additional information.

5.2.3 With respect to YTLC's response to the Access Seeker under this subsection 5.2.2, YTLC will provide a copy of its response to the Commission at the same time that YTLC provides a response to the Access Seeker.

### **5.3 YTLC's Acceptance Response**

5.3.1 If YTLC responds that access will be provided in accordance with its RAO as described in subsection 5.2.2 (a) above, YTLC will use the Access Request Acceptance - RAO Response Form attached as Attachment 2 of Part B herein to respond, and within ten (10) Business Days of such response, provide to the Access Seeker two (2) copies of agreement on the same terms and conditions as set out in Part C herein (referred to as "RAO Agreement") executed by YTLC and return one (1) copy of the executed Confidentiality Agreement (as set out in Appendix 2 of this Part A) submitted by the Access Seeker in accordance with Sub-section 5.2.1(g) above that has also been executed by YTLC. Within 10 Business days from the receipt of the RAO Agreement executed by YTLC, the Access Seeker shall duly execute the RAO Agreement and return a copy to YTLC.

5.3.2 If the Access Seeker fails, neglects or refuses to execute and submit the RAO Agreement in accordance with Sub-Section 5.3.1 above, the Access Seeker shall be deemed to have abandoned the Access Request and YTLC will not entertain any further communication from the Access Seeker.

#### **5.4 YTLC's negotiation Response**

- 5.4.1 If YTLC is willing to proceed with negotiation of the Access Request as described in Sub-section 5.2.2 (b) above, YTLC will response using the Access Request Acceptance - Negotiation Response Form attached as Attachment 3 of Part B herein which will set out a place and time for an initial meeting, which date shall be no later than fifteen (15) Business Days from the date of YTLC's response thereof, to negotiate on the Access Agreement between YTLC's authorized representative and the Access Seeker's authorized representative, and return one (1) copy of the executed Confidentiality Agreement submitted by the Access Seeker in accordance with Sub-section 5.2.1(g) above that has also been executed by YTLC.
- 5.4.2 Upon issuance of the response under Sub-section 5.4.1 above, the negotiation process and timelines as set out in Section 6 of this Part A herein shall apply.

#### **5.5 Access Request Rejection**

- 5.5.1 If YTLC rejects an Access Request in accordance with Sub-Section 5.2.2 (c) above, YTLC shall do so using the Rejection For Access Form attached as Attachment 4 of Part B. The Access Seeker may attend and meet with the representatives of YTLC on the date and time specified in the said Rejection Form Access Form which date shall not be later than seven (7) Business Days from YTLC's response date, to discuss issues arising from the refusal.
- 5.5.2 If the Access Seeker fails or neglects to attend the meeting with YTLC on the date and time stated, the Access Seeker shall be deemed to have abandoned the Access Request and YTLC will not entertain any further communication from the Access Seeker.
- 5.5.3 If the Access Seeker does attend, and the rejection of the Access Request is not resolved (whether at that meeting or any subsequent meetings between the parties), then either YTLC or the Access Seeker may initiate the Dispute Resolution Processes (where applicable) set out in Condition 12 of the General Terms and Conditions in Part C of this RAO, in order to determine the reasonableness of the rejection by YTLC.
- 5.5.4 Pending the final determination of the dispute, YTLC shall not be obliged to provide access to the Access Seeker.

## 5.6 Right to Reject

YTLC may reject an Access Request made by an Access Seeker if the provision of the Access Service requested in the Access Request is not reasonable on certain circumstances. For the purposes of this provision, YTLC may rely on the following grounds for rejection:

- (a) the information provided by the Access Seeker is incorrect or incomplete for YTLC to fully evaluate the Access Request;
- (b) YTLC does not currently supply or provide access to the network facility or service requested by the Access Seeker to itself or to any third party;
- (c) it is not technically feasible (as determined in accordance with the criteria set out in section 5.4.17 of the MSA) to provide access to the network facilities or services requested by the Access Seeker;
- (d) YTLC has insufficient capacity or space to provide the requested network services or network facilities. YTLC may rely on this ground if the network is:
  - (i) already carrying traffic to capacity or near full capacity; or
  - (ii) already reserved for future use by YTLC and/or its holding, associate or affiliate companies, if such future use shall commence not later than six (6) months from the date of this Access Request or,
  - (iii) YTLC is unable to expand its own capacity within the period forecast by the Access Seeker.
- (e) YTLC reasonably believes that the Access Seeker may fail to make timely payments for the Access Services;
- (f) YTLC reasonably believes that the Access Seeker may fail, to a material extent, to comply with the terms and conditions set out in this RAO for the Access Services;
- (g) YTLC reasonably believes that the safety of its network will be compromised by the grant of the access requested;
- (h) YTLC reasonably believes that the provision of access to the Access Seeker will be in furtherance of an activity which is illegal under Malaysian law;
- (i) YTLC reasonably believes that the provision of access to the Access Seeker will be contrary to the provisions and objectives of the Communications and Multimedia Act 1998 or the national interest; or
- (j) the terms and conditions of access requested by the Access Seeker, in the

opinion of YTLC are unreasonable.

### **5.7 Request for Further Information**

- 5.7.1 YTLC may request the Access Seeker to provide further information pursuant to an Access Request, by issuing to the Access Seeker the Request for Further Information Form attached as Attachment 5 in Part B herein.
- 5.7.2 Upon receipt of Request for Further Information Form, the Access Seeker shall within ten (10) Business Days provide such further information as requested to YTLC.
- 5.7.3 If in YTLC's opinion the information provided is sufficient for it to make a decision as to whether to accept or reject the Access Request, it shall reconsider the Access Request and inform the Access Seeker of its decision within twenty (20) Business Days from the date of receipt of the further information from the Access Seeker.
- 5.7.4 If YTLC issues the Request for Further Information Form then the time limits set out in this Part A of the RAO shall be adjusted accordingly.
- 5.7.5 If the Access Seeker does not provide the further information in response to a request made by YTLC in accordance with Sub-Clause 5.7.1 above, then the Access Seeker shall be deemed to have abandoned the Access Request. Such abandonment shall be without prejudice to the Access Seeker submitting a fresh Access Request.

### **5.8 Right to Withdraw Access Request**

- 5.8.1 No later than the fifth (5th) Business Day following the date of the Access Request, the Access Seeker may withdraw the Access Request.
- 5.8.2 If the withdrawal is effective, then YTLC shall not be obliged to nor be under any obligation to fulfill the Access Request.
- 5.8.3 No Access Request may be withdrawn after the expiry of the fifth (5th) Business Day, and if an Access Seeker does do so, such withdrawal will not be effective unless agreed to by YTLC (whether on terms or otherwise).

### **5.9 Applicability for Additional Services**

- 5.9.1 Notwithstanding that the Access Seeker may have entered into an Access Agreement with YTLC, the Access Seeker shall submit an Access Request for additional Access Services in accordance with the provisions set out above.

## 6. Negotiation Process and Timeline

### 6.1 Introduction

- 6.1.1 The following negotiation process and timelines shall be applicable to negotiations between an Access Seeker and YTLC in respect of an Access Agreement based on Section 5.4.1 of Part A of this RAO.
- 6.1.2 All negotiations shall be conducted in good faith. For the purposes of determining “good faith” the provisions in subsection 5.4.2 of the MSA shall apply *mutatis mutandis*.

### 6.2 Commencement of Negotiation

- 6.2.1 If an Access Seeker has received the Access Request Acceptance – Negotiation Response Form expressing an intention to negotiate terms and conditions of the Access Agreement, the Access Seeker must attend the initial meeting on the date, time and place as set forth in the said Form or otherwise, at least ten (10) Business Days before the proposed initial meeting date stated in the said Form request in writing for change to meeting date, time and/or place for the initial meeting. Any mutually agreed date of the initial meeting shall be no later than fifteen (15) Business Days from the date of YTLC’s response via the said Form under Part A, Sub-Section 5.4.1 above.
- 6.2.2 If the Access Seeker fails, neglects or refuses to comply with the requirements in accordance with Sub-section 6.2.1, then the Access Seeker shall have been deemed to have withdrawn its Access Request and YTLC shall not be under any obligation to provide access to the Access Seeker.
- 6.2.3 Once the initial meeting date, time and place are confirmed, both YTLC and the Access Seeker shall notify the Commission when the negotiations for the Access Agreement begin pursuant to this Section 6.

### 6.3 Duration of Negotiations

- 6.3.1 All negotiations for the Access Agreement shall be concluded within the following timeframes:-
  - (i) where there is no Access Agreement in place between YTLC and the Access Seeker, four (4) months; or
  - (ii) where there is already an Access Agreement in place between YTLC and the Access Seeker, three (3) months.

The respective timeframe shall commence from the date of YTLC’s response to the Access Seeker under Sub-section 5.4.1 via the Access Request Acceptance

– Negotiation Response Form as in Attachment 3 of Part B that it is willing to negotiate with the Access Seeker.

- 6.3.2 If the negotiations are not completed within the applicable timeframe specified in Sub-Section 6.3.1 above, YTLC and the Access Seeker may jointly apply to the Commission for an extension of time to negotiate and:-
- (i) if the extension of time is not granted by the Commission, there shall be deemed to be a dispute between YTLC and the Access Seeker and the Dispute Resolution Procedures in accordance with Condition 12 of the General Terms and Conditions in Part C of this RAO shall take effect; or
  - (ii) Either party may initiate the Dispute Resolution Procedures; and
- 6.3.3 If the Commission grants an extension of time under Sub-Section 6.3.2 subject to such conditions as may be specified by the Commission, YTLC and the Access Seeker shall comply with such of the Commission’s conditions in pursuing the negotiations.
- 6.3.4 Pending such approval by the Commission, the parties shall continue to negotiate in good faith to conclude the Access Agreement.

#### **6.4 Initial Meeting**

- 6.4.1 The designated representatives of YTLC and Access Seekers as specified in the Request for Access Form in the format in Attachment 1 and the Access Request Acceptance – Negotiation Response Form in the format as in Attachment 3 shall meet on the date, time and at the venue specified, and shall:
- (a) negotiate on the proposed amendments to the RAO or alternative terms of the Access Agreement as submitted by the Access Seeker in the Request for Access Form for the Access Request ;
  - (b) agree a timetable for the negotiations, including milestones and dates for subsequent meetings within the applicable timeframes for negotiations under Sub-Section 6.3.1 above,
  - (c) agree the negotiating procedures, including:
    - (i) the calling and chairing of meetings;
    - (ii) the party responsible for keeping minutes of meetings;
    - (iii) clearly defined dispute escalation process for disputes arising during negotiations;

- (iv) procedures for consulting, and including in the negotiation process, relevant experts from each party; and
- (v) Procedures for preparing and exchanging position papers;
- (d) review the information requested and provided to date and identify information yet to be provided by each party;
- (e) identify technical issues and how it is to be resolved.

#### **6.5 Right to Object to Negotiating Team Member**

- 6.5.1 Either party may object to the person or persons nominated by the other party to attend and/or lead any negotiations.
- 6.5.2 If a party wishes to object to such person or persons, then that party must as soon as reasonably practicable but not less than five (5) Business Days prior to the date of the initial meeting set out in the Request for Access Form, submit an objection in writing (“Objection Notice”) to the other party:
  - (a) identifying the person or persons which the party objects to; and
  - (b) stating the reasons for such objection.
- 6.5.3 Upon receipt of an Objection Notice, the recipient shall ensure that the person objected to, does not attend the initial meeting.
- 6.5.4 Unless the objection is resolved at the initial meeting, such objected person shall not attend any of the negotiations between the parties.

#### **6.6 Failure to reach agreement**

- 6.6.1 If the parties are unable to reach agreement by the time limited for so doing, then:
  - (a) both parties may apply to the Commission for an extension of time to complete the negotiations, and if such application for extension of time is refused by the Commission, then either party may seek the resolution of such failure pursuant to the Dispute Resolution Processes (where applicable) set out Condition 12 of the General Terms and Conditions of Part C of this RAO; or
  - (b) either party may seek the resolution of such failure pursuant to the Dispute Resolution Processes (where applicable) set out in Condition 12 of the General Terms and Conditions of Part C of this RAO.

6.6.2 If YTLC and the Access Seeker are unable to reach agreement despite an extension of time granted by the Commission, then the provisions set out in Sub-Section 6.6.1.(b) of this RAO shall apply.

**7. List of Appendixes**

The following Appendixes are attached to this Part A

1. Appendix 1 - List Facilities and Services offered for access under this RAO
2. Appendix 2 - Confidentiality Agreement Format

Appendix 1 – List of Facilities and Services offered for access under this RAO

Item No.	List of Services
1.	Fixed Network Origination Services
2.	Fixed Network Termination Services
3.	Mobile Network Origination Services
4.	Mobile Network Termination Services
5.	Interconnect Link Services
6.	Network Co-location Services
7.	Infrastructure Sharing Services

## Appendix 2 - Confidentiality Agreement Format

<b>COMPANY:</b> YTL COMMUNICATIONS SDN BHD	<b>OTHER PARTY ("OP"):</b>
<b>COMPANY REG. NO:</b> 793634-V	<b>COMPANY REG. NO:</b>
<b>ADDRESS:</b> LEVEL 18, MENARA YTL 205 JALAN BUKIT BINTANG	<b>ADDRESS:</b>
<b>CITY:</b> KUALA LUMPUR <b>POSTAL CODE:</b> 55100 <b>COUNTRY:</b> MALAYSIA	<b>CITY:</b> <b>POSTAL CODE:</b> <b>COUNTRY:</b>

THIS NON-DISCLOSURE AGREEMENT ("AGREEMENT") IS MADE BY AND BETWEEN THE ABOVE-NAMED PARTIES IN ORDER THAT THE PARTIES MAY EXCHANGE CONFIDENTIAL INFORMATION IN FURTHERANCE OF THE BUSINESS PURPOSE SET FORTH BELOW.

**BUSINESS PURPOSE (tick one)**

- \_\_\_\_\_ Explore the possibility of a business opportunity relating to  
 \_\_\_\_\_ For the work scope to be agreed with respect to  
 Access Request under Reference Access Offer (RAO)

THE CONFIDENTIALITY TERMS AND CONDITIONS ATTACHED ARE INCORPORATED INTO THIS AGREEMENT AND WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COUNTRY SPECIFIED BELOW.

**GOVERNING LAW** : Laws of Malaysia  
**JURISDICTION** : Courts of Malaysia

Duration of the Agreement is twelve (12) months from the Effective Date ("Validity Period").

Notices shall be sent to the respective Party's address as specified above and to persons named below:

<b>If to COMPANY</b> <b>Attention: Chief Regulatory Officer</b>	<b>If to OP</b> <b>Attention:</b>
<b>Copy to:</b> Legal Department <b>Fax:</b> 018 799 8828 <b>Email:</b> legal@ytocomms.my	<b>Copy to:</b> <b>Fax:</b> <b>Email:</b>



Part A – Applicability & Scope of RAO

The Parties agree that confidentiality obligations set out herein shall equally apply to any Confidential Information that is disclosed to a Receiving Party prior to the Effective Date.

2. Exclusions. Confidential Information will not include information which **(a)** was or becomes generally available to the public or is in the public domain other than as a result of disclosure by the Receiving Party or its Representatives to the public or any third party in violation of this Agreement, **(b)** becomes available to the Receiving Party from a source other than the Disclosing Party, provided that the Receiving Party has no reason to believe that such source is itself bound by a confidentiality or nondisclosure agreement with the Disclosing Party or otherwise prohibited from disclosing such Confidential Information by a legal, contractual or fiduciary obligation, **(c)** was rightfully in the Receiving Party's possession prior to receipt from the Disclosing Party, **(d)** is independently developed by the Receiving Party without the use of the Disclosing Party's Confidential Information and that the Receiving Party can demonstrate the same by written records, **(e)** is required to be disclosed by the Receiving Party by a governmental agency or law, so long as the Receiving Party provides the Disclosing Party with written notice of the required disclosure promptly upon receipt of notice of the required disclosure so that the Disclosing Party has an opportunity to review and comment on the proposed disclosure and if it wishes to do so (at its own cost), seek to defend, limit or protect against such disclosure, and the Receiving Party will disclose only that portion of the Confidential Information which is required to be disclosed. Nothing in this Clause will in any way prevent or unreasonably delay the obligation of the Receiving Party to comply with the said disclosure requirements; or **(f)** is authorised by the Disclosing Party in writing to be disclosed.
3. Duration of Confidentiality. Except as otherwise expressly agreed in writing by the parties, with respect to any particular Confidential Information, the Receiving Party's obligations under this Agreement shall be for the Validity Period until two (2) years from either the termination or expiry of the Agreement. Notwithstanding the foregoing, the Receiving Party shall hold all Personal Data disclosed to it strictly on a confidential basis, without any limitation in time.
4. Notification. The Receiving Party agrees to promptly notify the Disclosing Party upon discovery of any unauthorised use or disclosure of the Confidential Information caused by the Receiving Party and its Representatives and take reasonable steps to regain possession of the Confidential Information and prevent such further unauthorized actions or other breach of this Agreement.
5. Right to Terminate. The provision of Confidential Information and discussions held in connection with the Business Purpose will not prevent either Party from pursuing similar discussions or transactions with third parties, or obligate either Party to continue discussions with the other Party or to take, continue or forego any action relating to the Business Purpose. Any proposals, estimates or forecasts provided by either Party to the other Party will not constitute commitments. Either Party may terminate discussions regarding the Business Purpose at any time, without any liability or obligation whatsoever, except as expressly set forth in this Agreement. Either Party may terminate this Agreement by giving the other Party thirty (30) days prior written notice.

6. Return of Confidential Information. The Receiving Party shall within ten (10) days from either the termination or expiry of this Agreement or the written request of the Disclosing Party, return all Confidential Information to the Disclosing Party (including all copies thereof), delete all electronic records containing such Confidential Information from all computer files and cause its Representatives to do the same and certify in writing that all electronic records thereof have been deleted or destroyed. The Receiving Party, however, may retain one (1) archival copy of the Confidential Information for purposes of complying with the requirements of any applicable law, rule or regulation (including requirements of any applicable stock exchange) and/or for compliance with its corporate governance policies; provided, that such retained Confidential Information shall continue to be subject to the confidentiality provisions of this Agreement for as long as it is so retained without regard to duration of the confidentiality obligation set forth in Clause 3 above.
7. Third Party Information. Either Party's Confidential Information may include information which belongs to a third party. In such event, such third party will be a third party beneficiary of this Agreement. Except as provided in the preceding sentence, this Agreement does not confer any rights or remedies upon any person or entity not a party to this Agreement.
8. Remedies. Upon any actual or threatened breach of this Agreement by the Receiving Party or its Representatives, the Receiving Party acknowledges that damages may not be a sufficient or adequate remedy and accordingly the Disclosing Party may seek specific performance or injunctive relief (as appropriate) against such breach, in addition to any other rights or remedies which such Party may have at law or in equity. If the Receiving Party is held liable to the Disclosing Party on account of this Agreement, the measure of damages will not include any amounts for indirect, consequential or punitive damages or lost profits.
9. No Licence. Nothing contained in this Agreement will be construed as granting or conferring any rights by license or otherwise in either Party's Confidential Information, except for the use of such Confidential Information as expressly provided in this Agreement.
10. Public announcements. Except to the extent required by law or in accordance with any regulatory or stock exchange requirements, or by mutual agreement between the Parties, neither Party shall make or issue, or cause to be made or issued, any announcement or statement regarding the Business Purpose for dissemination to the general public or any third party without the prior written consent of the other Party.
11. No Warranties or Further Rights. All Confidential Information disclosed under this Agreement is provided on an "as is" basis. Save as otherwise provided in separate written agreement(s) executed by the Parties, neither Party makes any representation or warranty, express or implied, with respect to any of its Confidential Information, including the accuracy, completeness or suitability for use of such Confidential Information or the non-infringement of Intellectual Property rights or any other rights of third parties. The Disclosing Party represents that it has the right to disclose the Confidential Information.

12. No obligation to enter further agreements. No Party shall be under obligation or commitment to enter into any further agreement with the other Party and/or any third party(s) by reason of the execution of this Agreement or the disclosure, evaluation or inspection of Confidential Information. Any agreement for such business relationship shall be at the discretion of the Parties and shall be evidenced by separate written agreement(s) executed by the Parties.
13. Data Protection. The Parties shall comply with all applicable laws and regulations including, without limitation, the requirements of the Personal Data Protection Act 2010. Where a Party discloses Personal Data to the other under this Agreement, the Receiving Party agrees to implement and operate appropriate technical and organisational security measures and only to act on the Disclosing Party's instructions in relation to that Personal Data.
14. Miscellaneous. **(a)** The relationship of the Parties is that of independent contractors. Neither Party will act or have authority to act as an agent of the other Party for any purpose whatsoever. This Agreement does not evidence or create an agency, partnership, joint venture or similar relationship between the Parties. **(b)** This Agreement will be binding on Company and OP and their successors and assigns, but neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party. **(c)** This Agreement sets forth the entire understanding of the Parties with respect to the subject matter of this Agreement. **(d)** This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Parties; it being understood that all Parties need not sign the same counterparts. The exchange of copies of this Agreement and of signature pages by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by such electronic means shall be deemed to be their original signatures for all purposes. This Agreement may be modified only by a written instrument executed by the Parties. **(e)** Nothing in this Agreement shall preclude a Party from making, using, marketing, licensing or selling any independently developed technology, product or material, whether similar or related to the Confidential Information disclosed under this Agreement, provided the Party has not done so in breach of this Agreement. **(f)** Either Party may enter into any transaction with any third party in respect of the matters contemplated under this Agreement. **(g)** In the event of the invalidity of any provision of this Agreement, the Parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement, and further agree to substitute for such invalid provision a valid provision that most closely approximates the intent and economic effect of the invalid provision. **(h)** Any failure by either Party to enforce strict performance by the other Party of any provision herein shall not constitute a waiver of the right to subsequently enforce such provision or any other provision of this Agreement. No single or partial exercise of any right or remedy shall

prevent any further exercise of such right or remedy or the exercise of any other right or remedy available. **(i)** Each Party shall bear its own solicitor’s costs and costs of preparing, negotiating and executing this Agreement. **(j)** The Receiving Party will not transfer, directly or indirectly, any product, technical data or software furnished hereunder or the direct product of such technical data or software to any country for which an export license or other governmental approval applicable to the Receiving Party is required without first obtaining such license or approval. **(k)** Any notices to be given shall be in writing and shall be addressed as provided in above and if so addressed shall be considered as validly served if sent by personal delivery, upon delivery at the address of the relevant Party; if sent by prepaid mail, three (3) working days (excluding Saturday, Sunday and public holidays) after despatch; or if sent by facsimile, at the time of despatch of the facsimile provided that the sender’s transmission report shows that the entire transmission has been received by the recipient without error, provided that any facsimile sent and received after the close of business (i.e. 1700 hours) at the city of the Receiving Party as set out above, shall be considered as validly served only on the immediate following working day. **(l)** Either Party may notify the other in writing of a change to its name, relevant address, addressee, facsimile number or email address as specified in this Agreement and such change shall only be effective on the date specified or if no date then 7 days after receipt.

15. Definitions. Unless the context otherwise requires, the following words and expressions shall have the following meanings:

**“Confidential Information”** : means all information, whether or not labelled as ‘Confidential’, ‘Commercial In Confidence’, ‘P&C’ or with other similar phrases or words, in any and all mediums (whether oral, written or otherwise), including without limitation, data, technology, know-how, inventions, discoveries, designs, processes, formulations, models, equipment, algorithms, software programs, interfaces, documents, specifications, information concerning research and development work, and/or trade and business secrets, current, planned or proposed products, marketing and business plans, forecasts, projections and analyses, financial information and prices, customer information, site information and Intellectual Property.

**“Affiliate”** : means with respect to either Party, any company which is now or during the term of this Agreement, directly or indirectly, through one or more intermediaries, controlling or is controlled by, or is under common control with, such Party. For these purposes, "control" of any company shall mean the ownership of, or the power to direct the voting of, more than fifty percent (50%) of the common stock or other equity interests having ordinary voting power for the election of directors (or persons performing comparable functions) of such company

Part A – Applicability & Scope of RAO

- “Disclosing Party”** : means the Party and its Affiliates disclosing the Confidential Information or from whom the Confidential Information originates.
- “Effective Date”** : means the date of execution of this Agreement by OP.
- “Intellectual Property”** : includes patents, trademarks, service marks, rights in designs, trade names, copyrights, industrial designs and topography rights, whether or not any of them are registered, and including applications for registration of any of them, and rights under licences and consents in relation to any of them and all forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world.
- “Party”** : means Company or OP (as the case may be) and Parties shall mean Company and OP collectively.
- “Personal Data”** : means any information in respect of commercial transactions, which (a) is being processed wholly or partly by means of equipment operating automatically in response to instructions given for that purpose; (b) is recorded with the intention that it should wholly or partly be processed by means of such equipment; or (c) is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system, that relates directly or indirectly to a data subject, who is identified or identifiable from that information or from that and other information in the possession of a Party, including any sensitive personal data and expression of opinion about the data subject; but does not include any information that is processed for the purpose of a credit reporting business carried on by a credit reporting agency under the Credit Reporting Agencies Act 2009.
- “Receiving Party”** : means the Party and its Affiliates to whom the Confidential Information is disclosed or given.
- “Representatives”** : with respect to either Party, means any employee, director or officer, or consultant and/or advisor who is either employed under a contract of employment, or is engaged under a contract of service, by that Party.

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***[The remainder of this page is intentionally left blank]***

## **PART B – LIST OF FORMS**

The following are the list of forms referred to in this RAO:

1. Attachment 1 - Request for Access
2. Attachment 2 - Access Request Acceptance – RAO Response Form
3. Attachment 3 - Access Request Acceptance – Negotiation Response Form
4. Attachment 4 - Access Request Rejection Form
5. Attachment 5 - Request for Further Information

## Attachment 1 – Request for Access

Notes to Attachment 1 Request for Access:

1. An Access Seeker who wishes to obtain access to the Access Services offered by YTLC must first complete and submit this form with all relevant data and supporting documents.
2. The footnotes contain instructions on how to complete the form. Incomplete or inaccurate Forms may be rejected by YTL Communications Sdn Bhd (“YTLC”)

To:  
YTL Communications Sdn Bhd  
18<sup>th</sup> Floor, Menara YTL,  
205 Jalan Bukit Bintang  
55100 Kuala Lumpur

ATTENTION: Chief Regulatory Officer

### R e q u e s t f o r A c c e s s

We, <name of requesting party> (Co. No.           ), the holder of [specify license types] which are valid and subsisting and issued by the Minister of Communications and Multimedia, do hereby make this Request for Access:

**Section A      Contact Details**

Our Contact Details are:

Description	Contact Details
1. Address	
2. Telephone Number (General)	
3. Fax Number	
4. Contact person's name <sup>1</sup>	
5. Designation	
6. Telephone Number	
7. Mobile Number	
8. E-mail address	

---

<sup>1</sup> If the designated person has an alternate please specify the alternate's details (items 4 to 8)

**Section B Access Request**

- (a) the nature of the Access Services sought from YTLC ;
- (b) the forecasts of the capacity the Access Seeker may reasonably require for an initial 12 month period;
- (c) execute the Confidentiality Agreement attached to the RAO

We hereby make the following Request for Access:

1. Access To<sup>2</sup>:

[State the Name of Access Service]

Nature of Access Service	Detail Description of the Nature of Access <sup>3</sup>	RFS Date
		[Instruction: Specify the RFS date for each service which you require YTLC to grant access to]

2. Forecast for 12 Months

[Provide the forecast for the Access Services for 12 months]

3. Confidentiality Agreement

I confirm that a duly executed Confidentiality Agreement is attached with this request Form.<sup>4</sup>

4. Acceptance or Rejection of RAO terms

Instruction: Please select one or the other of the statements below:

- We accept that access will be provided to us by YTLC in accordance with the terms and conditions set out in the Reference Access Offer specifically.
- We wish to negotiate a separate Access Agreement.

<sup>2</sup> Please tick whether you seek access to YTLC's Access Services.

<sup>3</sup> Once you have so selected, please provide detailed description of the nature of the access you require.

<sup>4</sup> Non-compliance with this requirement may result in rejection of the Request for Access

**Section C Access Seeker Details**

## 1. General

The Access Seeker has elected to negotiate an Access Agreement. In furtherance of such election, we provide the following additional details of the various personnel who will be involved in the negotiation of an Access Agreement:

Names Details	Employee 1	Employee 2	Employee 3
Name			
Designation of person <sup>5</sup>			
Telephone No			
Fax No			
Mobile Phone No			
E-mail address			
Dates available for negotiations <sup>6</sup>			

---

<sup>5</sup> Please specify whether the person is an employee or independent consultant engaged by you.

<sup>6</sup> Please specify at least 4 sets of dates. The dates must at least be sufficiently close to be continuous, yet reasonably practical in the circumstances.

2. Negotiation Team Leader

Our negotiation team leader is [please specify name] who is [designation] of the Access Seeker, and we hereby confirm that the team leader is able to make binding representations, concessions and accept proposals made during the course of negotiations.

3. Request for Information from YTLC

The Access Seeker makes the following request for the provision of specified information by YTLC for the purposes of negotiation<sup>7</sup>:

Nature of Information Required from AccessSeeker	Reason for Request
Instruction: Please identify the nature of information required from YTLC	Please give your reasons for requesting such information

4. Confidentiality Agreement

We enclose with this Form, the duly executed Confidentiality Agreement ( ), for your further action.

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<sup>7</sup> If there is no information needed DO NOT COMPLETE Section C/Item 3.

**Section D Technical Requirements**

The following technical requirements are being provided:

1. Capacity forecasts

We will require the following capacity:

Identify type of Network Service	Description	Forecast capacity requirement

2. Quality of Service

YTLC will provide a quality of service level as specified in section 6.1.17 of the MSA to the Access Services provided by YTLC to the Access Seeker.

3. Interface Standards

The following are the Interface Standards of the equipment, software and hardware which we will interconnect with the equipment, hardware and software of YTLC.

Identify nature of equipment, hardware or software	Applicable Standard or Interface requirements	Specify if there has been any deviation from the Applicable Standard.

4. Access Seeker’s Network Information

The Access Seeker provides the following information about its network to YTLC: [Instruction: Please specify all necessary information relating to your network which may affect YTLC’s network or facility in the course of providing the Access Services]

**Section E Creditworthiness**

Prior to providing the requested Access Services, YTLC requires verification of your creditworthiness to ensure that you have the necessary financial resources to pay for the Access Services. In that regard, you are required to provide a certified financial statement by your auditors of your current financial position.

**Section F Insurance**

We confirm that we have affected the following insurance policies as at [date of request]:

Insurance type	e.g. Employer's All Risk	Workmen's Compensation	Social Security	Employer's Liability	General Liability
Risks	e.g. Public				
Persons Covered	e.g. [Access Seeker], [contractors],				
Amount insured	e.g. RM20 Million				
Period of validity	e.g. 3 years from 1 January 202X				
Name of Insurer	e.g. MAA Assurance				
Insurance					



## Attachment 2 – Access Request Acceptance – RAO Response

Notes to Attachment 2 Access Request Acceptance:

1. YTL Communications Sdn Bhd (“YTLC”) will use this Form if it accepts the Request for Access (Attachment 1) issued by an Access Seeker and the Access Seeker has indicated that it will take the Access Service in accordance with the Reference Access Offer (“RAO”)

To:

[Name of Access Seeker] [Address]

ATTENTION: [The name of the contact person]

### A c c e s s R e q u e s t A c c e p t a n c e

#### (RAO RESPONSE)

We, YTL Communications Sdn Bhd (Co. No. 793634-V), as the Access Provider, wish to inform you, [name of Access Seeker], that in respect of your Request for Access dated [insert date] which was received by us on [insert date of receipt], as follows:

1. Pursuant to your statement in the Request for Access to take the Access Service in accordance with the terms and conditions of the RAO, we shall be forwarding to you within 10 business days of this letter:
  - i. two (2) copies of the RAO Agreement as set out in Part C of the RAO, executed by us, and
  - ii. one (1) copy of the executed Confidentiality Agreement returned by you in accordance with the Request for Access Form and executed by us.
2. You are required to execute the RAO Agreement (mentioned in paragraph 1(a)) and return one copy of the same to us within 10 business days from your receipt thereof.

Dated: [insert date of document]

Signed by the authorised representative of YTLC

.....

Name:

Designation:

Date:

Company Stamp:

### **Attachment 3 – Access Request Acceptance – Negotiation Response**

Notes to Attachment 3- Access Request Acceptance – Negotiation Response

1. YTL Communications Sdn Bhd (“YTLC”) will issue this form if it accepts the Request for Access (Attachment 1) issued by an Access Seeker and the Access Seeker has intimated that it wishes to negotiate the terms of the Reference Access Offer (“RAO”).

To:

[Name of Access Seeker] [Address]

ATTENTION: [The name of the contact person]

#### **A c c e s s R e q u e s t A c c e p t a n c e**

#### **(NEGOTIATION RESPONSE)**

We, YTL Communications Sdn Bhd (“YTLC”) (Co. No. 793634-V), as the Access Provider, wish to inform you, [name of Access Seeker], that in respect of your Request for Access dated [insert date] which was received by us on [insert date of receipt], as follows:

1. Since you have indicated that you wish to negotiate the terms and conditions of the RAO, we hereby advise that we are willing to enter into such negotiations with you to reach agreement on the definitive terms. In that regard, Section 6 of Part A of the RAO (Negotiation Process) shall apply.
2. Pursuant to and in accordance with the Mandatory Standard on Access, the following information is provided to you:
  - (a) YTLC’s Nominated Personnel

Attachment 3 – Access Request Acceptance – Negotiation Response

Pursuant to your request to negotiate an access agreement, we provide the following details:

Names	Employee 1	Employee 2	Employee 3
Details			
Name			
Status of person <sup>8</sup>			
Designation			
Telephone No			
Fax No			
Mobile Phone No			
E-mail address			
Dates available for negotiations <sup>9</sup>			

---

<sup>8</sup> Please specify whether the person is an employee or independent consultant engaged by you

<sup>9</sup> Please specify at least 4 sets of dates. The dates must at least be sufficiently close to be continuous, yet reasonably practical in the circumstances.

(b) Negotiation Team Leader

Our negotiation team leader is [please specify name] who is [designation] of YTLC, and we hereby confirm that the team leader is able to make binding representations, concessions and accept proposals made during the course of negotiations, subject to the final approval being given by the Board of Directors of YTLC.

(c) Request for Information from Access Seeker

YTLC request for the provision of the following information by the Access Seeker, which YTLC reasonably requires for the purposes of the negotiation:

Nature of Information Required from Access Seeker

[Set out the information YTLC requires]

(d) Confidentiality Agreement

We enclose with this Form, a duly executed Confidentiality Agreements () for your records.

(e) Date, Time and Venue

The first meeting to commence negotiations is proposed to be at [specify venue] on [specify date] at [specify time].

Dated: [insert date of document]

Signed by the authorized representative of YTLC

.....

Name:  
Designation:  
Date:  
Company Stamp:

## Attachment 4 – Rejection of Access Request

### Notes to Attachment 4 - Rejection of Access Request

1. YTL Communications Sdn Bhd (“YTLC”) will issue this Form if it rejects the Request for Access (Attachment 1) by an Access Seeker.

To:

[Name of Access Seeker]

[Address]

ATTENTION: [The name of the contact person]

### Rejection Of Access Request

We, YTL Communications Sdn Bhd (“YTLC”) (Co. No. 793634-V), as the Access Provider, wish to inform you, [name of Access Seeker], that your Access Request dated [insert date] which was received by us on [insert date of receipt] is hereby REJECTED.

- A. The grounds of our rejection of your Access Request are set out below: [the grounds must be in accordance with section 5.4.11 of the MSA]
- B. The basis of our decision is set out below: [set out basis in numbered paragraphs] [if additional documents are being referred to, please attach them to this Form]
- C. Should you so desire, as provided in the MSA you are entitled to meet with our representatives [provide the names and designation of YTLC’s representatives] at [specify venue] on [specify date] at [specify time] to discuss this rejection of your Request for Access.

Dated: [insert date of document]

Signed by the authorized representative of YTLC

.....

Name:

Designation:

Date:

Company Stamp:

## Attachment 5 – Request for Further Information

Notes to Form Attachment 5 – Request for Further Information:

1. YTL Communications Sdn Bhd (“YTL”) will issue this Form to acknowledge receipt of the Access Request (Attachment 1) issued by an Access Seeker, but requires additional information from the Access Seeker before deciding whether it is able to provide access or not.

To:

[Name of Access Seeker] [Address]

ATTENTION: [The name of the contact person]

### R e q u e s t F o r F u r t h e r I n f o r m a t i o n

We, YTL Communications Sdn Bhd (“YTL”) (Co. No. 223969-U), as the Access Provider, having considered the Request for Access by [name of Access Seeker], dated [insert date] which was received by us on [insert date of receipt], require the following additional information in order for us to decide whether to accept or reject your Access Request:

- [specify the additional information YTL may require]

Dated: [insert date]

.....

Name:

Designation:

Date:

Company Stamp:

## **PART C – RAO AGREEMENT**

Dated this

day of

202X

Between

**(Name of Access Seeker)**

**(Company No.            )**

And

**YTL COMMUNICATIONS SDN BHD  
(Company No. 793634-V)**

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**RAO AGREEMENT**

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**Articles of Agreement**

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**ARTICLES OF AGREEMENT**

**THIS AGREEMENT** is made the                      day of                      202X

**BETWEEN:**

**(1) (Name of Access Seeker) (Company No. ),** a company incorporated under the laws of Malaysia and having its principal place of business at [ address of Access Seeker} (“Access Seeker”);

**AND**

**(2) YTL COMMUNICATIONS SDN BHD (Company No. 793634-V),** a company incorporated under the laws of Malaysia and having its registered office at 18<sup>th</sup> Floor, Menara YTL, 205 Jalan Bukit Bintang, 55100 Kuala Lumpur (“**Access Provider**” or “**YTLC**”).

**RECITALS:**

- A. Access Seeker is a licensed operator under the Act and pursuant to its License(s), Access Seeker may offer network facilities, network services and applications services within Malaysia.
- B. YTLC is a licensed operator under the Act and pursuant to its License(s), YTLC may offer network facilities, network services and applications services within Malaysia.
- C. Under the Commission Determination on Mandatory Standard on Access, Determination No. 1 of 2022 (hereinafter referred to as “MSA Determination”), YTLC is obliged to provide access to YTLC’s facilities and services subject to the terms and conditions of the MSA Determination.
- D. Pursuant to the MSA Determination, this RAO Agreement sets out the terms and conditions upon which YTLC will provide access to its Facilities and Services as listed in Section 8 of the Article of Agreement in this RAO Agreement.
- E. YTLC agrees to provide access and the Access Seeker agrees to accept the access in respect of the Access Services which the Access Seeker has submitted an Access Request to YTLC in accordance with the Reference Access Offer (RAO) (Version 4, dated 30<sup>th</sup> April 2023) upon the terms and conditions of this RAO agreement.

## **Articles of Agreement**

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### **NOW IT IS HEREBY AGREED AS FOLLOWS:**

1. In consideration of the Parties mutual promises, the Parties agree that the provision of Services by YTLC to the Access Seeker shall be governed by the terms of this Agreement.
2. **General Scope and Structure of the Agreement**
  - (a) This Agreement governs the terms and conditions of access to the Services. More specifically:-
    - (i) the Definitions and Rule of Interpretation are applicable to all documents consisting part of this Agreement unless otherwise stated;
    - (ii) the General Terms and Conditions govern the supply of the Services unless otherwise stated;
    - (iii) the Terms and Conditions for Technical Matters govern the technical matters pertaining to the Services unless otherwise stated; and
    - (iv) the Terms and Conditions for Regulated Facilities and Services govern the supply of Regulated Facilities and/or Services unless otherwise stated in this Agreement; and
    - (v) the Terms and Conditions for Non-Regulated Facilities and Services govern the supply of Non-Regulated Facilities and/or Services unless otherwise stated.
3. **Conditions Precedent**
  - (a) This Agreement shall be effective upon the relevant portion of this Agreement requiring registration is duly registered with the Commission under section 150 of the Act in its entirety; and
  - (b) If Access Seeker is required to provide the Security Sum in accordance with Condition 3.2A and/or Condition 5.2A, the Access Provider shall not be obliged to provide the Facilities and/or Services unless the Access Seeker has provided the Security Sum in accordance with **Condition 3.2A** and/or Condition 5.2A of the **General Terms and Conditions**.
4. **Conversion of Regulated Services to Non-Regulated Services and vice versa**
  - (a) In the event that a Regulated Service is removed from the Access List pursuant to a Determination by the Commission in accordance with section 146 of the Act, thereby becoming a Non-Regulated Service, that Service shall be deemed to be:-
    - (i) removed from the Terms and Conditions for Regulated Facilities and Services; and

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**Articles of Agreement**

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- (ii) incorporated into the Terms and Conditions for Non-Regulated Facilities and Services,  
  
on the date the Regulated Facilities and Services is removed from the Access List as specified in the Commission’s Determination.
  - (b) In the event that a Non-Regulated Facility and/or Service is included into the Access List pursuant to a Determination by the Commission in accordance with section 146 of the Act, thereby becoming a Regulated Facility and/or Service, that Facility and/or Service shall be deemed to be:-
    - (i) removed from the Terms and Conditions for Non-Regulated Facilities and Services; and
    - (ii) incorporated into the Terms and Conditions for Regulated Facilities and Services,  
  
on the date the Non-Regulated Facilities and Services is added to the Access List as specified in the Commission’s Determination.
  - (c) For purposes of **Articles 4(a) and 4(b)**, either Party may exercise its rights in accordance with **Clause 11.4 of the General Terms and Conditions**.
5. The following documents shall be deemed to form and be read and construed as an integral part of this Agreement:-
- (a) these Articles of Agreement;
  - (b) Terms and Conditions for Regulated Facilities and/or Services;
  - (c) Terms and Conditions for Non-Regulated Facilities and/or Services;
  - (d) the General Terms and Conditions and the Terms and Conditions for Technical Matters including all annexures, appendices and schedules referred to therein; and
  - (e) the Definitions and Rules of Interpretation.
6. If there is a conflict between or among the documents stated in **Clause 5**, the documents shall take precedence according to the order in which they are listed. If there are any conflicts between a document incorporating any annexures, appendices or schedules (“**main document**”) and its annexures, appendices or schedules, the main document shall take precedence.
7. Notwithstanding Article 6, there shall be no order of precedence between the following:-
- (a) the General Terms and Conditions and the Terms and Conditions for Technical Matters;
  - (b) the terms and conditions of the different Services within a particular category; and

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**Articles of Agreement**

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(c) the annexures, appendices and schedules unless expressly specified.

**8. Services Provided by the Access Provider**

8.1. The Access Provider agrees to provide the Access Seeker on the prices and terms and conditions set out in this RAO Agreement those Services requested by the Access Seeker in the Access Request Form submitted by the Access Seeker pursuant to the RAO and to which the Access Provider has accepted using the Access Request Acceptance - RAO Response Form in accordance with the terms of the RAO.

8.2. In addition to the Services that are provided by the Access Provider to the Access Seeker as stipulated in Section 8.1 above, the Parties may, from time to time, mutually agree to add any of the following Services as listed below in accordance with Section III of the Terms and Conditions for Technical Matters:

Item No.	List of Services
1.	Fixed Network Origination Services
2.	Fixed Network Termination Services
3.	Mobile Network Origination Services
4.	Mobile Network Termination Services
5.	Interconnect Link Services
6.	Network Co-location Services
7.	Infrastructure Sharing Services

9. The definitions of all words used in this Agreement are contained in the Definitions and Rules of Interpretation.

*[The remainder of this page is intentionally left blank]*

**Articles of Agreement**

**Structure of this Agreement**

This diagram is only a broad summary and illustration of the scope and structure of this Agreement. This diagram shall not limit or prejudice the interpretation or scope of the respective documents forming this Agreement.

<b>Structure of this Agreement</b>					
<b>Articles of Agreement</b>	<b>Definitions</b>	<b>General Terms and Conditions</b>	<b>Terms and Conditions for Technical Matters</b>	<b>Terms and Conditions for Facilities and/or Services</b>	
				<b>Part A</b>	<b>Part B</b>
This document sets out the: (a) generic scope of this Agreement; and (b) list of documents forming part of this Agreement; and (c) list of Services which may be provided under this Agreement.	Sets out the definitions and rules of interpretation applicable to this Agreement.	Applicable to the Facilities and/or Services.  Annexure 1 to Annexure 4	Sets out the technical and operational matters applicable to the Facilities and/or Services.	Sets out the <b>service description</b> of the Facilities and/or Services	Sets out the <b>access charges and charging principles</b> applicable to the Facilities and/or Services

**Private and Confidential**

**Articles of Agreement**

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**IN WITNESS WHEREOF** the Parties have hereunto set their hands the day and year first above written.

SIGNED by )  
as authorised representative for )  
**YTL COMMUNICATIONS SDN BHD** )  
**(Company No. 793634-V)** )  
in the presence of )

..... )  
Signature of witness )

..... )  
Name of witness )

..... )  
NRIC No. of witness )

..... )  
Occupation of witness )

.....  
By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of **YTL COMMUNICATIONS SDN BHD (Company No. 793634-V)**

SIGNED by )  
as authorised representative for )  
**[Name of Access Seeker]** )  
**(Company No. )** )

in the presence of: )

..... )  
Signature of Witness )

..... )  
Name of witness (block letters) )

..... )  
NRIC No. of witness )

..... )  
Occupation of witness )

.....  
By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of **(Name of Access Seeker) (Company No. )**

**Definition & Rules of Interpretation**

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**DEFINITIONS  
&  
RULES OF INTERPRETATION**

## Definition & Rules of Interpretation

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1.1 The following words have these meanings in this Agreement unless the contrary intention appears:-

**“Access Charge”** means the charges payable by the Invoiced Party to the Invoicing Party for accessing Services provided by the Invoicing Party.

**“Access List”** means the list of Facilities and Services in the Commission Determination on Access List Determination No. 6 of 2021 or any amendments thereto or any revised Commission Determination on Access List Determination as may be determined by the Commission from time to time under Chapter 3 of Part VI of the Act.

**“Access Provider”** means YTLC, a network facilities provider who owns or provides Facilities and/or a network service provider who provides Services under this Agreement, and who is a licensee as defined in the Act. and to whom an Access Request has been provided or who is providing Services under this Agreement;

**“Access Request”** means a request for access to the network facilities or network services by the Access Seeker to the Access Provider containing the information in **Condition 3.1.3 of the General Terms and Conditions** and any additional information requested under **Condition 3.4.1(a) of the General Terms and Conditions**;

**“Access Seeker”** means the party who is a network facilities provider, a network service provider, an applications service provider, or a content applications service provider who is a licensee as defined in the Act and who makes a written request for access to Facilities or Services, is being provided with Services by Access Provider under this Agreement.

**“Access Service”** in relation to Facilities and/or Services, means a service for the carriage of agreed Call Communications between:

- (a) a POI/POP and a Called Party/called number; or
- (b) a Calling Party and a POI/POP; or
- (c) two (2) POIs/POPs;

**“Act”** means the Communications and Multimedia Act 1998 and includes all amendments thereto from time to time;

**“Agreement”** means this agreement consisting of the documents set out in **Clause 5 of the Articles of Agreement**, including any modification, amendment or addition thereto as may be agreed in writing between the Parties from time to time;

**“Any-to-Any Connectivity”** means a connection which is achieved when an End User is able to communicate with another End User, whether or not the End Users are connected to the same network;

**“Associated Tower Sites”** means land owned, leased or tenanted by a Party surrounding or on which the tower is situated, including necessary right-of-way and permission to dig;

**“A’ party”** means, in the context of communications between End Users, the End User from whom the communication originates;

## Definition & Rules of Interpretation

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**“B’ party”** means, in the context of communications between End Users, the End User to whom the communication terminates;

**“Bank Guarantee”** means the guarantee, in the form set out in **Annexure 2 of the General Terms and Conditions**, executed in favour of the Access Provider by a licensed bank approved by the Access Provider pursuant to **Condition 3.2A and/or Condition 5.2A of the General Terms and Conditions** on behalf of the Access Seeker;

**“Billing Dispute”** means the dispute of an Invoice prepared by a Party to the other Party which is made in good faith;

**“Billing Dispute Notice”** means the written notification made by a Party to the other Party in relation to a Billing Dispute in accordance with **Conditions 12.6.1 and 12.6.3 of the General Terms and Conditions**;

**“Billing Dispute Notification Period”** means the relevant period specified in **Condition 12.6.1 of the General Terms and Conditions**;

**“Billing Period”** means a one (1) calendar month period over which the supply to Services is measured for the purposes of billing unless otherwise agreed between the Parties;

**“Billing Representative”** means a representative of the Party appointed in accordance with the billing procedures set out in **Condition 12.6.13 of the General Terms and Conditions**;

**“Billing System”** means a system to issue Invoices relating to Access Charges payable by the Invoiced Party under this Agreement;

**“Business Day”** means a day on which banks are open for general banking business in Kuala Lumpur, Wilayah Persekutuan, other than Saturday or Sunday or a public holiday;

**“Call Communications”** means communications in whole or in part involving a number or IP address used in the operation of each Party’s network including Message Communications;

**“Called Party”** means the Fixed Number, Mobile Number or person to which or to whom a Call Communication is made;

**“Calling Party”** means a Customer who originates a Call Communication or, where applicable, the Customer who is billed or is obliged to pay for the Call Communication or, in the case of an International Inbound Call, the person originating the Call Communication;

**“Charge(s)”** means sum(s) payable by one Party to the other Party for accessing and/or being provided the Facilities and/or Services;

**“CLI” or “calling line identification”** means the information generated from the Network capability which identifies and forwards through the Network, the Access Seeker’s or the Access Provider’s calling number, as the case may be;

**“Closed Number Area”** means a set of digit(s) beginning with the trunk prefix '0' which forms the first part of a national number, and which indicates the defined geographical area within Malaysia where the Customer’s Fixed Number is located provided always that '09' in the states of Pahang, Terengganu and Kelantan will be treated as one closed number area,

## **Definition & Rules of Interpretation**

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'082' to '086' in the state of Sarawak will be treated as one closed number area and '087' to '089' in the state of Sabah will be treated as one closed number area;

**“Co-Location”** means the provision of space at the Access Provider’s building to enable the Equipment to be installed for Access Seeker’s services;

**“Commission”** means the Malaysian Communications and Multimedia Commission established under the Malaysian Communications and Multimedia Commission Act 1998;

**“Common Antenna System”** means a system of Facilities comprising of antennas and cabling to the antennas inside a building, which is owned or operated by a Party, including one or more Mobile Network Operators, in association with in-building coverage;

**“Common Channel Signaling No. 7” or “CCS7”** means the Fixed and Mobile Network protocol for exchanging signaling messages to set-up call communications between Parties;

**“Communication”** means any communication, whether between persons and persons, things and things, or persons or things in the form of sound, data, text, visual images, signals, or any other form or any combination of those forms and, where the context permits, includes a Communication Attempt;

**“Communication Attempt”** means the activity associated with setting up a Communication which may or may not be successful;

**“Communication Information”** means information in respect of Communications made during the Billing Period which may include:

- (a) calling number and, if it is different, the billing number;
- (b) the called number;
- (c) the day on which the Communication was made;
- (d) the time of commencement of the Communication;
- (e) the duration of the chargeable Communication (including Interconnect Chargeable Calls and chargeable Communication Attempt) time and, in the case of non-PSTN communications, all other applicable charging parameters;
- (f) the fee charged by the Access Provider for use of its Network to accommodate the Communication, separately identifying each of the charge elements specified in the Agreement;
- (g) the routing information relating to the POI at which Communications from the Party’s Network entered or left the other Party’s Network; and
- (h) whether the Communication was successfully completed,

or, if any such information is technically unavailable to an Party pending implementation of appropriate information recording systems, such other relevant available information reasonably requested by the other Party;

## Definition & Rules of Interpretation

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**“Communications Service”** means the network facilities, network services, application services and/or content application services provided by the Party, as the case may be, pursuant to its License(s);

**“Confidential Information”** means the type of information as defined in **Condition 8 of the General Terms and Conditions**;

**“Creditworthiness Information”** means the information required by the Access Provider to assess the creditworthiness of the Access Seeker which are more particularly described in **Condition 3.2 of the General Terms and Conditions** and such other information as may be required from time to time;

**“Customer”** means, in relation to a Party, a person having a contractual relationship with that Party for the provision of communications by means of that Party’s Facilities and/or Services;

**“DTS”** means the digital trunk switch installed in the respective Party’s Fixed Network;

**“Determination”** means any lawful determination made by the Commission and/or Minister, pursuant to the Act;

**“Direction”** means any lawful direction made by the Commission and/or Minister, pursuant to the Act;

**“Due Date”** means, in respect of an Invoice, one (1) month from the date of receipt of an Invoice;

**“E1”** means a unit of 2Mbps of capacity;

**“Effective Date”** means the date on which this Agreement is duly registered with the Commission under Section 150 of the Act;

**“End User”** means a consumer and final recipient of Communication service, and includes an ultimate retail Customer of a Party;

**“Equipment”** means any equipment (whether hardware or software), or device which is part of or within the Network;

**“Facilities”** means network facilities and/or other facilities which facilitate the provision of network services or applications services, including content applications services;

**“Facilities Access”** in relation to Regulated Facilities and/or Services, means a service for the provision of access to network facilities and/or premises;

**“Fixed Network”** means network facilities and/or network services comprising the Public Switched Telephone Network and/or networks based on Internet Protocols for the provision of communications by guided electromagnetic energy or by point-to-point unguided electromagnetic energy;

**“Fixed Network Origination Service”** has the meaning ascribed in Condition 2.1, **Section I of Part A of the Terms and Conditions for Regulated Facilities and/or Services**;

## Definition & Rules of Interpretation

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**“Fixed Network Termination Service”** has the meaning ascribed in Condition 2.2, **Section I of Part A of the Terms and Conditions for Regulated Facilities and/or Services**;

**“Fixed Number”** means:

- (a) a PSTN and/or ISDN number directly connected to the exchanges of either Party, as the case may be; and/or
- (b) TSOIP Telephony Number,

but does not include the Mobile Numbers of each of the respective Parties;

**“Forecast”** means a forecast made by the Access Seeker pursuant to **Section II of the Terms and Conditions for Technical Matters**;

**“Force Majeure”** means any event, circumstance or cause which is not reasonably within the control of the Party affected, including but not limited to, an act of God, industrial disputes of any kind, war declared or undeclared, blockade, disturbance, lightning, fire, earthquake, storm, explosion of meteor, governmental restraint and expropriation;

**“Foreign Party”** means a licensed or authorised telecommunications operator who provides or operates Communication Services in a foreign country;

**“Freephone Number”** means numbers currently denoted by the number range commencing with ‘1800’ but also including such other number ranges agreed to or directed by the Commission;

**“Freephone 1 800 Services”** means the services utilising Freephone Numbers;

**“Full-span Interconnection”** means the physical connection to establish a POI/POP between the Access Provider and Access Seeker’s premises, where:

- (a) the link between the Access Provider and the Access Seeker’s premises is provided and maintained by Access Provider; and
- (b) the Access Provider installs, operates and maintains its transmission equipment at the Access Seeker’s premises;

**“Gateway”** is a designated DTS or MSC or Media Gateway which:

- (a) provides operational interworking between the Parties’ Network; and
- (b) provides an agreed interface between the signaling, switching, transmission and operations systems of each Party; and
- (c) is defined by a unique name or code; and
- (d) supports one or more POIs;

## Definition & Rules of Interpretation

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**“GPRS”** means General Packet Radio Service;

**“Grade of Service”** means the probability of calls blocking due to insufficient circuits, trunk and equipment or a means of expressing congestion at switching stage;

**“Home Area”** means the defined geographical area within Malaysia where the customer’s Mobile Number is registered according to the cellular mobile network operator’s respective numbering plan. For clarification purposes, such areas as at the date of this Agreement are the Central, Northern, Southern, Eastern, Sabah and Sarawak regions.

**“Infrastructure Sharing”** shall have the meaning as defined in –**Condition 1.2, Section IV of Part A of the Terms and Conditions for Regulated Services and/or Facilities**;

**“In-Span Interconnection”** means the physical connection for a POI/POP where the POI/POP is between the Access Provider and the Access Seeker’s premises. Each Party shall be responsible for:

- (a) the transmission equipment at its end of the link; and
- (b) the part of the link from its premises to the POI/POP;

**“Instrument”** means any lawful instrument which is issued by the Commission pursuant to the Act;

**“Insurance Information”** means the insurance information required by the Access Provider pursuant to **Conditions 3.3 and 9.2 of the General Terms and Conditions**;

**“Integrated Services Digital Network” or “ISDN”** means an integrated service network that provides digital connection between user-network interface in accordance with the relevant ITU recommendations;

**“Interconnect Link Service”** has the meaning ascribed in **Condition 2, Section III of Part A of the Terms and Conditions for Regulated Facilities and/or Services**;

**“Interconnect Chargeable Calls”** means a completed call whereby the originating exchange receives the answer signal from the terminating exchange resulting from the Customer answering the call or a call that has been routed to the call center or a call terminated at RVA. The chargeable duration is the period from the receipt of answer signal to the receipt of the clear forward or forced release signal;

**“Interconnect Conditioning”** means the conditioning, equipping and installation of facilities at the Access Provider’s Gateway to enable the provision of one or more Service(s);

**“Interconnect Support”** means the maintenance and operation of Interconnect Capacity, Network Capacity and the equipment and facilities in the Access Provider’s Network (including, its Gateways) to support the provision of one or more Interconnection Services;

## Definition & Rules of Interpretation

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**“Interconnect Traffic”** means Call Communication traffic between the directly connected Customers of the respective Parties’ Network;

**“Interconnecting Network”** means interconnection of the network of an Access Provider and the network of an Access Seeker;

**“Interconnection”** is interconnection:

- (a) of the Access Seeker's Network to the Access Provider’s Network, for the purposes of the Access Provider providing Services to the Access Seeker in relation to a Call Communication;
- (b) of Access Provider’s Network to the Access Seeker's Network, for the purposes of the Access Seeker supplying Services to the Access Provider in relation to a Call Communication,

via a POI/POP and using agreed interfaces and signaling systems;

**“Interconnection Service(s)”** means Facilities or Services including the physical connection between separate networks, to facilitate Any-to-Any Connectivity provided by an Access Provider to an Access Seeker which involves or facilitates the carriage of communications between an End User connected to the network of the Access Provider and a Point of Interconnection;

**“Interconnect Steering Group”** or **“ISG”** means the inter-operator relations group established by the Parties in accordance with **Clause 5.16.3** of the MSA Determination;

**“International Gateway”** is a designated DTS/MSC/Media Gateway which provides operational interworking between a Malaysian Party’s Network and a Foreign Party’s Network. Every international gateway is defined by a unique name or code;

**“International Inbound Call”** means a Call Communication routed from a foreign destination by a Foreign Party via an International Gateway which is destined for a Malaysian Fixed Number or Mobile Number;

**“IP”** or **“Internet Protocols”** means network-layer which is Layer 2 protocol, as defined by the Internet Engineering Task Force (the international body that defines standard Internet operating protocols), that contains addressing information and some control information that enables packets to be routed;

**“Invoice”** means the invoice for amounts due in respect of the supply of Service(s) during a Billing Period;

**“ITU-T”** means the Telecommunications Standardisation sector of the International Telecommunications Union (previously known as CCITT);

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**Definition & Rules of Interpretation**

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**“Jitter”** means the difference between the actual Latency of a packet and a reference Latency for a packet population of interest. The reference Latency of a population of packets is the minimum Latency for the packets within the population of interest. Jitter is a statistical sample, measured over a packet population of interest;

**“Latency”** means the one-way time interval between the moment the first bit of a IP packet crosses an entry point of a network and the moment the last bit of the same packet crosses an exit point of the network dimensioned in time;

**“License”** means an individual or class license granted by the Minister pursuant to the Act;

**“MSC”** means a mobile switching centre and includes mobile telephone exchanges or similar switches/exchanges, depending on and in accordance with the technology standard or standards of the Mobile Network operated by the Party;

**“Manuals”** means the Technical and Implementation Manual or the Operations and Maintenance Manual and/or any other manuals which the Parties establish pursuant to the Agreement, including any amendments and/or supplemental thereon;

**“Media Gateway”** means a network device that converts voice and fax and multimedia calls, in real time, between the PSTN, Mobile Network and an IP network. The primary functions of a media gateway include voice, fax and multimedia compression/decompression, packetization, call routing, and control signaling;

**“Message Communications”** means communications that provide only text with or without associated images, audio clips and video clips. Examples of Message Communications include Short Message Service and Multimedia Message Service and any other technology which is currently available or which may be developed in future that involves the carriage of text communications with or without associated images, audio clips and video clips;

**“Minimum Value”** for the purposes of calculating the Security Sum, means:

(a) a commercially reasonable estimate of the charges that will be incurred by the Access Seeker over:

(i) for Facilities and/or Services with a minimum period of access, the minimum period of access to those Facilities and/or Services; and

(ii) for Facilities and/or Services without a minimum period of access, a single Billing Period for those Facilities and/or Services;

in this Agreement;

(b) the creditworthiness of Access Seeker (including prior record of payment by Access Seeker); and

(c) security previously reasonably required by Access Provider.

**“Minister”** means the Minister administering the Act;

## Definition & Rules of Interpretation

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**“Mobile Number”** means:

- (a) the cellular mobile number; and
- (b) cellular mobile number allocated to a Mobile Virtual Network Party connected to and utilizing the Network of an Party,

that is able to use an Party’s Mobile Network and does not include the Fixed Number of the Parties;

- (c) any cellular mobile number ported in by Customers of the Party and/or the Mobile Virtual Network Party of the Parties;

**“Mobile Network”** means network facilities and/or network services comprising the public cellular mobile network and/or the public mobile radio network, for the provision of communications;

**“Mobile Network Origination Service”** has the meaning ascribed in **Condition 2.1, Section II of Part A of the Terms and Conditions for Regulated Facilities and/or Services**;

**“Mobile Network Termination Service”** has the meaning ascribed in **Condition 2.2, Section II of Part A of the Terms and Conditions for Regulated Facilities and/or Services**;

**“Mobile Virtual Network Party or MVNO”** means a Party that is not a holder of a relevant spectrum assignment or an apparatus assignment under Chapter 1 of Part VII of the Act, but is capable of providing public cellular services to End Users;

**“MSA Determination”** means the Commission Determination on the Mandatory Standard on Access, Determination No.3 of 2016 and any amendments or modification thereof;

**“MSC”** means a mobile switching centre and includes mobile telephone exchanges or similar switches/exchanges, depending on and in accordance with the technology standard or standards of the Mobile Network operated by the Party;

**“MyIX”** means the Malaysia Internet Exchange;

**“Network”** means network facilities and/or network services comprising a system, or a series of systems within Malaysia, that carries or is capable of carrying Communications by means of guided or unguided electromagnetic energy or both;

**“Network Boundary”** has the meaning given to that term in section 128 of the Act;

**“Network Capacity”** means equipment and facilities required to be installed in the Access Provider’s Network for use in the provision of one or more Services but does not include Interconnect Capacity;

**“Network Conditioning”** means the conditioning, equipping and installation of facilities at the Access Provider’s Network to enable the provision of one or more Services;

## Definition & Rules of Interpretation

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**“Network Co-location Service”** means an Access Service which comprises:

- (a) Physical Co-Location; or
- (b) virtual co-location; or
- (c) in-span Interconnection,

and which is necessary for the provision of an Access Service;

**“New Services”** has the meaning given to it in Condition 3.1.1;

**“Non Binding Forecasts Period”** means for the purposes of subsection 2.12 of this Agreement, any period of time in which the Forecast is non-binding except to the extent a Forecast is confirmed in accordance with subsection 2.2

**“Non-Regulated Services”** means:

- (a) network facilities and/or other facilities that are not listed in the Access List; and/or
- (b) network services and/or other services that are not listed in the Access List,

specified in this Agreement which facilitates the provision of network services or applications services including content applications services;

**“Number Plan”** or **“Numbering and Electronic Addressing Plan”** or **“NEAP”** means the number plan adopted by the Commission, or the number plan, subsequently, developed, issued and amended by the Commission pursuant to Chapter 2 of Part VII of the Act for the administration, management and assignment of numbers (as defined in Section 6 of the Act), including, PSTN numbers and short codes;

**“Operations and Maintenance Manual”** means the manual associated with the **Terms and Conditions for Technical Matters** as the case may be and which is part of the Access Agreement, in relation to the following:

- (a) network information;
- (b) commissioning, de-commissioning and re-arrangement practices;
- (c) maintenance practices;
- (d) fault handling procedures;
- (e) complaint handling;
- (f) network monitoring;
- (g) network management;
- (h) access to POI sites;

***Private and Confidential***

**Definition & Rules of Interpretation**

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- (i) contact lists;
- (j) quality of service standards; and
- (k) such other matters as are agreed between the Parties from time to time;

**“Order”** means an order placed by the Access Seeker pursuant to **Section III of the Terms and Conditions for Technical Matters**;

**“O&T Service”** means an originating or terminating service in the Access List Determination which includes:

- (a) Fixed Network Origination Service;
- (b) Fixed Network Termination Service;
- (c) Mobile Network Origination Service; and
- (d) Mobile Network Termination Service;

**“Operator”** means a network facilities provider, a network service providers, an applications service provider, or a content applications service provider who is, an access provider or an access seeker as defined in the Access List Determination issued by the Commission;

**“Party”** means the Access Seeker or the Access Provider and **“Parties”** means the Access Seeker and the Access Provider collectively;

**“Point of Interface”** means any technically feasible point at which a communication is transferred between those network facilities and includes POI and POP;

**“Physical Co-Location”** shall have the meaning assigned to it in **Condition 2.1(a), Section V of Part A of the Terms and Conditions for Regulated Services and/or Facilities**;

**“POI” or “Point of Interconnection”** means any technically feasible point which demarcates the Interconnecting Network, and is the point at which Communication is transferred between the Interconnecting Network, such as MyIX;

**“POP” or “Point of Presence”** means a point at which an Access Seeker has established itself for the purposes of obtaining access to Facilities and/or Services;

**“Preparatory Work”** means all supporting task including supply and engineering services to be conducted in order for the Access Seeker to Co-Locate in Access Provider’s premises;

**“PSTN” or “Public Switched Telephone Network”** means a telephone network accessible by the public providing circuit switching and transmission facilities utilising analogue and/or digital technologies;

**“QoS”** means quality of service;

**“QoS standards”** means the QoS standards in respect of certain services set out in this Agreement and the documents referred to in **Section I of the Terms and Conditions for Technical Matters**;

### Definition & Rules of Interpretation

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**“Reference Access Offer” or “RAO”** means the reference access offer issued by the Access Provider pursuant to the MSA Determination and as modified from time to time;

**“Regulated Facilities and/or Services”** means:

- (a) network facilities and/or other facilities that are listed in the Access List; and/or
- (b) network services and/or other services that are listed in the Access List,

specified in this Agreement which facilitates the provision of network services or applications services including content applications services;

**“RM”** means Ringgit Malaysia which shall be the monetary currency used in this Agreement unless otherwise provided;

**“RVA”** means the remote voice answering system of the Parties, but shall not include the standard switch announcement of the Parties;

**“Security Sum”** means the security in the form of Bank Guarantee provided or to be provided by the Access Seeker to the Access Provider under **Condition 5.2A** for the supply of Facilities and/or Services and/or under **Condition 3.2A** for the supply of New Services;

**“Services”** means both the Regulated Services and Non-Regulated Services that are provided by the Access Provider to the Access Seeker under this Agreement;

**“Service Ordering Procedures”** means the procedures governing the forecasting, planning and ordering of relevant Service(s) as set out in this Agreement and the relevant Manuals;

**“Service Qualification”** means

- (a) in relation to O&T Services, Network Co-Location Service, Infrastructure Sharing, or Interconnect Link Service, a desk and/or field study that may be conducted in accordance with **Section III** of the **Terms and Conditions for Technical Matters** and may include (where relevant) the testing of a line to ascertain whether it could be used in response to an Access Request and/or an Order or proposed Order by the Access Seeker; and
- (b) in relation to all other Facilities and/or Services, includes the interrogation of an Access Provider’s OSS to confirm availability of network facilities to fulfill an Order or proposed Order;

**“SMS”** means the Short Messaging Service that comprises text communications sent to and from an Party’s SMSC, which text comprises words and/or numbers or an alphanumeric combination in accordance with the prevailing standards prescribed by Global Standard for Mobile (GSM);

**“SMS Communication”** means a communication via SMS that comprises an SMS text message to or from either Party involving either Party’s Mobile Number or the Mobile Number of the Mobile Virtual Network Party connected to and utilizing the Network of either Party;

## Definition & Rules of Interpretation

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**“SMSC”** means the Short Message Service Center of an Party which receives the outgoing SMS Communications from that Party’s Network and sends the SMS Communications to its Network or that of another operator’s network;

**"Standard Access Obligations"** has the meaning prescribed in Section 149 of the Act;

**"Technical Specifications"** means any technical parameters, specifications and procedures applicable to Interconnection of the Parties' Networks and provision of Services documented in the Manuals to the Access Agreements;

**"Technical and Implementation Manual"** means the manual associated with the **Terms and Conditions for Technical Matters** and which is part of the Access Agreement, in relation to the following:

- (a) principles for network configuration;
- (b) forecasting procedures;
- (c) ordering procedures;
- (d) provisioning procedures;
- (e) routing and numbering principles;
- (f) signalling and Technical Specifications for the Interconnection of Fixed Numbers;
- (g) commissioning procedures;
- (h) transfer of charge band data;
- (i) billing procedures;
- (j) call processing;
- (k) call forwarding procedures;
- (l) POI establishment procedures;
- (m) relocation and removal procedures for POI equipment; and
- (n) such other matters as are agreed between the Parties from time to time;

**“Telephone Area”** means those areas stipulated in graphical and tabular form in the NEAP;

**“Telephony Service over IP” or “TSOIP”** means an IP network service using the service number prefix “0154” (or such other number as may be determined by the Commission) that supports applications services such as voice calls or data delivered over Internet Protocol network;

**“Toll Free Numbers”** means numbers currently denoted by the number range commencing with ‘1300’ but also including such other number ranges agreed to or directed by the Commission;

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**Definition & Rules of Interpretation**

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**“Toll Free Services”** means the service utilising Toll Free Numbers;

**“Transmission Services”** means each of the Trunk Transmission Service, the Wholesale Local Leased Circuit Service and the End-to-End Transmission Service, which are respectively described in paragraph 4(19), paragraph 4(6) and paragraph 4(22) of the Access List Determination;

**“Transport Stream”** means a packet based method of multiplexing one or more digital video and audio streams having one or more independent time bases into a single stream; and

**“Validity Date”** shall have the meaning as assign in Sub-Section 2.1 (b), Section V, Part B of Terms and Conditions for Regulated Services and/or Facilities.

1.2 In this Agreement except where the contrary intention appears;

- (a) the singular includes the plural and vice versa; and
- (b) a document includes all amendments or supplements to that document, or replacements or novations of it; and
- (c) a reference to a statute, ordinance, regulations, code or other law and other instruments under it, shall include any statute, ordinance, regulation, code and other law consolidating, amending, re-enacting or replacing of any of them from time to time relating thereto or in connection therewith; and
- (d) a reference to a person includes a firm, body corporate, unincorporated association or an authority; and
- (e) a reference to a person includes the person's executors, administrators, successors, substitutes (including persons taking by novation), and assigns; and
- (f) if the day on which the payment of money falls due is not a Business Day, the due date shall be deemed to be the next Business Day and any reference to acts that have to be done or to be done by or on or before a particular day or Business Day means by or on or before the close of business at 5.00pm on that particular day or Business Day; and
- (g) a reference to a related body corporate of an Party has the same meaning as in the Companies Act 1965; and
- (h) a reference to a third person is a reference to a person who is not a party to this Agreement;
- (i) headings are included for convenience and do not affect the interpretation of this Agreement; and
- (j) use of the word “include” or “including” means without limitation.

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**General Terms & Conditions**

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**GENERAL TERMS AND CONDITIONS  
OF THE AGREEMENT**

**General Terms & Conditions**  
**Condition 1**

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**CONDITION 1 – PRINCIPLES OF ACCESS AND INTERCONNECTION**

**1.1 Provision and Usage of Services subject to Licence**

1.1.1 The Facilities and/or Services provided by the Access Provider shall at all times be subject to Facilities and/or Services which the Access Provider is permitted to provide under its Licence. Concurrently, the Facilities and/or Services provided to the Access Seeker shall only be used in connection with an activity or activities in which the Access Seeker is authorised to provide under its Licence.

**1.2 Principles of Non-Discrimination**

1.2.1 The Parties agree and acknowledge that the governing principle of this Agreement is that the Parties are, in respect of the provision of Facilities and/or Services, in an operator-to-operator relationship.

1.2.2 Consistent with section 149(2) of the Act, access to Facilities and/or Services provided by an Access Provider to the Access Seeker shall be:-

- (a) of at least the same or more favourable technical standard and quality as the technical standard and quality provided on the Access Provider's Facilities and/or Services; and
- (b) on an equitable and non-discriminatory basis.

1.2.3 However, nothing in this Agreement shall limit the Access Seeker's ability to request and agree on access to the Access Provider's Facilities and/or Services that are either superior or inferior (in terms of technical standard and quality) to that which an Access Provider provides to itself or its related companies.

**1.3 Customer Relationship Principles**

1.3.1 The Parties also agree and acknowledge that the following customer relationship principles shall apply:-

- (a) the same person may be a Customer of more than one Party:-
  - (i) in respect of the same or different Facilities provided by different Parties;
  - (ii) in respect of the same or different Services provided by different Parties; or
  - (iii) in respect of Facilities provided by one Party and Services provided by another Party.
- (b) For the avoidance of doubt, the Parties acknowledge that each Party will be responsible for billing its own Customers, unless otherwise agreed in writing by the Parties. Such an agreement may include the following:-
  - (i) the Access Provider billing on behalf of the Access Seeker; or

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- (ii) the Access Provider, in its own right, bills the Customer of the Access Seeker and makes a separate payment to the Access Seeker.

1.3.2 The Parties agree and acknowledge that, unless otherwise specifically agreed and identified in this Agreement, the principle of non-discrimination also means that a Party will treat its own Customers and Customers of the other Party who are similarly situated on a non-discriminatory basis as regards:

- (a) to the extent technically feasible, the transparency, from the Customers' perspective, of Call Communication and other services carried across the Access Provider's Network;
- (b) the standard and quality of network services which the Access Provider supplies to Customers of the Access Seeker, whenever those services are associated with or incidental to the supply of Communications Services by the Access Seeker.

**1.3.3 Prohibited use of Customer information**

The Access Provider is expressly prohibited from using any Access Seeker's Customer information to market or offer to supply its goods or services to that or any other Customer, except where:

- (a) the Customer information is publicly available; or
- (b) the Customer information has been received or developed by the Access Provider from sources other than the Access Seeker,

and, in either case, the information has not been collected or generated with reference to, or combined with or compared to, information provided in connection with the Access Provider's supply of the Facility and/or Service. This includes any use or intended use by the Access Provider to dissuade that Customer from entering into a contractual relationship with the Access Seeker for retail services that use the Facility and/or Service as an input or more generally, to persuade that Customer to enter into a contractual relationship with the Access Provider for the Access Provider's retail services.

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**General Terms & Conditions  
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**CONDITION 2 – PARAMETERS OF THE AGREEMENT**

- 2.1 The scope of this Agreement is, unless otherwise specified in this Agreement, limited only to the provision of Facilities and/or Services pursuant to Condition 1.1.
- 2.2 The Parties agree that this Agreement is not intended to govern the provision of any facilities and/or services not specified in this Agreement except to the extent that the supply of the services is incidental to the functionality required for:
- (a) the Interconnection of the network facilities of one Party with the Network of the other Party; or
  - (b) the carriage of Call Communications across the other Party's Network.
- 2.3 The obligation of the Access Provider to agree, in accordance with this Agreement, to the extension of this Agreement to cover the provision of a Communications Service to the Access Seeker is first subject to the Access Provider being so obliged by virtue of its Licence or by applicable regulations, Determinations and/or Directions, and the Access Seeker being in full compliance of all the material terms herein.
- 2.4 Except where this Agreement provides to the contrary, the rights and obligations conferred by this Agreement apply to the Parties as between two (2) Operators, the Access Provider being the provider of the Services and the Access Seeker being the subscriber of the Services. For the purposes of clarification, where this Agreement expressly states that a service is to be provided reciprocally, the obligations in respect of that service are regarded as reciprocal.
- 2.5 For the avoidance of doubt, this Agreement is intended to apply only to the provision of Services listed in Section 8 of the Articles of Agreement including any other Communication Services which may be added from time to time in writing to this Agreement and to related matters concerning the Parties and may not be construed as conferring benefits on third persons.
- 2.6 The Parties hereby agree and acknowledge that this Agreement in its entirety shall only be effective and enforceable upon registration of the relevant portion of this Agreement (which requires registration) with the Commission pursuant to section 150 of the Act. The Parties hereby agree and acknowledge that the Terms and Conditions for Non-Regulated Facilities and/or Services will not be lodged with the Commission for registration.
- 2.7 Each Party shall notify the other Party as soon as possible of all correspondences from the Commission pertaining to the registration of the relevant portion of this Agreement requiring registration. In the event that the Commission refuses or fails to register this Agreement or part thereof, the Parties shall negotiate in good faith to decide on the next course of action to secure registration of this Agreement under the Act.

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- 2.8 Where a Party in this Agreement consists of more than one (1) company, all warranties, representations, indemnities, covenants, agreements and obligations given, undertaken or entered into by the Party are given, undertaken and entered into by all the companies comprising that Party, jointly and severally. Notwithstanding the foregoing, where the liability of such a Party is limited by any provision in respect of limitation liability, the liability of that Party shall not exceed the stipulated limit whether jointly or severally.

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**CONDITION 3 – PROCEDURES FOR REQUESTING NEW FACILITIES AND/OR SERVICES**

**3.1 Application for Access to New Facilities and/or Services**

3.1.1 The Access Seeker may request the Access Provider to supply network facilities or network services listed in the Access List that are not currently specified in this Agreement (“**New Services**”) by submitting to the Access Provider a duly completed New Request Form attached as Annexure 4 to this General Terms and Conditions (herein after referred to as “Access Request”).

3.1.2 The purpose of such Access Request is to provide the Access Provider with sufficient information to assess the Access Seeker’s request for the New Services.

3.1.3 The Access Request must:

- (a) contain the name and contact details of the Access Seeker;
- (b) specify the New Services in respect of which access is sought;
- (c) a list of relevant licences held by Access Seeker;
- (d) indicate whether the Access Seeker wishes to either accept the Access Provider’s terms of offering as stated in this Agreement for the New Services or negotiate different terms;
- (e) specify the ready for service date(s) for the New Services that is being sought by the Access Seeker;
- (f) contain the names of personnel(s) whom the Access Seeker nominates to represent the Access Seeker in access negotiations with the Access Provider, and in respect of each of those personnel:
  - (i) his or her contact details;
  - (ii) his or her job title; and
  - (iii) details of his or her availability for the access negotiations;
- (g) state the identity of the negotiating team leader whom shall have the authority to make binding representations on behalf of the Access Seeker in relation to matters arising from the access negotiations (subject to final approval from the Access Seeker’s Chief Executive Officer or Board of Directors, if required by the Access Seeker);
- (h) contain two (2) copies of confidentiality agreement properly executed by the Access Seeker in the form prescribed by the Access Provider, where there is no such confidentiality agreement already in force;

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- (i) preliminary information regarding the scale and scope of Facilities and/or Services that the Access Seeker expects to acquire from the Access Provider pursuant to the Access Request;;
- (j) provide the relevant information relating to the Access Seeker's Network and the functionality of its services, to the extent that the Access Seeker is aware that such information may affect the Access Provider's Network;
- (k) contain confirmation that the Access Seeker is not currently being supplied with the New Services or if so, the reasons for the additional request for the New Services;
- (l) specify the type of Licenses held by the Access Seeker and a copy of the License where a copy had not been previously provided;
- (m) contain Creditworthiness Information as set out in **Condition 3.2**;
- (n) contain Insurance Information as set out in **Condition 3.3**;
- (o) relevant technical information relating to the interface standards of the Access Seeker; and
- (p) such other information that the Access Provider may reasonably request.

3.1.4 The Access Provider must provide the following information to the Access Seeker within ten (10) Business Days of receipt of a written request from that Access Seeker:

- (a) the Access Provider's description of each of the network facilities or network services that may be supplied by the Access Provider, such description to be consistent with the description (if applicable) of the network facilities or network services in the Access List;
- (b) the application forms required to be completed by the Access Seeker to apply for access to network facilities or network services;
- (c) a confidentiality agreement required to be executed by the Access Seeker, where there is currently none in force;
- (d) the Access Provider's current access charges for access to network facilities or network services, including individual and wholesale offerings;
- (e) details of the basis on which the Access Provider's current access charges are determined;
- (f) all relevant technical information relating to the network facilities or network services which may be the subject of the Access Request, including any physical and logical interfaces of its Network necessary to allow the development and deployment of communications services, value-added services and communications

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equipment that can interconnect to, and interoperate with, that Access Provider's Network;

- (g) details of the Access Provider's provisioning cycles and any impact such cycles may have upon an Access Request by the Access Seeker (e.g. capacity constraints);
- (h) details of the Access Provider's quality of service targets and achievements in respect of the New Services;
- (i) any creditworthiness information, security and insurance requirements required by the Access Provider under Conditions 3.2, 3.2A and 3.3 respectively;
- (j) the Access Provider's reasons for failing to supply any of the information referred to in paragraphs (a) to (g) of this Condition 3.1.4.

The provision of information under this Condition 3.1.4 is subject to the Confidential Agreement.

**3.2 Creditworthiness Information**

3.2.1 The Creditworthiness Information that is required to accompany an Access Request are:

- (a) a letter, signed by the executive director of the Access Seeker, stating that the Access Seeker is not insolvent and is not under any external administration or under similar form of administration under any laws applicable to it in any jurisdiction;
- (b) a copy of the Access Seeker's most recently audited balance sheet and audited profit and loss statement.

**3.2A Security Sum**

3.2A.1 Access Provider shall not impose any security requirements on the Access Seeker unless the Service Provider determines, acting reasonably, that the Access Seeker presents a security risk and that imposing the security requirements will materially reduce or remove that risk.

3.2A.2 Subject to Condition 3.2A1, if the Access Provider impose any security requirement on the Access Seeker, the Access Provider shall ensure that the amount and type of security requirements imposed on Access Seeker in its security policy, commensurate with:

- (a) the **Minimum Value**;
- (b) the creditworthiness of Access Seeker (including prior payment records of Access Seeker); and
- (c) the security previously reasonably required by Access Provider (if any).

3.2A.3 Access Seeker must provide the Security Sum to Access Provider in the form of a Bank Guarantee.

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**3.3 Insurance Information**

3.3.1 Subject to **Condition 9.2**, the Access Provider may request for any additional insurances, the sum of which is to be specified by the Access Provider, prior to the provisioning of the New Services.

**3.4 Processing of Access Request**

3.4.1 Access Provider's Reply to the Access Request

Subject to **Condition 2.10 of Section X of the Terms and Conditions for Technical Matters**, the Access Provider shall within ten (10) Business Days of receipt of the Access Request inform the Access Seeker in writing that it has received the Access Request and:

- (a) request for additional information from the Access Seeker where there is a need for further information prior to considering the Access Request. The Access Provider shall comply with Section 5.4.16 of the MSA Determination when it requests for such additional information; or
- (b) indicate whether it is willing to provide access to the New Services under Condition 3.7 or if it is rejecting the Access Request in accordance to Condition 3.6
- (c) If the Access Provider is willing to provide access to the New Service(s), the Access Provider shall (together with its notice of acceptance) indicate the Security Sum, any non-refundable processing fee and resource fee payable by the Access Seeker prior to the execution of the supplemental Access Agreement.

If the Access Provider requests additional information under **Condition 3.4.1(a)** and the Access Seeker provides the requested information to the Access Provider's satisfaction, the Access Provider shall within ten (10) Business Days of such response, provide the Access Seeker with a response under **Condition 3.4.1(b)**.

3.4.2 Non-Refundable Resource Charge and Processing Fee

- (a) The Access Provider may charge the Access Seeker a one-off non-refundable resource charge to be determined by reference to the reasonable costs incurred by the Access Provider for the allocation of manpower and other resources to enable the Access Seeker to test and provide New Services for the purposes of Interconnection. Before the Access Provider incurs the resource charge the Access Provider shall provide a quotation of the estimated charge for the approval of the Access Seeker.
- (b) Subject to **Condition 3.4.2(c)**, the Access Provider may charge the Access Seeker a non-refundable processing fee for undertaking the necessary administrative work to process the Access Request.

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- (c) The non-refundable processing fee is only applicable to New Services that can be offered and made available by the Access Provider.
- (d) The non-refundable processing fee for the respective New Services is set out in **Annexure 1 (in this General Terms and Conditions)**. Processing fees for the New Services not currently specified in **Annexure 1** will be mutually agreed by the Parties from time to time.
- (e) In the event that additional and non-routine work is required in order to process the Access Request, the Access Provider may charge a separate reasonable fee for undertaking such additional work. Despite the above, before the Access Provider undertakes any additional and non-routine work, the Access Provider shall provide a quotation of the estimated charges for the approval of the Access Seeker. If the Access Seeker does not proceed with the Access Request accepted by the Access Provider, the processing fee will not be refunded to the Access Seeker.
- (f) The processing fee will be set-off against the Access Charges for the requested network facilities and network services upon the acceptance of the Access Request by the Access Provider pursuant to **Condition 3.7**.

**3.4.3 Non-permitted Information**

Notwithstanding anything else in this Agreement, an Access Provider shall not require an Access Seeker to provide any of the following information to the Access Provider (whether as a condition of the provision of further information or as a condition of assessing the Access Seeker's application, or at any other time):

- (a) the Access Seeker's proposed service launch date;
- (b) details of the functionality of the Access Seeker's proposed service, except to the extent that such functionality may affect the Access Provider's Network;
- (c) details of the Access Seeker's Network rollout plans, except to the extent that such rollout plans relate to ready-for-service dates requested by the Access Seeker in respect of particular Points of Interface;
- (d) details of the Access Seeker's current or proposed retail charges;
- (e) details of the Access Seeker's marketing strategy or proposed client base;
- (f) financial information relating to the Access Seeker's business, except to the extent that such information may be required pursuant to the creditworthiness requirements in **Condition 3.2**; or

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- (g) details of any other supply arrangements or agreements to which the Access Seeker is or may be a party, except to the extent that such details are directly relevant to technical characteristics of the requested access.

**3.5 Rejection of an Access Request**

**3.5.1 Reasons for Refusal**

Without limiting any other grounds that may be relied upon under the Act, the Access Provider may refuse to accept an Access Request for the supply of a New Service and accordingly may refuse to supply that New Service to the Access Seeker for any of the following reasons (such reason to be provided to the Access Seeker in writing):

- (a) in the Access Provider's reasonable opinion, the Access Seeker's Access Request was not made in good faith;
- (b) in the Access Provider's reasonable opinion, the Access Request does not contain the information reasonably required by the Access Provider provided that the Access Provider has sought the information from the Access Seeker under **Condition 3.4.1 (a)**;
- (c) the Access Provider does not currently supply or provide access to the requested New Services to itself or to any third parties, except where the Access Seeker compensates the Access Provider for the supply of access to the New Services;
- (d) it is not technically feasible to provide access to the New Services;
- (e) the Access Provider has insufficient capacity or space to provide the requested New Services;
- (f) there are reasonable grounds in the Access Provider's opinion to believe that the Access Seeker would fail to make timely payment for the supply of the New Services;
- (g) there are reasonable grounds in the Access Provider's opinion to believe that the Access Seeker would fail, to a material extent, to comply with this Agreement and the terms and conditions applicable to the supply of the New Services; or
- (h) there are reasonable grounds for the Access Provider to refuse access in the national interest.

**3.5.2 Determination of technical infeasibility**

For the purposes of **Condition 3.5.1(d)**, the Access Provider shall not reject an Access Request on the grounds of technical infeasibility unless the Access Provider establishes that there are substantial technical or operational concerns preventing the fulfillment of the Access Request. The following shall be taken into account in determining whether access is technically feasible:

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- (a) economic, accounting, billing, space or site concerns shall be disregarded by the Access Provider except to the extent that space or site concerns may be taken into account in circumstances where there is no possibility of expanding the space available on the relevant site;
- (b) any requirement for the Access Provider to modify its facilities or Equipment in order to meet the Access Request will not, of itself, mean that the access is not technically feasible;
- (c) if the Access Provider asserts that meeting the Access Request would have an adverse impact on Network reliability, the Access Provider must provide evidence that provision of the requested facilities or services would result in a specific and significant adverse impact on Network reliability; and
- (d) the Access Provider must be able to demonstrate that it has considered and found not to be technically feasible (in accordance with this Condition) improvements that would allow the Access Provider to meet the Access Request (in whole or part and including for an interim period until any primary difficulties can be resolved).

**3.5.3 Determination of capacity constraints**

An Access Provider may only refuse an Access Request on the ground set out in **Condition 3.5.1(e)**, where the Access Provider notifies the Commission in writing that it does not have sufficient capacity to meet the Access Request because the requisite capacity is:-

- (a) already carrying traffic to capacity or near full capacity;
- (b) already reserved for future use by the Access Provider or another access seeker, where such future use shall commence not later than six (6) months from the date of the Access Request. If the reserved capacity is not subsequently used by the reserving operator within seven (7) months from the date of the Access Request, the Access Provider must promptly inform the Access Seeker and, if required by the Access Seeker, re-consider the Access Request in accordance with this **Condition 3**; and
- (c) in the case of both **Conditions 3.5.3(a) and (b)**, the Access Provider is unable to expand capacity to meet the requirements of the Access Seeker's Access Request.

**3.5.4 Assessment of the Access Seeker's ability to pay for supply of the New Services**

Reasonable grounds in which the Access Provider may refuse in accordance with **Condition 3.5.1(f)** includes evidence that the Access Seeker is not, in the reasonable opinion of the Access Provider, creditworthy.

**3.5.5 Assessment of the Access Seeker's ability to comply with terms and conditions applicable to the supply of New Services**

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Reasonable grounds in which the Access Provider may refuse in accordance with **Condition 3.5.1(g)** includes repeated failures by the Access Seeker to comply with the terms and conditions on which similar access to Services are being or have been provided (whether or not by the Access Provider).

**3.5.6 Assessment of Creditworthiness**

In determining the creditworthiness of the Access Seeker, the Access Provider:

- (a) may have regard to, but is not limited to the matters referred to in **Condition 3.2**; but
- (b) shall not take into account amounts outstanding for network facilities or network services previously provided by the Access Provider to the Access Seeker where, in accordance with the terms and conditions governing the provision of such network facility or network service, the Access Seeker is not required to pay such amounts to the Access Provider to the extent that there is a *bona fide* dispute in relation to the amounts outstanding by the Access Seeker to the Access Provider and the Access Seeker is relying on such terms and conditions as a basis for its non-payment.

**3.6 Notification of Rejection to the Access Seeker**

**3.6.1** Subject to **Condition 2.10 of Section X of the Terms and Conditions for Technical Matters**, where the Access Provider rejects the Access Request, the Access Provider shall within ten (10) Business Days of receiving the Access Request or additional information requested under **Condition 3.4.1(a)**, as the case may be:

- (a) notify the Access Seeker in writing of the Access Provider's rejection;
- (b) provide reasons for rejection under **Condition 3.5.1** to the Access Seeker;
- (c) provide the basis for the Access Provider's rejection of the Access Request; and
- (d) indicate a date and time, not later than seven (7) Business Days from the date of the notice of rejection, at which representatives of the Access Provider will be available to meet with representatives of the Access Seeker to discuss the rejection of the Access Request. At this meeting, the Access Seeker may request the Access Provider to substantiate its reasons for refusal, and if access has been refused on the basis of the ground in **Condition 3.5.1(e)**, the Access Provider must identify when additional capacity is likely to be available.

**3.6.2** Where the Parties are unable to resolve their differences following the meeting held pursuant to **Condition 3.6.1(d)**, either Party may request resolution of the dispute in accordance with **Condition 12**.

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**3.7 Acceptance of Access Request**

- 3.7.1 Where the Access Seeker has requested under **Condition 3.1.3(c)** and the Access Provider agrees to provide access to the New Services to the Access Seeker in accordance with the terms and conditions as specified in this Agreement the Access Provider shall within ten (10) Business Days of such response under **Condition 3.4.1(b)**, provide the Access Seeker with a supplemental agreement that includes the Access Charges for execution by the Access Seeker.
- 3.7.2 With respect to **Condition 3.7.1**, the Access Seeker shall within ten (10) Business Days either, execute and return the supplemental access agreement to the Access Provider or indicate in writing to the Access Provider that it wishes to negotiate the supplemental agreement on different terms and conditions.

**3.8 Access Seeker elects to negotiate the Agreement**

- 3.8.1 (a) If the Access Seeker elects to negotiate the supplemental agreement under **Condition 3.1.3(c)**, the Access Provider must set a date and time not later than fifteen (15) Business Days from the date of Access Provider's response pursuant to **Condition 3.4.1(a)** at which the Access Provider representatives will be available for an initial meeting with the Access Seeker's representatives;
- (b) If the Access Seeker elects to negotiate the supplemental agreement under **Condition 3.7.2**, the Access Provider must set a date and time not later than fifteen (15) Business Days from the date of the Access Seeker's response under **Condition 3.7.2** at which the Access Provider's representatives will be available for an initial meeting with the Access Seeker's representatives.
- 3.8.2 Parties must use their best endeavours to conclude the supplemental Access Agreement within one hundred and twenty (120) days from the date the Access Seeker receives a written request from the Access Provider to commence negotiations.
- If negotiations are not completed within the one hundred and twenty (120) days period:
- (a) the Parties may jointly apply to the Commission for further time to negotiate and if the further time is not granted, the Parties are deemed to be in dispute and the Dispute Resolution Procedures in Condition 12 will take effect; or
- (b) either Party may initiate the Dispute Resolution Procedures in the Condition 12.
- 3.8.3 The Access Provider will not be taken to have agreed to provide, and the Access Seeker will not be taken to have agreed to acquire the requested New Services until:-
- (a) the Security Sum has been provided in accordance with **Conditions 3.2A and Condition 3.4.1(c)**; and

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- (b) a supplemental agreement to this Agreement has been executed between the Parties and the terms in respect of the New Services are registered with the Commission in accordance with section 150 of the Act.

3.8.4 A Party shall co-operate, in good faith and in a commercially reasonable manner, in negotiating and implementing any supplemental to this Agreement, including this Agreement. This includes avoiding unnecessary disputes and resolving disputes promptly and fairly.

3.8.5 For the purposes of this Condition, good faith requires that an Access Provider shall not:

- (a) refuse to negotiate terms of access not related to price for the reason that the price of access has not been agreed;
- (b) refuse to negotiate access to New Services because the Access Seeker has not agreed to acquire access to other network services or network facilities;
- (c) require an Access Seeker to enter into a confidentiality agreement the terms of which would preclude the disclosure of information requested by the Commission or required to be disclosed for the purposes of dispute resolution;
- (d) require an Access Seeker to warrant that supplemental agreement to this Agreement complies with all applicable laws;
- (e) refuse to include in supplemental agreement to this Agreement a provision permitting variation of this Agreement in the event of any change in rules, applicable laws or applicable regulations (including Commission decisions and Determinations);
- (f) make any negotiation conditional on the Access Seeker before first obtaining any regulatory approval or consent;
- (g) intentionally mislead or coerce an Access Seeker into reaching an agreement it would not otherwise have reached;
- (h) intentionally obstruct or delay negotiations or any dispute resolution process;
- (i) fail to nominate representatives who have sufficient authority and sufficient availability to progress negotiations in a timely and efficient manner; or
- (j) fail to provide information that is necessary to conclude the supplemental agreement to this Agreement including:
  - (i) information about the Access Provider's Network that the Access Seeker reasonably requires to identify the Network elements to which it requires access; and
  - (ii) information about the basis of the determination of charges.

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**3.9 Fast-Track Application and Agreement**

- 3.9.1 A fast track application by an Access Seeker is limited to the following service(s):
- (a) Fixed Network Termination Service;
  - (b) Mobile Network Termination Service; and
  - (c) Interconnect Link Service.
- 3.9.2 The processing of fast track applications is limited to those of Access Seeker's requirements which do not have a material impact on the Access Provider's current level of network resources. Material impact shall include, where the estimated value of New Service(s) provided to the Access Seeker by the Access Provider over a ninety day period exceeds RM 50,000.00 ("Maximum Value"). In the event the Maximum Value is exceeded during any ninety (90) day period, the Access Provider shall no longer be obliged to provide the additional service above the Maximum Value and the Access Seeker may ask the Access Provider to provide the additional service(s) based on the relevant terms and conditions of the Access Agreement.
- 3.9.3 When submitting a fast track application, the Access Seeker shall provide information as set out in Section 3.1.3 (a) and (b) and the relevant technical information relating to the Access Seeker's Network. The Access Provider shall within ten (10) Business Days after receipt of a fast track application made by an Access Seeker pursuant to this General Condition 3.9.1, provide to the Access Seeker an Reference Access Offer.
- 3.9.4 An Access Seeker submitting a fast track application must agree to enter into a supplemental access agreement with the Access Provider based on the Access Provider's Reference Access Offer and the Standard Access Obligations.
- 3.9.5 The Access Seeker's fast track application must be accompanied with a security sum of RM50,000.00 in the form of a Bank Guarantee.
- 3.9.6 If an Access Seeker already has an Access Agreement with the Access Provider, when submitting a fast track application the said Access Seeker must not be in breach of any provisions in the Access Agreement, which includes, not having any outstanding invoices which surpass its Due Date owing to the Access Provider.
- 3.9.7 If the Access Provider accepts the Access Seeker's fast track application, the Access Provider shall within ten (10) Business Days of receiving the said application, provide an a supplemental access agreement to the Access Seeker for execution.
- 3.9.8 the Access Provider may reject a fast track application if the Access Seeker does not fulfil the criteria in this section or for the reasons set out in **Condition 3.5.1(c), 3.5.1(f) and 3.5.1(g)**.

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3.9.9 If the Access Provider rejects the fast track application, the Access Provider shall, within ten (10) Business Days of receiving the fast track application, inform the Access Seeker of the rejection and the reasons for the said rejection. Thereafter, the Access Seeker may proceed to make an Access Request under **Condition 3.1**.

3.9.10 Any meeting or negotiation under section 3.9 may take place in person, or virtually by conference call, video conference or using other communications technology with participants in one or more geographical places (or in a combined form).

**3.10 Application of Condition 3 to Facilities and/or Services not listed in the Access List Determination**

3.10.1 With respect to services which are not in the Access List, the Parties agree that:-

- (a) the procedures and obligations under Section 5.4.14 of the MSA Determination shall apply;
- (b) where an Access Request for network services not listed in the Access List has been made by the Access Seeker, the Parties will arrange to meet within ten (10) Business Days from the date of the receipt of Access Request or such other date to be mutually agreed, to discuss the Access Request made by the Access Seeker; and
- (c) where the Access Provider agrees to provide the requested network services, both Parties will negotiate the terms and such agreed terms and conditions shall be documented in a supplemental agreement (which shall not be registered with the Commission).

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**CONDITION 4 - PROVISION OF INFORMATION**

- 4.1 The obligations of each Party to provide information to the other Party are as set out in this Agreement or as otherwise agreed between the Parties and are subject to the requirements of confidentiality imposed by this Agreement.
- 4.2 A Party must provide the other Party on a timely basis with all agreed information reasonably required to determine charges to be billed by one Party to the other Party or by a Party to its Customers.
- 4.2 A Such information, pursuant to **Condition 4.1** shall include information necessary:
- (a) for the provision of the Facilities and/or Services;
  - (b) to ensure the successful hand over of Call Communications between the Parties networks;
  - (c) to plan and implement operational practices and procedures; and
  - (d) to design and build its network in such a way as will ensure that the Parties' networks are properly interconnected.
- 4.3 Each Party will charge and bill its own Customers for a Call Communication. The Parties will agree on the Communication Information which is to be exchanged for the purposes of charging and billing, and such Communication Information will be deemed to be included in the documents referred to in **Section I of the Terms and Conditions for Technical Matters** for the purposes of call and billing verification. For the purpose of inter-operator billing reconciliation the Parties will provide CLI to each other subject to:
- (a) the ability of the relevant exchange to provide CLI; and
  - (b) CLI being forwarded to it from another network with which its Network is interconnected.
- 4.4 CLI and data relating to CLI will be kept confidential by the Parties. The Party may use the CLI disclosed to it only for the following purposes:-
- (a) prevention and investigation of fraud and/or crime;
  - (b) display to Customers;
  - (c) emergency services;
  - (d) routing of calls; and
  - (e) compilation of Invoices, inter-Party and/or Customer billing,

provided always that such use does not violate the law. The Parties will co-operate in the barring of CLI where required under law, Determination, Direction or as otherwise agreed

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**General Terms & Conditions  
Condition 4**

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- 4.5 To the extent permitted by Malaysian law and any relevant guidelines or customer service standards in force, pursuant to the Party's respective Licence conditions, the Parties will exchange information and otherwise cooperate in relation to the prevention and investigation of fraudulent use or misuse of the Parties' respective Communications Services and the theft of the Party's provided terminal equipment.
- 4.6 Information provided under this Agreement may only be used for the purpose for which it was given. Personal information about a Customer's credit worthiness, credit standing, credit history or credit capacity may only be used for the purposes permitted by, and in compliance with, Malaysian law.
- 4.7 Information required to be provided under this Agreement need not be provided if the recipient Party has not established security measures agreed by the disclosing Party to be adequate to protect the confidentiality of the information. If the recipient Party does not observe such security measures or if any of the information is used by the recipient Party for any purpose other than the purpose for which it was given, the disclosing Party may deny the recipient Party further access to the information for the period during which the non-observance or non-conforming use continues on notice specifying the non-observance or non-conforming use. The Parties will cooperate to resolve the disclosing Party's reasonable concerns so that information exchange can be resumed as soon as possible.
- 4.8 The Parties acknowledge that when information (including, for the purposes of this Condition any updated information) required to be provided under this Condition is held on a database, the Party entitled to receive the information will not be entitled to obtain direct access to the database. The precise method by which such information is to be made available will be determined by the disclosing Party having regard to the reasonable cost, convenience and security concerns of the Parties.
- 4.9 (a) Subject to the Act and any subordinate legislation, nothing in this Agreement may be construed as requiring a Party at any time to disclose to the other Party information which is at the date when this Agreement comes into force, the subject of a confidentiality obligation owed to a third person unless the third person consents to such disclosure. Where the consent of a third person is required, the Party holding the information must use its reasonable endeavours to obtain the consent of that third person.
- (b) After this Agreement comes into force a Party must use its best endeavours not to enter into any contract which would prevent it from making information available to the other Party unless the contract includes a term which permits the contracting Party to make the information available if directed to do so by the Commission.
- 4.10 All communication information, call and such other relevant information in relation to Call Communication must be kept by both Parties for a period of two (2) years unless otherwise agreed in writing for the purposes of verification and audit.
- 4.11 The Parties further agree that the information provided for the purpose of this Agreement shall be subject to **Condition 8**.

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**Condition 5**

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**CONDITION 5 – BILLING AND SETTLEMENT**

**5.1 Billing**

- 5.1.1 (a) In respect of any Access Charges due from a Party, the invoicing Party (“**Invoicing Party**”) shall raise the Invoice for the amount due for the supply of Facilities and Services except for:
- (i) charges incurred for agreed numbers used for testing purposes prior to the commissioning of the respective POI/POP; and
  - (ii) Voice announcements at exchanges which are limited to:-
    - a) the number is not in service;
    - b) bulk change announcement;
    - c) subscriber set is not switched on/active; or
    - d) subscriber set is out of range; or
    - e) any other related voice announcement at exchanges (which are not chargeable) to be mutually agreed in writing by the Parties.
- (b) Unless otherwise agreed in writing, the Invoicing Party shall invoice in writing or in electronic form (as requested by the Party receiving the Invoice (“**Invoiced Party**”), on an Party to Party basis, within one month of the end of the Billing Period for amounts due in respect of the supply of Services during the Billing Period. The Invoicing Party shall provide with each Invoice, such information as may be reasonably necessary for the Invoiced Party to verify the rates and Access Charges specified in the Invoice. In addition, the Invoiced Party may request, in writing, for the billing report to be provided by the Invoicing Party in an electronic format.
- (c) The Invoicing Party shall provide the Invoiced Party at the Invoiced Party’s written request, with an aggregated summary of billings for access to the Services provided to the Invoiced Party, in monthly tranches.
- (d) The Parties shall, from time to time, inform each other of the mailing address and the department to which the Invoice should be sent to and also their respective bank account details for the purposes of enabling the other Party to make payment. All Invoices shall be delivered by hand or post (either registered mail or courier).
- (e) The billing cycles for the purposes of invoicing shall follow the Billing Period or as stated in the relevant Terms and Conditions for Regulated Facilities and/or Services, unless otherwise mutually agreed by the Parties.

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- 5.1.2 (a) The Invoicing Party is responsible for obtaining information upon which the invoice is based, and if the Invoicing Party does not normally collect that information and it is not reasonably practicable for the Invoicing Party to do so but the Invoiced Party is able to collect the information, the Invoiced Party may, upon written request, provide a summary of information which is reasonably necessary to allow the Invoicing Party to provide accurate and timely Invoice to the Invoiced Party subject to such terms and conditions as may be determined by the Invoiced Party, and if the Invoiced Party provides such information, the Invoicing Party undertakes that it will only use that information to verify its own interconnect usage report.
- (b) If the Invoiced Party provides such information, the Invoicing Party shall pay the Invoiced Party a reasonable fee to be determined by the Invoiced Party. In the event the Invoicing Party requires a more detailed interconnect report or information, the Invoicing Party may request the same from the Invoiced Party and such details will be provided at a reasonable additional charge to be determined by the Invoiced Party PROVIDED ALWAYS that it is reasonably practicable for the Invoiced Party to do so.
- (c) For the purposes of preparing the summary of information, the 'A' and/or 'B' numbers shall be included and such 'A' and 'B' number shall be determined as follows:-
- (i) Direct Interconnection – Fixed Network (both PSTN and TSolP) to PSTN Fixed Network  
Physical location of 'B' number and handover POI
  - (ii) Direct Interconnection – Fixed Network (both PSTN and TSolP) to TSolP Fixed Number  
Allocated 'B' number
  - (iii) Direct Interconnection – Fixed Network (both PSTN and TSolP) to Mobile Network  
Region of the registered "B" number and handover POI
  - (iv) Direct Interconnection – Mobile Network to PSTN Fixed Network  
Physical location of 'B' number and handover POI
  - (v) Direct Interconnection – Mobile Network to TSolP Fixed Network  
Allocated 'B' number
  - (vi) Direct Interconnection – Mobile Network to Mobile Network  
Allocated 'B' number

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- 5.1.3 (a) If the Invoicing Party is unable to submit an Invoice for actual charges for any network facilities and/or network services supplied in a Billing Period, then the Invoicing Party may issue to the Invoiced Party an Invoice for a provisional amount based on the last Invoice (“**Provisional Invoice**”) provided that the amount of the Provisional Invoice is no more than the average of the most recent three (3) Invoices. Where there have not been three (3) past Invoices for access to the Services, the Invoicing Party may issue a Provisional Invoice up to the full value of the amount based on the most recent Invoice. If no Invoice has previously been issued in respect of a Service, the Invoicing Party may issue a Provisional Invoice based on the Invoicing Party’s available records for any period of time within the Billing Period, calculated according to the following formula:

$$\frac{[\text{Total charges payable as recorded}] \times [\text{Number of days in Billing Period}]}{[\text{Number of days recorded}]}$$

- (b) The Invoiced Party shall pay the Provisional Invoice by the Due Date. The Provisional Invoice will be adjusted in the next invoice or as soon as practicable but not later than sixty (60) days after the month in which the charges were incurred (“**Adjustment Period**”). If an adjustment is not made within the Adjustment Period, the Invoiced Party shall treat the Provisional Invoice as the actual Invoice.
- (c) The Invoicing Party may issue the Provisional Invoice for a period of not more than three (3) successive Billing Periods.
- 5.1.4 (a) If the actual amount for a particular Billing Period is higher than the amount stated in the Provisional Invoice for the Billing Period, then the Invoiced Party will pay in full such difference (free of interest) within thirty one (31) days from the receipt of Debit Note (“**DN**”) to the Invoicing Party. The DN issued must be forwarded to the Invoiced Party together with the relevant monthly statement of the actual interconnect usage.
- (b) If the actual amount for a particular Billing Period is lower than the amount stated in the Provisional Invoice for the same Billing Period, the Invoicing Party will reimburse in full such difference free of interest by issuing a Credit Note (“**CN**”) within thirty one (31) days after the month in which the charges were incurred. Such CN must be forwarded to the Invoiced Party together with the relevant monthly statement of the actual interconnect usage.
- 5.1.5 Where appropriate, any taxes (including goods and services tax), duties or other imposts (as at the date of this Agreement or imposed after the date of this Agreement) shall be added to all or any Access Charges under this Agreement and be paid by the Party responsible for making such payment in accordance with the relevant act or regulation governing such tax or duties. The Goods and Services Tax shall be paid in accordance with Condition 5.2.9 below.

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**5.2 Terms of Payment**

- 5.2.1 (a) The Invoiced Party must, subject to **Condition 12.6.4** below, pay any amount due and owing to the Invoicing Party on the Due Date unless otherwise agreed in writing by both Parties.
- (b) The Invoiced Party to whom any Facilities and/or Service is provided under this Agreement must, subject to **Condition 12.6.4** below, pay the Invoicing Party the applicable rates and charges, and on the terms and conditions set out or referred to, as the case may be, in this Agreement.
- 5.2.2 All payments:
- (a) must be paid by electronic transfer to the Invoicing Party or by cheque to the nominated account(s) of the Invoicing Party;
- (b) must be accompanied by such information which is reasonably required by the Invoicing Party to properly allocate payments received, failing which the Invoicing Party shall have the absolute discretion to allocate payments received to any amounts due and payable; and
- (c) unless otherwise agreed by the Parties, shall not be subject to any set-offs except where the Invoiced Party is in liquidation or at least three (3) Invoices have been issued and such Invoices have not been paid.
- 5.2.3 All invoices shall be stated in Ringgit Malaysia and payment must be made in Ringgit Malaysia.
- 5.2.4 Except for any amount in an Invoice being disputed by an Invoiced Party in good faith in accordance with **Condition 12.6.4** below, it is hereby expressly agreed that the Invoicing Party is entitled to the payment of interest without prejudice to any other rights of the Invoicing Party. Interest on due and unpaid amounts is payable (as well as before judgment and after judgement) at the rate of two percent (2%) per annum above Malayan Banking Berhad Base Rate (BR) calculated daily from the Due Date until the date of actual payment. Payments which are overdue by more than sixty (60) days will bear interest at the rate of three percent (3%) per annum above Malayan Banking Berhad Base Rate (BR) (as well before judgment and after judgement) calculated from the Due Date until the date of receipt by the Invoicing Party of full payment. Further, the BR rate to be used shall be the published rate prevailing on the date of payment.
- 5.2.5 Where interest in respect of any due and unpaid amount is due to the Invoicing Party under **Condition 5.2.4**, the Invoicing Party may add the amount of such interest to its next invoice.
- 5.2.6 If a Party discovers an error in an invoice given to the Invoiced Party under this **Condition 5**, it must promptly notify the Invoiced Party. The Invoicing Party which made the error must make the necessary adjustment to correct that error (including adjusting any interest erroneously charged) within one (1) month from the date of notification.

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**Condition 5**

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- 5.2.7 The Invoicing Party may include omitted or miscalculated Access Charges from an earlier Invoice in a later Invoice, or issue an Invoice for charges which have not been invoiced provided that the Invoicing Party is able to substantiate the Access Charges to the Invoiced Party and
- (a) with respect to Access Charges for Interconnect Traffic, that such inclusion, or amendment or issuance is made within : -
    - (i) three (3) months from the end of the Billing Period in which the omitted or miscalculated Access Charges for Interconnect Traffic should have been included.; or
    - (ii) three (3) months from the end of the Billing Period in which the Call Communication were made or other service provided, if there was no relevant original Invoice for Interconnect Traffic; and
  - (b) with respect to any other Access Charges (other than Access Charges for Interconnect Traffic), the inclusion or amendment is made within three (3) months from the end of the Billing Period for the Services provided.

For the avoidance of doubt, in the event the Invoicing Party fails, neglects, or omits to submit an omitted or miscalculated Access Charge in a later invoice, or fails, neglects or omits to submit an invoice for any Access Charges within the time period specified in this **Condition**, then the Party shall be deemed to have waived and/or forfeited its right to make any further claims on the said omitted Access Charge.

- 5.2.8 Notwithstanding anything to the contrary, the Invoicing Party shall be entitled to deduct or withhold such taxes, duties, levies or such other sums imposed by such governmental authorities ("**said taxes**") from any sum or sums due to the Invoiced Party in the event the Invoicing Party is required by law to pay the said taxes for and on behalf of the Invoiced Party.
- 5.2.9 (a) If at any time the Invoicing Party is required under the GST Law to impose any goods and services tax or any similar value added tax (collectively, referred to as "GST") for the provision of any Facilities or Services to the Invoiced Party, then, for the avoidance of doubt, any amount payable by the Invoiced Party under this Agreement shall be deemed to be net of such GST and the Invoiced Party shall be liable to pay to the Invoicing Party the GST in addition to such amounts payable. In this Agreement, "GST Law" means the Goods and Services Tax Act 2014, subsidiary legislations, statutory orders and regulations governing the application of GST, including any legislation passed to repeal and replace the Goods and Services Tax Act 2014.
- (b) The Invoicing Party must, as a precondition to the payment of the GST under paragraph (a) above, give the Invoiced Party a tax invoice complying with the requirements of the GST Law.

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- (c) If an adjustment arises in connection with a supply made under this Agreement, the Invoicing Party must give the Invoiced Party a credit or debit note in accordance with GST Law.
- (d) If this Agreement requires an Party to indemnify, compensate, pay for, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the other Party (“Reimbursable Expenses”), the amount required to be indemnified, compensated, paid, reimbursed or contributed by the Party will be increased by the amount of GST payable by the other Party (if any) and reduced by the amount of input tax credits (if any) to which the other Party is entitled in respect of the Reimbursable Expenses.

**5.2A Security Sum**

5.2A.1 Access Seeker shall have deposited the Security Sum as security for the performance of all Access Seeker’s obligations under this Agreement within fourteen (14) days of the execution of this Agreement. The amount of the initial Security Sum shall be based on the Minimum Value. For the purpose of clarification, the Security Sum does not relieve Access Seeker from its obligations to pay amounts to Access Provider as they do not become due and payable, nor does it constitute a waiver of Access Provider’s right to suspend, disconnect, or terminate the relevant Facilities or Services due to non-payment of any sums due or payable to Access Provider.

- 5.2A.2 (a) Access Provider shall be entitled, from time to time, to revise the Security Sum in any of the following event:-
- (i) where, in the reasonable opinion of Access Provider, there is a material increase in the credit risk of Access Seeker to Access Provider due to changes in either or both of the circumstances under paragraphs (a) and (b) of the definition of “Minimum Value” and Access Provider acting reasonably, that the variation will materially reduce or remove the increased risk provided that such revision is only carried out once in any twelve (12) month period. For clarification, increase in credit risk includes, but is not limited to, failure to pay on the Due Date in respect of three (3) Invoices rendered in the preceding six (6) months, so long as those amounts have not been disputed in good faith; and/or
  - (iii) upon the provisioning of new or additional Facilities and/or Services to Access Seeker, to ensure that the Security Sum is equivalent to the Minimum Value after taking into consideration the estimated value of new or additional Facilities or Services provided or to be provided to Access Seeker; and/or
  - (iv) in the event of a fast track application, Access Provider shall be entitled to review the amount of the Security Sum.
- (b) Where the amount of the Security Sum is, at any time, less than the Minimum Value (including when a demand has been made by Access Provider), Access Seeker shall

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**Condition 5**

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within twenty-one (21) Business Days from the written request of Access Provider, deposit a new security equivalent to the Minimum Value.

- 5.2.A.3 (a) The Security Sum deposited by the Access Seeker with the Access Provider shall only be used for the purposes set out in Condition 5.2A.1. Access Provider may upon at its discretion, call upon the Security Sum at any time after the Due Date (if payment has not been made by Access Seeker) or upon a breach of any of Access Seeker's obligation. Such deduction of the Security Sum shall not be construed as a set-off or counterclaim. For the avoidance of doubt, non-payment of any sum properly withheld in accordance with Condition 12.6.4 shall not be a basis for the Access Provider to call upon the Security Sum as stipulated herein; and
- (b) Upon termination of this Agreement, Access Provider shall immediately in writing unconditionally waive its rights under any guarantee provided as Security Sum in respect of future performance (from the date of termination) of this Agreement by Access Seeker if any, since this Agreement has been terminated. However, the guarantee shall remain in full force in respect of any antecedent breaches under this Agreement, without prejudice to the rights and remedies of Access Provider under this Agreement (including the right to claim for any or all amounts due and payable under the Agreement and/or to call upon the Security Sum) and/or under law.

**5.3 Billing Disputes**

5.3.1 Where there is a Billing Dispute, the Parties shall comply with the dispute resolution procedures in **Condition 12**.

5.3.2 With respect to Charges for Interconnect Traffic only, the Parties agree that where there is a discrepancy in:-

- (a) the call data, whether in the number of calls or duration of calls; or
- (b) the amounts payable,

in an invoice for particular traffic month, a variance of up to two percent (2%) of the total Charges for Interconnect Traffic shall be acceptable and shall not be subject to a Billing Dispute provided that such discrepancy is not a result of an error in charging principles or applicable rates.

5.3.4 For the avoidance of doubt, the Invoiced Party shall not use the dispute resolution procedure in **Condition 12** to avoid or delay payment due to the Invoicing Party where there is no genuine dispute.

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**Condition 6**

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**CONDITION 6 – AUDITS**

- 6.1 Where the Parties agree to a joint investigation pursuant to Condition 12.6.11 either Party may request an audit of the other Party's call data and the Other Party will facilitate and provide access upon reasonable notice for such audit to be carried out by an independent auditor agreed upon by the Parties and an audit certificate provided. The cost of such an audit will be equally shared by the Parties. The auditor's scope of work shall only cover the, accurate application of agreed rates and call data records.
- 6.2 The independent auditor shall be appointed by both Parties within thirty (30) days from the date of the request of the audit ("**appointment date**"). Failing agreement on the independent auditor abovementioned, another auditor will be appointed by an independent third party (the Director of the Kuala Lumpur Regional Centre for Arbitration) within thirty (30) days from the appointment date. The results of the audit shall be final and binding.
- 6.3 If the other Party is not satisfied with the result of the audit conducted under **Conditions 6.1 ("First Audit")**, then the other Party may appoint its own auditor, at its own cost, to conduct an audit to verify the data ("**Second Audit**"). If either Party is dissatisfied with the results of either Audit or there is a discrepancy between the results of the First Audit or Second Audit or the interconnect usage report, then this matter may be resolved by jointly appointing a third auditor in the manner set out in **Condition 6.2**. The cost of the third audit shall be borne by the Parties equally and the results of the third audit shall be final and binding. Hence, the dispute resolution procedures set out in **Condition 12** shall not apply to this **Condition 6**.

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**General Terms and Conditions**  
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**CONDITION 7 - INTELLECTUAL PROPERTY RIGHTS**

- 7.1 All right, title and interest in and to any:
- (a) Intellectual Property (in relation to matters which are the subject of this Agreement) developed or to be developed vests in the Party who developed that Intellectual Property or for whom that Intellectual Property was developed by a third person; and
  - (b) improvements to or adaptations, versions or modifications of Intellectual Property (in relation to matters which are the subject of this Agreement) vest in the Party who developed that Intellectual Property or on behalf of whom that Intellectual Property was developed.
- 7.2 The Parties will negotiate arrangements (including in respect of title) concerning Intellectual Property jointly developed in the course of performing or otherwise in connection with this Agreement.
- 7.3 Each Party shall licence to the other Party on a royalty-free basis, all Intellectual Property rights necessary for the on-going operation of this Agreement and the inter-operability of the Parties' Networks but the terms of any such licence shall be subject to any relevant third party licences. The Parties agree that such Intellectual Property rights accorded to them shall only be used for purposes of this Agreement unless otherwise agreed in writing.
- 7.4 Each Party ("**Indemnifying Party**") indemnifies the other Party ("**Innocent Party**") against all liability or loss arising directly from, and all reasonable costs, charges and expenses incurred in connection with any claim, action, suit or demand alleging infringement by the Innocent Party of the rights of a third party arising from use by the Innocent Party of Intellectual Property disclosed or licensed by the Indemnifying Party under this Agreement provided that:
- (a) the Innocent Party notifies the Indemnifying Party without undue delay of any claim which would fall within the scope of this Condition 7.4, and provide the Indemnifying Party with all information which it may have in relation to such claim; and
  - (b) the Innocent Party turns over to the Indemnifying Party sole and exclusive control of defending or settling the claim, subject to the Innocent Party having the right to be represented by counsel of its choice at its own expense and to participate in, and be kept informed of the status of such claim. If the Indemnifying Party should fail to defend or settle the claim, the Innocent Party shall have the right to do so without prejudice to any claim the Innocent Party may have against the Indemnifying Party for indemnity pursuant to this Clause; and
  - (c) the Innocent Party fully cooperates with the Indemnifying Party on the claim, including its defense and settlement.

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This indemnification will represent the only remedy and form of compensation available to the Innocent Party in relation to the infringement of Intellectual Property licensed or disclosed by the Indemnifying Party under this Agreement.

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**General Terms & Conditions**  
**Condition 8**

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**CONDITION 8 – CONFIDENTIALITY OBLIGATIONS**

8.1 All Information relating to or arising from this Agreement and all matters contemplated herein shall be treated as Confidential Information by the receiving Party.

**“Confidential Information”** of an Party means all information of any kind, whether in written, oral, electronic format or otherwise, and whether or not labeled as “Confidential” including information relating to contract terms, know-how, ideas, concepts, technology and/or technical information, manufacturing processes, industrial, business, operations, financial conditions, customers’ information, pricing, marketing and commercial knowledge and all information of any kind relating to either Party, their respective shareholders and/or related or associated companies or corporation which are disclosed, submitted or howsoever made available, either directly or indirectly by or on behalf of one Party to the other or to their personnel relating to or developed in connection with or in support of the business of the Party, whether before or after the date of this Agreement.

8.2 Disclosure of Confidential Information to the Party’s advisers, consultants, employees, subsidiaries, holding or related companies within the meaning of section 6 of the Companies Act, 1965 (“Affiliates”), is permitted only if necessary and on a need to know basis for the purpose of performing the Party’s obligations under this Agreement and for purpose of **Condition 8.4 (e)** and provided that the undertaking of confidentiality shall extend to such parties.

8.3 The receiving Party hereby undertakes to protect the Confidential Information of the disclosing Party using, not less than the standard of care with which it treats its own Confidential Information, but in no event less than reasonable care, to prevent unauthorised use or disclosure of such information.

8.4 Except as otherwise provided in this Agreement, an Party (**“receiving Party”**) may disclose the Confidential Information of the other Party (**“disclosing Party”**) which information:

- (a) is or becomes part of the public domain (other than through any breach of this Agreement); or
- (b) is received by the receiving Party from a third person without a duty of confidentiality being owed by the receiving Party to the third person, except where the receiving Party has knowledge that the third person has obtained that information either directly or indirectly as a result of a breach of any duty of confidence owed to the disclosing Party; or
- (c) has been independently developed by another party; or
- (d) is required by law or by order of a court of competent jurisdiction or by any rule, direction or regulation of any regulatory or governmental authority or any other relevant authority, including a recognized stock exchange, to be disclosed, provided always that, to the extent permitted by law, prior to any such disclosure being made, the receiving Party shall notify and consult with the disclosing Party as to the proposed form, nature and purpose of the disclosure; or

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- (e) is required to be made on a need to know basis to any investor or potential investor, financier or potential financier in connection with :
  - (i) an investment or potential investment;
  - (ii) an initial public offering of the Party's shares or the shares of its Affiliates for the purpose of listing on any stock exchanges; or
  - (iii) funding or potential funding for the Party or its Affiliates and such investor or potential investor or financier or potential financier, as the case may be, is bound by confidentiality obligations.
  
- 8.5 All Confidential Information (including copies of such Confidential Information) disclosed by or on behalf of the disclosing Party shall remain the property of the disclosing Party and shall be returned (or, at the disclosing Party's option, certified destroyed) upon written request or upon the receiving Party's need for it having expired, and in any event, upon completion or termination of this Agreement. The Parties agree that they shall within ten (10) days of written notice return or destroy all documents and tangible items in their possession which contain any Confidential Information and provide a certificate of destruction if such Confidential Information is destroyed. Even though the Confidential Information is returned or destroyed, each Party shall continue to be bound by its obligations in this Agreement. No rights or licenses to trademarks, inventions, copyrights, patents or trade secrets or other intellectual property rights are implied or granted under this Agreement. Neither Party shall use for its own benefit or the benefit of any third party any information disclosed from access to or work with the other Party's Confidential Information.
  
- 8.6 The Parties' obligations of confidentiality herein shall survive the expiration or termination of this Agreement.
  
- 8.7 The Parties acknowledged that a breach of this confidential obligation by one Party may cause the other Party irreparable damage for which monetary damage would not be an adequate remedy. Accordingly, in addition to other remedies that may be available (including recovery of monetary damages), an Party may seek injunctive relief against such a breach or threatened breach.
  
- 8.8 The confidentiality agreement executed by the Parties is attached hereto as Annexure 3.

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**General Terms & Conditions  
Condition 9**

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**CONDITION 9 - LIABILITY AND INDEMNITY**

**9.1 General Principle**

9.1.1 Save to the extent that another provision of this Agreement expressly provides for (or expressly excludes or limits) a remedy, a liability or a form of compensation in relation to an act, omission or event, this clause shall regulate the liability (whether arising in contract, in tort, under statute or in any other way and whether due to negligence, wilful or deliberate breach or any other cause) of an Party to the other Party under and in relation to this Agreement and in relation to any act, omission or event relating to or arising out of this Agreement.

**9.2 Insurance**

9.2.1 Without limiting or reducing each Party's liability and responsibility as contained elsewhere in this Agreement, each Party shall procure and maintain the following insurances applicable to its operations with respect to and for the duration of this Agreement provided that the Parties shall not be required to maintain additional insurances beyond that mentioned in **paragraphs (a) and (b)** below:-

- (a) Worker's Compensation and/or Social Security Insurance and/or Employer's Liability Insurance and/or other insurance with statutory limits as required by the laws of Malaysia to provide for payment to its employees employed on or in connection with the work covered by this Agreement.
- (b) Comprehensive General Liability Insurance or Public Liability Insurance of an amount which is not more than Ringgit Malaysia Twenty Million (RM 20,000,000) for any one claim or series of claims arising out of an accident or occurrence in connection with this Agreement resulting in bodily injury and/or personal injury including death and property damage of an Party which shall arise out of or in consequence of any acts or omission of the other Party.

The Access Seeker to specifically list the Access Provider's name as the beneficiary.

**9.3 Damage to Property**

9.3.1 Either Party ("**defaulting Party**") shall indemnify and hold the other Party safe and harmless from and against all costs, expenses and claims relating to damage to or destruction or loss of all or any property beneficially and/or absolutely owned by the other Party arising out of any act or omission of the defaulting Party, its servants or agent in so far as such damage, destruction or loss arises out of or in the course of or by reason of the carrying out any works for or in relation to the Services or providing the Communications Services.

**9.4 Death and Personal Injury**

9.4.1 The defaulting Party shall be absolutely liable for, and hereby indemnifies the other Party from and against all costs, expenses and claims in respect of all injuries to, including the death of any and all employees of the other Party arising out of any act or omission of the defaulting Party, its servants or agent.

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**9.5 Third Person Indemnity**

9.5.1 The defaulting Party shall fully indemnify and hold the other Party safe and harmless from and against all costs, expenses and claims in respect of:-

(a) all injuries to, including death of; and/or

(b) loss of or damage to property of,

third parties arising out of or in connection with or in the course of or by reason of the defaulting Party's breach or when due to any acts, omission or default of the defaulting Party, its servants and/or agents in the carrying out of any works for or in relation to the Services or in providing the Communications Services.

**9.6 Liability**

9.6.1 Neither Party excludes nor limits its liability for death or personal injury attributable to its own negligence or the negligence of its servants and agents.

9.6.2 Subject to **Conditions 7.4 and 9.5**, either Party shall not be liable to the other Party or any other third party including the Customers of the other Party and shall not indemnify the other Party for any claims, proceedings or actions brought or made by a third party against the other Party, howsoever arising, including:

(a) the lack of or loss or interruption or any delays to access, interconnection transmission or otherwise; and

(b) any claims, proceedings or actions brought or made against the other Party by any person pursuant to a contractual relationship with the other Party.

9.6.3 Notwithstanding **Conditions 9.3.1 and 9.5.1**, an Party shall not be liable for damage to property due to hacking and the transmission of malicious codes and/or programs by third parties (other than its employees, agents, servants, contractors and/or other persons under its control) provided that presently available security solutions and anti-virus solutions have been put in place by the Party.

**9.6.4** Unless otherwise expressly provided, in no event shall either Party's liability under this Agreement exceed, Ringgit Malaysia Twenty Million (RM 20,000,000) only per event for any accident or occurrence, in connection with this Agreement. The limitation of liability set out in this **Condition 9.6.4** shall not apply to obligations and/or liabilities relating to death, personal injury, damage to property, intentional default, amount due and payable under an invoice, breach of confidentiality, and to the indemnification obligations set out in **Condition 7.4** of this Agreement relating to breach of Intellectual Property rights.

**9.7 Exclusion of Warranties**

9.7.1 Except as expressly set out in this Agreement, all representations, conditions and warranties (whether express or implied, statutory or otherwise) including any implied warranty of merchantability, implied warranty of fitness for a particular purpose, implied warranty of

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non-infringement and implied warranty arising out of the course of dealing, custom or usage of trade with respect to any service provided by either Party are expressly negated and excluded. The warranties set forth in this Agreement are the only warranties made by each Party and will not be enlarged or diminished without that Party's approval.

- 9.7.2 In no event will either Party be liable to the other Party or any other person for loss of profits, loss of business, loss of use of data or exemplary, indirect, incidental, consequential or punitive damages of any kind for any reason, including the breach of this Agreement or any termination of this Agreement, whether such liability is asserted on the basis of contract, equity, tort (including negligence and strict liability) or otherwise, even if either Party has been advised of the possibility of such damages. The essential purpose of this provision is to limit the potential liability of each Party arising out of this Agreement.

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**General Terms & Conditions**  
**Condition 10**

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**CONDITION 10 – TERMINATION AND SUSPENSION**

- 10.1 This Agreement shall only take effect on the Effective Date and shall remain in force until the termination of this Agreement
- 10.2 (a) A Party (“**Notifying Party**”) may terminate this Agreement or part thereof if:-
- (i) the other Party (“**Defaulting Party**”) fails to remedy a breach (which is capable of remedy) of a material obligation under this Agreement (including the events specified in **Condition 10.3(a)(iii) to (vi)**) within thirty (30) days of receiving a notice of breach from the Notifying Party;
  - (ii) a winding up order has been made against the Defaulting Party and the order remains or will remain in effect for a continuous period of thirty (30) days; or
  - (iii) an order is made or an effective resolution is passed, for the reconstruction and amalgamation of the Defaulting Party or otherwise under Section 176 of the Companies Act 1965 or any other similar action or proceeding under any other law and the order or resolution remains or will remain in effect for a continuous period of sixty (60) days; or
  - (iv) a receiver, receiver and manager, official manager, provisional liquidator, liquidator, or like official is appointed over the whole or a substantial part of the undertaking and property of the Defaulting Party; or
  - (v) a holder of an encumbrance takes possession of the whole or any substantial part of the undertaking and property of the Defaulting Party; or
  - (vi) the Defaulting Party fails to remedy breaches (which are capable of remedy) of any laws, regulations, rules or standards which has a material adverse effect on the Notifying Party or this Agreement or the provision of Services, within thirty (30) days of receiving a notice of breach from the Notifying Party; or
  - (vii) a Force Majeure, substantially and adversely affecting the ability of an Party to perform its obligations to the other Party under this Agreement, continues for a consecutive period of ninety (90) days provided that the Notifying Party may not give notice under this Condition 10.2 unless the Notifying Party has negotiated or endeavoured to negotiate in good faith with the other Party to remedy the Force Majeure and amend the terms of this Agreement to enable this Agreement to remain in full force and effect notwithstanding such inability to so perform but has failed to reach any agreement within thirty (30) days from the commencement of negotiations or such other period as mutually agreed.
- (b) Upon the occurrence of the events set out in **Condition 10.2** above or where a breach is incapable of remedy, and subject to the provision of **Condition 10.4** below, the Notifying Party may terminate this Agreement by issuing a termination notice to the Defaulting Party/other Party (in the case of Force Majeure) and this Agreement shall terminate in accordance with the terms of the termination notice.

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- 10.3 (a) In the case if the Notifying Party is the Service Provider, the Notifying Party may, without liability, suspend, to the extent necessary, access to its Services where:
- (i) the Defaulting Party fails to remedy a breach (which is capable of remedy) of a material obligation under this Agreement (including the failure to pay Invoices which are not subject to a Billing Dispute in accordance with this Agreement within thirty (30) days of receiving a notice of breach from the Notifying Party;
  - (ii) the Defaulting Party fails to remedy breaches (which are capable of remedy) of any laws, regulations, rules or standards, which has a material adverse effect on the Notifying Party or this Agreement or the provision of Services within thirty (30) days of receiving a notice of breach from the Notifying Party;
  - (iii) the Defaulting Party fails to remedy any fault or condition (which is capable of remedy), that causes the Defaulting Party's network facilities to materially and adversely affect the normal operation of the Notifying Party's Network, or are a material threat to any person's safety;
  - (iv) the Defaulting Party fails to remedy any condition (which is capable of remedy), that causes the Defaulting Party's network facilities or supply of a network service to pose an imminent threat to life or property of the Notifying Party's, its employees or contractors;
  - (v) the Defaulting Party fails to remedy any fault or condition (which is capable of remedy) in the Defaulting Party's network facilities that cause material physical or technical harm to any network facilities of the Notifying Party or any other person; or
  - (vi) the Defaulting Party fails to settle any three (3) outstanding Invoices due to the Access Provider in accordance with **Condition 5**, unless otherwise agreed in writing by the Parties; or
  - (vii) subject to **Condition 13.1.1**, where Force Majeure applies.
- (b) Upon the occurrence of the events set out in **Condition 10.3 (a)** above and subject to the provision of **Condition 10.4** below, the Notifying Party may suspend access to its Facilities and/or Services by issuing a five (5) Business Days' prior notice including reasons to the Defaulting Party to suspend the Facilities and/or Services. The suspension of access to the Notifying Party's Facilities and/or Services shall take effect in accordance with the terms of the suspension notice.
- (c) During the period of suspension, the Notifying Party shall be entitled to charge the Defaulting Party for all fixed periodic Access Charges in respect of the Services, provided that, where a suspension is due to Force Majeure, the fixed periodic Access Charges for Services affected by the Force Majeure only will not be charged. The Defaulting Party shall be solely responsible for any loss, costs, damages or expenses which the Defaulting Party may incur or suffer during the period of suspension.

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10.4 (a) Where the Notifying Party seeks to terminate the Agreement (or part thereof) or suspend, to the extent necessary, access to Services on any grounds including those specified in:-

(i) **Conditions 10.2 (a)(i) to (vii)** with respect to termination; and/or

(ii) **Conditions 10.3 (a)(i) to (vi)** with respect to suspension,

the Notifying Party shall first notify the Commission (such notification to be copied immediately to the Defaulting Party) in writing of such action and specify the reasons for such action ("**Notice to the Commission**").

(b) If the Commission notifies the Notifying Party that the Notifying Party is permitted to:-

(i) terminate this Agreement (or part thereof); or

(ii) suspend access to the Services,

the Notifying Party may, issue a termination or suspension notice to the Defaulting Party and this Agreement shall terminate or access to Services shall suspend (as the case may be) in accordance with the terms of the notice. The Notifying Party shall not terminate or suspend until such time and on such conditions as the Commission may specify. If the Commission does not respond to the Notifying Party's notice within ten (10) Business Days, the Notifying Party shall seek a meeting with the Commission to obtain the Commission's consent or advice.

10.5 Subject to **Condition 10.4**, the issuance of a suspension notice shall not in any way prejudice or prevent the Notifying Party from exercising its right to issue a termination notice under **Condition 10.2**.

10.6 In the event the Notifying Party suspends access to Services by reason of the Defaulting Party's failures set out in **Condition 10.3**, the Notifying Party must reinstate access to Services upon the Defaulting Party remedying its failure or the direction of the Commission.

10.7 Notwithstanding **Condition 10.4**, in the event that:-

(a) a Party's Licence(s) is terminated, cancelled or suspended and the Party is not immediately granted another Licence(s) of that type (where a License of that type or another License is required); or

(b) there is any change in law or regulation which renders this Agreement or access to any Services unlawful,

the Agreement or part thereof shall terminate in so far as the Agreement or part thereof is affected by the termination of an Party's Licence(s) or change in law or regulation. However, other obligations under this Agreement which are not affected by such events shall remain in force. The Parties shall meet within five (5) Business Days of the affected Party notifying the other Party of the events specified in paragraphs (a) or (b) above, review the Agreement to ascertain whether access to the Services are lawful and may be provided on different terms which are mutually agreeable by both Parties.

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10.8 Notwithstanding anything to the contrary, in the event a Party breaches any of its obligations under this Agreement, the other Party shall, without prejudice to any of its rights and remedies under the Agreement and under law, have the absolute discretion to immediately seek urgent interlocutory action which shall include:-

- (a) preventing such further breaches from occurring;
- (b) preventing the continuation of the said breach; and/or
- (c) requiring the Party in breach to comply with their obligations under this Agreement,

without the necessity of first exercising any of its rights herein. For the avoidance of doubt, **Conditions 10.2, 10.3, 10.4 and 12** shall not preclude the other Party from immediately seeking urgent interlocutory action under this Clause.

10.9 If, after the termination or expiry of this Agreement in whole or in part:

a) a Party ("requesting Party") gives the other Party reasonable written notice requesting the other Party to allow access to the requesting Party to carry out necessary disconnection works and to retrieve any equipment and/or facilities of the requesting Party or any equipment and/or facilities of a third person installed by or for the requesting Party at the other Party's premises;

(b) if the other Party has failed to comply with the request in **Condition 10.9(a)** above, the requesting Party shall make another written request to the other Party for the same. If the other Party fails to comply with the requesting Party's second written notice aforementioned, the other Party shall be liable to compensate the requesting Party for the full cost of any equipment and/or facilities which are installed at the other Party's premises including any damages which may be suffered by the requesting Party as a result of the other Party's non-compliance thereof; and

(c) If the other Party has complied with the request in **Condition 10.9(a)** or **Condition 10.9(b)** above in allowing access to the Requesting Party to carry out necessary disconnection works and to retrieve any equipment and/or facilities of the requesting Party or any equipment and/or facilities of a third person installed by or for the requesting Party at the other Party's premises, the other Party on whose premises such equipment and/or facilities were installed is responsible for compensating the requesting Party for any such equipment and/or facility which is damaged or faulty due to the other Party's act or omission (negligence or otherwise). In the event the requesting Party causes damage to the premises and/or equipment of the other Party whilst carrying out the dismantling works of the equipment and/or facilities, the requesting Party shall make good all the damages to the other Party's premises or otherwise compensate the other Party for the damages.

10.10 Upon termination of this Agreement or part thereof:

(a) subject to **Condition 10.10 (b)** below the Access Provider shall refund to the Access Seeker within sixty (60) days all amount paid in advance in respect of Facilities

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and/or Services to the extent that the amount (or part of the amount calculated on a pro-rata basis) relate to the period after the effective date of termination; and

- (b) the Access Seeker shall immediately pay all amount due to the Access Provider for the provision of Facilities and/or Services prior to and up to the effective date of termination.

For the avoidance of doubt, the Access Provider shall be entitled to claim for all Access Charges arising during an applicable minimum contractual period provided under this Agreement notwithstanding that the provision of Services was terminated prior to the expiry of the applicable minimum period save that where the provision of Services is terminated due to Force Majeure, the minimum charge for Services affected by the Force Majeure shall not be applicable during the period of Force Majeure.

- 10.11 Without prejudice to the Access Provider’s rights and remedies under this Agreement and/or law, upon termination of this Agreement or suspension of access to Services, the Access Provider shall not be entitled to penalise the Access Seeker with a penalty with respect to the provision of Services. Nothing in this **Condition 10.11** shall prejudice, limit or negate the rights and remedies of the Access Provider under this Agreement or law to seek redress or claim damages, cost and expenses for breach of this Agreement by the Access Provider, to enforce its right of indemnities, to claim interest and generally to enforce its rights and remedies.
- 10.12 Termination of this Agreement, in whole or in part, does not operate as a waiver of any breach by a Party of any of its provisions and is without prejudice to any rights, liabilities or obligations of any Party which have accrued up to the date of the termination or expiry, including a right of indemnity.

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**CONDITION 11 - REVIEW**

11.1 Subject to **Condition 11.4**, if:-

- (a) the Minister issues a Direction or Determination relating to the subject matter of this Agreement;
- (b) the Commission issues a Direction or Determination relating to the subject matter of this Agreement;
- (c) there are any amendment, changes or modifications to the Act, its subsidiary legislation and the instruments issued there under including the Access Pricing Determination, the MSA Determination and the Access List Determination which relates to the subject matter of this Agreement;
- (d) enactment of new laws and regulations which relates to the subject matter of this Agreement;
- (e) the registration, Determination, promulgation, issue, amendment or replacement of any industry code with which a Party is required or obliged to comply;
- (f) if a condition of a Party's Licence is amended or deleted or a new condition is imposed which relates to this Agreement; or
- (g) by agreement of each of the Parties,

the Parties agree to review the Agreement as soon as practicable in good faith. Where the changes referred to in **paragraphs (a) to (g)** above affect this Agreement, the Parties shall negotiate, as soon as practicable and in good faith, such amendments to this Agreement as are necessary or appropriate to ensure compliance with such changes.

11.2 If after the date hereof,

- (i) any change in, or the introduction of, any law, regulation or regulatory requirement; or
- (ii) any direction, request or requirement of any central bank, monetary, regulatory or other authority,

results in a currency depreciation of the Ringgit or the appreciation of any other currency against the Ringgit or any other currency control that will increase the cost to, or impose an additional cost on, either Party in making or keeping its Network and/or Facilities available, or maintaining its Network and/or Facilities, then either Party will be entitled to request for a review of the Access Charges which are affected by it and the Parties will in good faith negotiate any amendments to this Agreement.

11.3 The obligation to negotiate set out in **Conditions 11.1 and 11.2** commences promptly after delivery of a notice from one Party to the other Party setting out in reasonable detail, the amendments sought.

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- 11.4 (a) If a Facility and/or Service is removed from the Access List pursuant to a revocation or an amendment to the Access List:
- (i) the Access Provider may, at its discretion and by giving notice to the Access Seeker:
    - (A) terminate or withdraw that network facility or network service; or
    - (B) vary or modify the terms and conditions pertaining to that network facility or network service subject to mutual agreement provided always that the Parties shall, within fourteen (14) days from the date of Access Provider’s notice, first discuss the variation or modification which the Access Provider proposes to adopt (“**initial meeting**”). Thereafter, if the Parties fail to agree on the amended terms and conditions within forty five (45) days from the initial meeting or such other time as may be mutually agreed in writing by the Parties, then the Access Provider shall be entitled to terminate or withdraw that network facility or network service under **paragraph (a)(i)(A)** above. In such a case, the notice period referred to in **Condition 11.4(c)**, shall commence from the date of the Access Provider’s notice to vary the terms. Nothing in this **paragraph (i)(B)** shall prevent the Access Seeker from terminating the affected network facility or network service at any time in accordance with **Condition 11.4(a)(ii)(A)**.
  - (ii) the Access Seeker may by giving notice to the Access Provider either:-
    - (A) terminate that network facility or network service; or
    - (B) propose to vary or modify the terms and conditions pertaining to that network facility or network service subject to mutual agreement provided always that the Parties shall, within fourteen (14) days from the date of Access Seeker’s notice, first discuss the variation or modification which the Access Seeker proposes (“**first meeting**”). Thereafter, if the Parties fail to agree on the amended terms and conditions within forty five (45) days from the first meeting or such other time as may be mutually agreed in writing by the Parties, the Access Seeker may terminate or withdraw that network facility or network services in accordance with **Condition 11.4(a)(ii)(A)**. Nothing in this **Condition 11.4(a)(ii)(B)** shall prevent the Access Provider from terminating or withdrawing the affected network facility or network service at any time in accordance with **Condition 11.4(a)(i)(A)**.
- (b) If there is a variation or amendment to the Access List service description of a Facility and/or Service, either Party may propose variation or modification to the terms and conditions pertaining to that network facility or network service subject to mutual agreement provided always that the Parties shall, within fourteen (14)

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days, from the date of the written notice by the notifying Party, first discuss the variation or modification proposed to be adopted (“**preliminary meeting**”). Thereafter, if the Parties fail to agree on the amended terms and conditions within one hundred and twenty (120) days from the preliminary meeting or such other time as may be mutually agreed in writing by the Parties, then either Party may initiate the dispute resolution procedures in **Condition 12**. Nothing in this **Condition 11.4(b)** shall prevent the Access Seeker from terminating the affected network facility or network service at any time, without penalty, by giving the Access Provider three (3) months written notice;

- (c) The notice period given pursuant to **Condition 11.4(a)(i)(A)** and **11.4(a)(ii)(A)**, shall be :-
- (i) the period of time between the time of giving notice and the time at which the Access Provider is proposing to no longer provide the network facility or network service to itself; or
  - (ii) twelve (12) months,
- whichever is the earlier.
- (d) The notice given pursuant to **Condition 11.4(a)(i)(A)** must state any alternative network facility or network service that may be available to be provided by the Access Provider to the Access Seeker and the terms and conditions of such alternative arrangement.
- (e) The amended terms and conditions agreed between the Parties shall take retrospective effect from the date of the relevant Commission’s Determination takes effect (or where none is specified, the date of the Commission’s Determination was made) unless otherwise agreed.

11.5 For the avoidance of doubt:

- (a) the variation of the Agreement pursuant to **Condition 11.4** shall not be subject to the approval process required under **Condition 13.8.1(b)**; and
- (b) the provisions of this Agreement shall remain in full force and effect during any negotiations conducted under this **Condition 11** until commencement of an agreement replacing or amending this Agreement.

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**CONDITION 12 – DISPUTE RESOLUTION PROCESS**

**12.1. Introduction**

12.1.1 Subject to **Condition 12.2.3**, an Access Provider and an Access Seeker shall adopt and comply with this dispute resolution procedure in relation to any dispute which may arise between an Access Seeker and Access Provider in relation to or in connection with the supply of any Facilities and/or Services (“**Access Dispute**”).

12.1.2 The following dispute resolution mechanisms are governed by this Condition:

- (a) Interconnect Steering Group; and
- (b) specific resolution of disputes, being:
  - (i) technical disputes (which must follow the procedures set out in Condition 12.5 if they cannot be resolved through the application of the general dispute resolution provisions in Conditions 12.3 and 12.4);
  - (ii) Billing Disputes, which must follow the procedures set out in **Condition 12.5**;  
or
  - (iii) any other types of disputes which, if cannot be resolved through the application of the general dispute resolution provisions in **Conditions 12.2, 12.3 and 12.4**, must be referred to the Commission for resolution.

12.1.3 A dispute between the Parties regarding any matter dealt with under this Agreement shall first be attempted to be resolved by good faith negotiation between the Parties in accordance with this Agreement.

12.1.4 All disputes referred to the Commission pursuant to this Agreement shall be dealt with in accordance with the Act. Where the decision of the Commission is appealed in the Appeals Tribunal under the Act, the decision of the Appeals Tribunal shall be final and binding subject always to the right of judicial review contained in the Act.

**12.2 General**

12.2.1 Until expiry of the dispute resolution procedures set out herein, a Party may not commence court proceedings relating to that dispute, other than an application for purposes set out in **Condition 13.2.2**. Nothing in this **Condition 12.2.1** shall be construed as ousting the jurisdiction of any court.

12.2.2 A Party shall ensure that its representatives acting in relation to a dispute are of sufficient seniority and have authority to settle an access dispute on behalf of the Party. At the commencement of the dispute resolution procedure, each Party must notify the other Party of the scope of the authority of each of their representatives. If in the course of the dispute resolution procedures it is identified that the matters to be resolved are outside the initial

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term of reference for which authority was given to a representative, a Party may require that those matters be referred to more senior officers of that Party who have authority to settle those matters.

12.2.3 During a dispute and any dispute resolution process invoked in accordance with this **Condition 12**, an Access Provider and Access Seeker must continue to fulfill their obligations under this Agreement between themselves.

12.2.4 Subject to **Condition 12.2.5**, the Parties shall exchange information of a type described in this Agreement during the course of, and to facilitate, resolution of such a dispute.

12.2.5 Confidential information of a Party which is disclosed, and any other oral or written submissions made by a Party or a Party's representatives during the course of any dispute resolution process will be subject to the confidentiality restrictions contained in the Confidentiality Agreement and this Agreement.

12.2.6 A Party must not use information obtained under **Condition 12.2.4** or described in **Condition 12.2.5** for any purpose other than to resolve the dispute.

12.2.7 Subject to Chapter 7 of Part V of the Act, an arbitrator of a dispute (including a Technical Expert (as hereinafter defined) or the Commission, in accordance with this **Condition 12**) may decide not to determine the dispute if the arbitrator considers that the dispute is trivial, frivolous or vexatious, or if there is insufficient evidence before the arbitrator to determine the dispute.

12.2.8 The costs of the arbitration are to be shared equally between the Parties, unless the arbitrator of the dispute has decided not to determine the dispute in accordance with **Condition 12.2.7**. If an arbitrator decides not to determine the dispute, the Party that initiated the dispute must pay the costs of the arbitration including the other Party's costs thereto.

**12.3 Interconnection Steering Group**

12.3.1 In the first instance the Access Seeker and the Access Provider should attempt to resolve the Dispute between themselves. Either party may give written notice ("**Notice**") to the other party ("**Receiving Party**") stating its intention to form, within ten (10) Business Days, an Interconnect Steering Group ("**ISG**") and outline the details of the Dispute.

12.3.2 The Access Provider and the Access Seeker shall form the ISG within ten (10) Business Days, to fulfil the requirements of subsection 12.3.1 above. The ISG shall comprise of representatives of the Parties, and be headed by a person who holds a position that is at least equivalent to the Chief Officer or Executive Vice President of the Access Provider.

12.3.3 The Parties shall provide for:

- (a) subject areas to be dealt with by the ISG;
- (b) equal representation by the Access Seeker and the Access Provider;
- (c) chairmanship and administrative functions of the working group to be shared equally; and
- (d) formal notification procedures to the ISG.

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- 12.3.4 The Access Provider and the Access Seeker shall use reasonable endeavours to attempt to settle the Dispute in the working group for a period of no longer than thirty (30) Business Days from the date of the Notice unless otherwise agreed by the Parties, subject always to a party's right to seek urgent interlocutory relief.
- 12.3.5 In the event that the Parties cannot resolve the Dispute between themselves within the time specified in subsection 12.3.4 of this Annexure, or after any agreed time extension has expired, either party may notify the other party that it wishes to refer the issue to:
- (a) to the extent the issues in dispute are technical in nature, to a Technical Expert (in accordance with section 12.4 of this Annexure); or
  - (b) to the Commission for final arbitration.
- 12.3.6 The ISG to which an issue has been raised will meet within ten (10) Business Days of the receipt by the Receiving Party of the Notice under subsection 12.3.1 of this Annexure. If the ISG fails to meet or has not been formed within ten (10) Business Days of the receipt by the Receiving Party of the Notice, either Party may refer the Dispute:
- (a) to the extent the issues in dispute are technical in nature, to a Technical Expert (in accordance with section 12.4 of this Annexure); or
  - (b) to the Commission for final arbitration.

**12.4 Use of a Technical Expert**

- 12.4.1** A dispute will only be referred to a Technical Expert if the provisions in **Conditions 12.3** have been complied with.
- 12.4.2 Once a dispute is referred to a Technical Expert, it may not be referred back to a working group or ISG.
- 12.4.3 The Technical Expert:
- (a) will be an expert appointed by agreement of the Parties or, if the Parties cannot agree, by the Commission;
  - (b) will have the appropriate qualifications and experience to arbitrate the dispute, including knowledge of the communication industry;
  - (c) need not be a Malaysian citizen or resident; and
  - (d) will not be an officer, director, or employee of a communications company or otherwise have a potential for conflict of interest.

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- 12.4.4 If the Parties fail to appoint a Technical Expert within ten (10) Business Days of the notice to refer a dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.
- 12.4.5 When relying on the services of a Technical Expert, the following procedures will apply to the dispute resolution procedure of the Technical Expert:
- (a) the Parties will present written submission to the Technical Expert and each other within fifteen (15) Business Days of the appointment of the Technical Expert; and
  - (b) each Party may respond to the other Party's submission in writing within fifteen (15) Business Days from the date of the other Party's submission. No further submissions in reply shall be made except with the Technical Expert's approval.
- 12.4.6 A Technical Expert hearing will be within fifteen (15) Business Days of the last written submission unless:
- (a) a Party requests for and the other Party agrees that the use of the Technical Expert be by documents only; or
  - (b) failing agreement of the Parties, the Technical Expert decides within five (5) Business Days of the last written submission that the use of the Technical Expert be by documents only.
- 12.4.7 Should a Technical Expert dispute resolution procedure hearing be held, each Party will have the opportunity of making an oral submission in addition to the written submissions submitted in subsections 12.4.5 and 12.4.6. This process will be conducted in private.
- 12.4.8 The procedure for hearing technical disputes will be determined by the Technical Expert (including number and duration of oral submissions by the Parties) but in any case, the Technical Expert's hearing will last no longer than three (3) Business Days.
- 12.4.9 The Technical Expert will not have the power to appoint any other experts.
- 12.4.10 The Technical Expert will deliver his award within fifteen (15) Business Days of the conclusion of the hearing or of the last written submission where the arbitration is by documents only. A failure to comply with the time frame in this **Condition 12.5.10** does not invalidate the Technical Expert's award.
- 12.4.11 Every dispute referred to a Technical Expert will be considered separately so that time limits for each dispute are complied with.
- 12.4.12 The Technical Expert's decision will be final and binding on the Parties (in the absence of manifest error of fact or law).
- 12.4.13 For the avoidance of doubt, a Dispute shall not be referred to the Commission once it has been referred to a Technical Expert. The Technical Expert shall be the one determining the Dispute.

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**12.5 Billing dispute resolution**

12.5.1 An Invoicing Party shall allow an Invoiced Party to dispute an Invoice prepared by the Invoicing Party if:

- (a) in the case of domestic calls and Interconnection, the Access Seeker notifies the Access Provider within 45 days after the date of receipt of such Invoice;
- (b) in the case of outgoing and incoming international calls and Interconnection, the Access Seeker notifies the Access Provider within six (6) months after the date of receipt of such Invoice; or
- (c) in case of any other Facilities and/or Services, the Access Seeker notifies the Access Provider within thirty (30) Business Days after the date of receipt of such Invoice,

provided that, in any case specified above, the Invoiced Party's notification specifies the information referred to in Condition 12.6.3.

If the Invoiced Party fails to dispute an Invoice within the Billing Dispute Notification Period specified above, the Invoiced Party is deemed to have accepted the Invoice.

12.5.2 Unless otherwise agreed in writing, a Billing Dispute may only arise where the Invoiced Party has reasonable grounds to believe that an error has arisen from one of the following circumstances:

- (a) the Invoicing Party's Billing System is, or has been, defective or inaccurate in respect of the recording of the calls which are the subject of the dispute;
- (b) there is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Invoiced Party's Billing System;
- (c) there is, or has been, a fraud perpetrated by the Invoicing Party;
- (d) the Invoicing Party has made some other error in respect of the recording of the Call Communications and/or calculation of the Access Charges which are the subject of the Billing Dispute; or
- (e) where the Billing Dispute arises as a result of different interpretations or views by the Parties of the terms and conditions of this Agreement including the Access Services.

12.5.3 All Billing Dispute Notices given under this **Condition 12.6** must specify;

- (a) the reasons for which the Invoiced Party disputes the Invoice;
- (b) the amount in dispute;
- (c) details required to identify the relevant Invoice and charges in dispute including:

**General Terms and Conditions**  
**Condition 12**

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- (i) the account number;
  - (ii) the Invoice reference number;
  - (iii) the Invoice date;
  - (iv) the Invoice amount; and
  - (v) billing verification information; and
- (d) evidence in the form of the Invoiced Party's outgoing report, indicating the relevant traffic data which is in dispute.

12.5.4 The Invoiced Party shall pay all amounts stated in the Invoice by the Due Date other than amounts that the Invoiced Party disputes in good faith is due and payable to the Invoicing Party PROVIDED THAT:

- (a) as a condition precedent to the exercise of the right to withhold payment, the Invoiced Party has given the Invoicing Party within fifteen (15) Business Days from the date of receipt of the Invoice a Billing Dispute Notice and the Invoiced Party has submitted a Billing Dispute Notice to the Invoicing Party in accordance with this Condition 12.6.3 above;

(For the avoidance of doubt, a failure by the Invoiced Party to submit the Dispute Notice in accordance with the sub-condition (1) above shall prohibit the Invoiced Party from withholding payment of an amount in dispute.)

- (b) The amount disputed by the Invoiced Party is not less than the allowable variance as specified in **Condition 5.3.2**;
- (c) Once a Billing Dispute has been resolved, any sum to be paid or repaid shall be paid by the relevant Party within 10 Business Days from the date of the resolution of the Billing Dispute. If the Billing Dispute is resolved against the Invoiced Party who had withheld payment of amounts disputed in good faith in accordance with Condition 12.6.4, the Invoiced Party shall pay interest at the rate specified in Condition 5.4.2 above on the amount payable in respect of the amounts disputed; and
- (d) If the Invoiced Party has paid the amount disputed under a Billing Dispute Notice to the Invoicing Party, the Invoicing Party is not obliged to refund any or the entire amount until the Billing Dispute is resolved in respect of that amount. Once the Billing Dispute is resolved, if the Invoicing Party is obliged to refund an amount to the Invoiced Party, interest will be payable on the refunded amount at the rate specified in Condition 5.4.2 above. In such circumstances, interest will be payable from the date the Invoiced Party paid the disputed amount to the date of the refund by the Invoicing Party.

12.5.5 The Parties agree to use their reasonable endeavours to promptly resolve any Billing Dispute notified under this **Condition 12.6**.

12.5.6 If the Parties are unable to resolve any Billing Dispute within thirty (30) calendar days (or such other period as the Parties may agree) from the date on which the Billing Dispute Notice is received, either Party may seek the consent of the other Party to extend the period

**General Terms and Conditions**

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for resolution of the Billing Dispute stating the exceptional reasons for such extension. The other Party is, however, under no obligation to agree to such extension.

- 12.5.7 To the extent that a Billing Dispute notified under this **Condition 12.6** involves a Billing Dispute with an international correspondent of the Invoicing Party, the dispute resolution procedures shall be suspended for a reasonable period of time pending resolution of the dispute with that international correspondent. As a general rule, the period of suspension will not exceed one-hundred and twenty (120) days. However, the Parties recognize that some Billing Disputes with international correspondents may take longer to resolve, in which case the Invoicing Party must promptly inform the Invoiced Party of the likely period required for resolution.
- 12.5.8 Once the negotiation period under **Condition 12.6.6** and/or any extension granted under **Condition 12.6.7** has expired, the Billing Dispute may be referred by the Invoiced Party to the procedure described in **Condition 12.6.9** ("**Billing Dispute Escalation Procedure**").
- 12.5.9 The Invoiced Party may refer a Billing Dispute to the Billing Dispute Escalation Procedure under this **Condition 12.6.9** by notifying the Invoicing Party's Billing Representative. Each of the Parties shall then appoint a designated representative that has authority to settle the Billing Dispute, and that is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one Party to the other Party shall be honored.
- 12.5.10 Although it is the good faith intention of the Parties to use the billing dispute resolution procedures to the fullest extent to try to solve Billing Disputes, nothing in this Agreement shall prevent either Party from pursuing any other remedy in law or equity that may be available to them if a Billing Dispute cannot be resolved to their satisfaction.
- 12.5.11 A Party may request a joint investigation of Invoice discrepancies after that Party has conducted comprehensive internal investigation, including an examination of its own Billing System. Prior to commencement of the joint investigation, the Parties must agree on the terms of the joint investigation, including:
- (a) the scope of the joint investigation;
  - (b) how the joint investigation will be conducted; and
  - (c) the date by which the joint investigation must be concluded.

The joint investigation may include the generation of test Call Communications to the other Party's Network.

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**Condition 12**

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12.5.12 Enquiries relating to billing, collecting and settlement arrangements or in relation to Network and operation issues may be directed to the Billing Representatives nominated by each Party.

12.5.13 Either Party may at any time nominate another Billing Representative, provided that ten (10) Business Days prior notification of such appointment is given.

12.5.14 If the Parties are unable to resolve any Billing Dispute after exhausting the Billing Dispute Escalation Procedure, either Party may refer the Billing Dispute to the Commission for resolution under Chapter 7 of Part V of the Act. For the purposes of clarification, the Billing Dispute procedure shall follow the procedure in this **Condition 12.6** and does not involve the inter-party working group, Interconnect Steering Group and Technical Expert under **Conditions 12.3, 12.4 and 12.5**.

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**General Terms and Conditions**  
**Condition 13**

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**CONDITION 13 – GENERAL PROVISIONS**

**13.1 Force Majeure**

13.1.1 If a Party is unable to perform any obligation (other than an obligation to pay money) under this Agreement by reason of Force Majeure and that Party:

- (a) gives the other Party to which the obligation is owed prompt notice of the Force Majeure with reasonably full particulars thereof and an estimate of the extent and duration of its inability to perform; and
- (b) shall continue to take all actions within its power to comply as fully as possible with the said terms and conditions.

then that obligation is suspended insofar as it is affected by, and during the continuance of the Force Majeure. Notwithstanding the foregoing, where the effect of the Force Majeure on an obligation in this Agreement that can be mitigated by a contingency, disaster recovery or business continuity plan including the Business Contingency Plan as defined in Condition 6.2, Section VIII of the Terms and Conditions for Technical Matters, that obligation shall not be suspended during Force Majeure.

13.1.2 If the Force Majeure continues beyond fourteen (14) days after the notice given under **Condition 13.1.1**, the Parties shall meet to discuss in good faith a mutually satisfactory resolution to the problem.

13.1.3 The requirement that a Force Majeure be removed with all possible diligence does not require the settlement of strikes, lockouts or other labour disputes or claims or demands on unreasonable terms. If a strike, lockout or other labour dispute or claim or demand principally concerns any matter the subject of this Agreement, the Party affected must so notify and consult with the other Party.

**13.2 Governing Law**

13.2.1 This Agreement and the transactions contemplated by it are governed by the laws of Malaysia.

13.2.2 In the event of:

- (a) a Party seeking urgent interlocutory relief in respect of any matter; or
- (b) a Party seeking relief in respect of the other Party failing to comply with the dispute resolution process set out in Condition 12; or
- (c) a Party seeking relief in respect of a manifest error or mistake of law of the arbitrator (be it the Technical Expert or the Commission), established by the Parties pursuant to any dispute resolution procedures agreed in writing,

**General Terms and Conditions**  
**Condition 13**

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each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Malaysia for such relief.

**13.3 Parties to Act in Good Faith**

13.3.1 Each Party agrees that it will act in good faith in relation to the other Party with respect to all matters relating to or contemplated by this Agreement.

**13.4 Costs and Expenses**

13.4.1 The Parties agree to bear their own legal, registration and other costs incurred in relation to the preparation, negotiation and execution of this Agreement and all documents contemplated by it (except where this Agreement or those other documents expressly provides to the contrary). The stamp duty in respect of this Agreement shall be borne by the Access Seeker.

**13.5 Relationship of the Parties**

13.5.1 The relationship of the Parties to this Agreement is one of independent contractors only. Nothing in this Agreement is to be construed as creating an agency, partnership, association, trust or joint venture between the Parties. Each Party is responsible only for its obligations as set out in this Agreement.

**13.6 Surviving Obligations**

13.6.1 Termination or expiration in whole or in part of this Agreement does not affect those Conditions (including **Conditions 7, 8, 9, 10.8, 10.9, 10.10, 10.11, 10.12 and 13**) which by their nature survive termination or expiry.

**13.7 Relationship with Third Persons**

13.7.1 A Party and any of its employees, agents, representatives or contractors shall not be deemed to be an employee, agent, contractor or representative of the other Party unless the other Party is a related body corporate of the first mentioned Party.

13.7.2 Subject to **Condition 13.7.1**, no Party has any authority to bind or oblige or incur any liability on behalf of the other Party and no such authority is to be implied.

13.7.3 **Conditions 13.7.1** and **13.7.2** have neither the effect nor imply:

- (a) that a Party or any of its employees, agents, representatives or contractors is the employee agent contractor or representative of the other Party, or
- (b) that a Party has the authority to bind or oblige or incur a liability on behalf of the other Party,

unless the first mentioned Party is a related body corporate of the other Party.

**General Terms and Conditions**  
**Condition 13**

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13.7.4 Either Party may advise its Customers that certain services are provided by it, but each Party must not represent that the other Party jointly participates in the Party's services.

**13.8 Variation**

13.8.1 (a) A variation of any part of this Agreement is valid if, and only if, made between the Parties and in writing and that the variation in respect of Facilities and/or Services is registered with the Commission in accordance with the Act.

(b) Subject to **Condition 13.8.1(a)**, where the Parties agree to materially vary the Agreement or access to its Facilities and/or Services, the Parties shall inform the Commission in writing of the action the Access Provider proposes to take and the reasons why such action is appropriate. This Agreement or access to the Facilities and/or Services shall not be varied until such reasonable time and on such reasonable conditions as the Commission may legally specify.

(c) In this **Condition 13.8**, a reference to a variation includes a reference to an addition, deletion, amendment, modification, alteration or other variation.

**13.9 Assignment**

13.9.1 No rights, benefits or obligations under this Agreement may be assigned or novated by a Party without the prior written consent of the other Party, which consent must not be unreasonably withheld or delayed.

**13.10 Remedies Cumulative**

13.10.1 Subject to any clause or provision of this Agreement which provides for a remedy or form of compensation to the exclusion of any other remedy or form of compensation, the rights, powers and remedies provided in this Agreement are:

(a) cumulative; and

(b) not exclusive of the rights, powers or remedies provided by law independent of this Agreement.

**13.11 Notices**

13.11.1 Subject to **Condition 5.1.1(d)**, a notice, invoice, approval, consent, request or other communication in connection with this Agreement:

(a) must be in writing;

(b) must be left at the address of the addressee, or sent by ordinary post, registered post or licensed courier to the address of the addressee or sent by facsimile (to be followed by post) to the facsimile number of the addressee which is set out below or if the addressee notifies another address or facsimile number then to that address or facsimile number;

**General Terms and Conditions**  
**Condition 13**

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The address and facsimile number of each Party is:

**Access Seeker: (Name of Access Seeker)**

Attention:

Address:

**Access Provider:** YTL Communications Sdn Bhd

Attention: Head of Legal

Address: Level 32, Menara YTL,  
205 Jalan Bukit Bintang  
55100 Kuala Lumpur

13.11.2 A notice, invoice, approval, consent, request or other communication takes effect from the time it is received unless a later time is specified in it.

13.11.3 A notice, invoice, approval, consent, request or other communication is, in the absence of contrary evidence, deemed to be received by the addressee:

- (a) in the case of delivery by hand or courier, at the time the receipt of such delivery is duly acknowledged by the receiving Party;
- (b) in the case of a posted letter or registered post, on the third day after posting;
- (c) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicated that the facsimile was sent in its entirety to the facsimile number of the recipient provided that it is sent during normal Business Days and hours of between 9.00 a.m. and 5.00 p.m., failing which the receipt would be deemed to have been received on the next Business Day; and
- (d) in the case of email send by the Party, at the time the email was sent and delivered to the other Party.

13.11.4 In proving the giving of a notice, approval, consent or other communication under or in connection with this Agreement, it shall be sufficient to show:

- (a) in the case of delivery by hand or courier, written acknowledgment of receipt by an officer or other duly authorised employee, agent or representative of the addressee;
- (b) in the case of delivery by registered post or other express postal service, that the notice or other document was contained in an envelope which was duly addressed and posted; or
- (c) in the case of facsimile, that the facsimile was duly transmitted from the dispatching terminal, as evidenced by a transmission or delivery report generated by the transmitted equipment or computer system.

**General Terms and Conditions  
Condition 13**

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**13.12 Application For Registration**

13.12.1 The Parties shall jointly submit the application to the Commission for registration of the relevant portion requiring registration under this Agreement in accordance with the MSA Determination and any requirements of the Commission.

**13.13 Waiver**

13.13.1 (a) A provision of or right under this Agreement may not be waived except in writing signed by the non-defaulting Party or Parties to be bound.

(b) No failure or delay on the part of any Party in exercising any rights hereunder shall operate as a waiver thereof nor shall any single or partial exercise of such right preclude any other or further exercise of any other right hereunder provided however that nothing in this clause shall extend time or be construed to extend time for the performance of any right or obligation under this Agreement if a time period is imposed for the performance of such right or obligation.

(c) Knowledge or acquiescence by any Party of, or in, breach of any of the provisions of this Agreement shall not operate as, or be deemed to be, a waiver of such provision and, notwithstanding such knowledge or acquiescence, such Party shall remain entitled to exercise the rights and remedies under this Agreement, and at law, and to require strict performance of all of the provisions of this Agreement.

**13.14 Entire Agreement**

13.14.1 This Agreement constitutes the entire agreement of the Parties regarding the subject matter of this Agreement.

**13.15 Severability**

13.15.1 The whole or any part of this Agreement that is illegal or unenforceable:

(a) will be:

(i) read down to the extent necessary so that it is legal and enforceable; or

(ii) severed (if it cannot be read down in accordance with paragraph (i)); and

(b) will not affect the continued operation of the remaining provisions of this Agreement.

**13.16 Time of the Essence**

Time wherever referred to in this Agreement shall be of the essence.

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**General Terms & Conditions  
Annexure 1**

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**ANNEXURE 1**

**NON-REFUNDABLE PROCESSING FEE**

<b>Type of Service</b>	<b>Type of Access Request</b>	<b>Processing Fee</b>
Fixed Network Origination Service	New service access establishment to Access Seeker's or YTLC's POI	RM600 per POI
Fixed Network Termination Service	New service access establishment to Access Seeker's or YTLC's POI	RM600 per POI
Mobile Network Origination Service	New service access establishment to Access Seeker's or YTLC's POI	RM600 per POI
Mobile Network Termination Service	New service access establishment to Access Seeker's or YTLC's POI	RM600 per POI
Interconnect Link Service	a) Establishment of New Bearer b) Circuit Migration Exercises c) Provisioning of Additional E1s Circuits (Full Span)	RM600 per POI  RM600 per POI  RM250 per E1
Infrastructure Sharing	Request for Site establishment	RM300 per site

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**General Terms & Conditions  
Annexure 2**

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**ANNEXURE 2**

**BANK GUARANTEE**

**TO BE ADOPTED ONTO THE LETTERHEAD OF THE ISSUING BANK**

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Guarantee No :

[Access Provider]

[Address]

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Dear Sirs,

**RE: BANK GUARANTEE**

This Bank Guarantee is issued on this \_\_\_\_\_ day of \_\_\_\_\_ 201\_ by [Bank's Name] ("**Guarantor**").

1. By an access agreement \_\_\_\_\_ dated \_\_\_\_\_ ("**Access Agreement**") entered into by (Name of Access Seeker ("**Access Seeker**") of the one part and YTL Communications Sdn Bhd ("**YTL**") of the other part, YTL ("Access Provider") agreed to provide [Name of Access Seeker] ("**Access seeker**") with Services and such other services in accordance with the terms and conditions in the Access Agreement. The terms of the Access Agreement oblige Access Seeker to furnish Access Provider with a bank guarantee ("**Bank Guarantee**").
2. At the request of Access Seeker, the Guarantor irrevocably and unconditionally undertakes to make payment to Access Provider up to and not exceeding aggregate sum of Ringgit Malaysia \_\_\_\_\_ (RM \_\_\_\_\_) ("**Guaranteed Sum**"), on Access Provider's demand.
3. Upon receipt of a written demand made by Access Provider upon the Guarantor from time to time or at any time or at any time during the currency of this Bank Guarantee according to Clause 10 and without being entitled or obliged to make any inquiry either of Access Provider or of Access Seeker, and without the need for Access Provider to take legal action against or to obtain the consent of Access Seeker and despite any objection by Access Seeker and without any further proof or conditions and subject to the terms of this Bank Guarantee, the Guarantor shall within fourteen (14) days of such written demand, pay to Access Provider the amount or amounts specified in such demand or demands, provided that the amount or amounts do not exceed in aggregate the Guaranteed Sum. Such payment or payments may be made by transfer to an account in Access Provider's name at such bank in such place as Access Provider shall direct. Access Provider shall not be obliged to exercise any other right or remedy Access Provider may have before making a demand under this Bank Guarantee.
4. Access Provider's demand made according to Clause 10 shall be conclusive evidence of the Guarantor's liability to pay Access Provider the amount or amounts which the Guarantor is liable to pay to Access Provider in accordance with this Bank Guarantee. The Guarantor's obligation to make payment under this Bank Guarantee shall be a primary, independent and

**General Terms and Conditions  
Annexure 2**

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- absolute obligation and the Guarantor shall not be entitled to delay or withhold payment for any reason whatsoever.
5. The Guarantor’s obligations in this Bank Guarantee shall not be affected by any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate the Guarantor from its obligations in this Bank Guarantee in whole or in part, including without limitation with or without the consent of the Guarantor and whether or not known to the Guarantor or Access Provider:-
- (a) any time or waiver granted to Access Seeker or any other person;
  - (b) the taking, variation, compromise, renewal or release of or refusal or neglect to perfect or enforce any rights or remedies or guarantee against Access Seeker, or any other person;
  - (c) any arrangement or alteration in obligations undertaken by Access Seeker and/or Access Provider;
  - (d) any variation of or amendment to the Access Agreement or the services to be provided under the Access Agreement or any other document or guarantee so that references to the Access Agreement in this Bank Guarantee shall include each such variation and amendment;
  - (e) any unenforceability, invalidity or frustration of any obligations of Access Seeker or any other person under the Access Agreement or any other document in connection with the Access Agreement;
  - (f) any other fact, circumstance, provision of statute or rule of law which might, were the Guarantor’s liability to be secondary rather than primary, entitle the Guarantor to be released in whole or in part from its undertaking; and
  - (g) any dispute between Access Provider and Access Seeker or any other person or any allegation that Access Seeker has claims against YTLC or any objection or representation made to the Guarantor by Access Seeker.
6. Access Provider reserves the right to make as many partial or separate demands as it shall so desire and the total of all such partial or separate demands shall not exceed the Guaranteed Sum and the Guarantor’s liability to pay Access Provider shall correspondingly be reduced proportionately to any payment or partial demands having been made by the Guarantor.
7. Any payment made under this Bank Guarantee shall be made free and clear of and without deduction for or on account of, any present or future taxes, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.
8. This Bank Guarantee shall not be assigned or transferred without the prior written consent of the Guarantor, which consent shall not be unreasonably withheld or delayed.
9. The Guarantor will remain liable to make payment until the earliest of (“Validity Period”):

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**General Terms and Conditions  
Annexure 2**

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- (a) the expiry of this Bank Guarantee on \_\_\_\_\_; or
  - (b) the Guarantor having paid Access Provider a sum which equals (or sums which in aggregate total) the Guaranteed Sum; or
  - (c) Access Provider notifying the Guarantor in writing that (for the purposes of this Bank Guarantee only) Access Seeker has performed all its obligations under and in connection with the Access Agreement or the expiry/ termination of the Access Agreement, whichever is later.
10. It is clearly understood and agreed between Access Provider and the Guarantor that all obligations and liabilities of the Guarantor will be of no further effect upon the expiry of the Validity Period whether or not this Bank Guarantee is returned to the Guarantor for cancellation and the Guarantor’s obligations and liabilities shall only apply to claims, if any, made by Access Provider in writing and received by the Guarantor by close of business on the expiry of the Validity Period.
11. This Performance Bank Guarantee is governed by the laws of Malaysia.
12. Unless otherwise defined in this Bank Guarantee or the context otherwise requires capitalized terms used in this Bank Guarantee shall have the meanings assigned to them in the Access Agreement.

Given under our hand on the \_\_\_\_\_ day of \_\_\_\_\_, 202

Signed by \_\_\_\_\_ )  
 for and on behalf of (the Guarantor Bank) )  
 in the presence of :- \_\_\_\_\_ )

\_\_\_\_\_  
 Name :  
 Designation:

\_\_\_\_\_  
 (Witness)  
 Name :  
 Designation:

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**Annexure 3**

**Confidential Agreement**

(As sets out in the RAO, Part A, Appendix 2 – Confidentiality Agreement Format)

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Annexure 84**

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**Annexure 4  
New Request Form**

Notes to New Request Form:

1. An Access Seeker who wishes to obtain access to the Access Services offered by YTLC must complete and submit this Form with all relevant data and supporting documents. This Form is a prelude to the execution of an Access Agreement between the Access Seeker and YTLC.
2. The footnotes contain instructions on how to complete the form. Incomplete or inaccurate Forms may be rejection by YTLC.
3. Deviations to the Form is not permitted, except if the Access Seeker requires more space to supply the requisite information, it may do so on a separate piece of paper which is clearly labeled.

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To:

YTL Communications Sdn Bhd

18<sup>th</sup> Floor, Menara YTL  
205 Jalan Bukit Bintang  
55100 Kuala Lumpur

ATTENTION: Chief Regulatory Officer

**N e w R e q u e s t F o r m**

We, <name of requesting party> (Co. No.     ), the holder of [specify license types] which are valid and subsisting and issued by the Malaysian Communications and Multimedia Commission, do hereby make this request for access. In accordance with the terms of the Mandatory Standard on Access (Commission Determination No. 1 of 2022) and YTLC's Reference Access Offer (Reference: YTLC/RAO/202X), we provide the following information:

**General Terms and Conditions  
Annexure 4**

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**Section A Contact Details**

Our Contact Details are:

Description	Contact Details
1. Address	
2. Telephone Number (General)	
3. Fax Number	
4. Contact person's name <sup>1</sup>	
5. Designation	
6. Telephone Number (DID)	
7. Mobile Number	
8. E-mail address	

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<sup>1</sup> If the designated person has an alternate please specify the alternate's details (items 4 to 8).

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**Section B Access Request**

We hereby make the following request for access by the following Ready for Service (“RFS”) dates:-

1. Access To<sup>2</sup>: [State name of Access Service]

Nature of Access Service	Detail Description of the Nature of Access <sup>7</sup>	RFS Date
		[Instruction: Specify the RFS date for each service which you require YTLC to grant access to]

2. Acceptance or Rejection of RAO terms

Instruction: Please select one or the other of the statements below:

- We accept that access will be provided to us by YTLC in accordance with the terms and conditions set out in the Reference Access Offer specifically.
  
- We wish to negotiate a separate Access Agreement.

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<sup>2</sup> Please tick whether you seek access to YTLC’s Access Services

<sup>3</sup> Once you have so selected, please provide detail description of the nature of the access you require.

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**Section C Access Seeker Details**

## 1. General

The Access Seeker has elected to negotiate an Access Agreement. In furtherance of such election, we provide the following additional details of the various personnel who will be involved in the negotiation of an Access Agreement:

Names	Employee 1	Employee 2	Employee 3
Name			
Designation of person <sup>4</sup>			
Telephone No			
Fax No			
Mobile Phone No			
E-mail address			
Dates available for negotiations <sup>5</sup>			

---

<sup>4</sup> Please specify whether the person is an employee or independent consultant engaged by you.

<sup>5</sup> Please specify at least 4 sets of dates. The dates must at least be sufficiently close to be continuous, yet reasonably practical in the circumstances.

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2. Negotiation Team Leader

Our negotiation team leader is [please specify name] who is [designation] of the Access Seeker, and we hereby confirm that the team leader is able to make binding representations, concessions and accept proposals made during the course of negotiations.

3. Request for Information from YTLC

The Access Seeker makes the following request for the provision of specified information by YTLC for the purposes of negotiation<sup>6</sup>:

Nature of Information Required from U	Reason for Request
Instruction: Please identify the nature of information required from YTLC	Please give your reasons for requesting such information

4. Confidentiality Agreement

We enclose with this Form, the duly executed Confidentiality Agreement (), for your further action.

---

<sup>6</sup> If there is no information needed DO NOT COMPLETE Section C/Item 3.

**General Terms and Conditions  
Annexure 4**

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**Section D Technical Requirements**

The following technical requirements are being provided:

1. Capacity forecasts

We will require the following capacity:

Identify type of Network Service <sup>7</sup>	Description	Forecast Capacity requirement

2. Quality of Service

YTLC will provide a quality of service level as specified in Sections 5.16.9 of the MSA Determination to the Access Services provided by YTLC to the Access Seeker.

3. Interface Standards

The following are the Interface Standards of the Equipment, software and hardware which we will interconnect with the Equipment, hardware and software of YTLC.

Identify nature of equipment, hardware or software	Applicable Standard or Interface requirements	Specify if there has been any deviation from the Applicable Standard.

4. Access Seeker's Network Information

The Access Seeker provides the following information about its network to YTLC:  
[Instruction: Please specify all necessary information relating to your network which may affect YTLC's network or facility in the course of providing the Access Services]

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<sup>7</sup> The type of service or facility which access will be given must correspond to those items set out in Section B of this form.

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Annexure 4**

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**Section E Creditworthiness**

Prior to providing the requested Access Services, YTLG requires verification of your creditworthiness to ensure that you have the necessary financial resources to pay for the Access Services. In that regard, you are required to provide a certified financial statement by your auditors of your current financial position.

**Section F Insurance**

We confirm that we have affected the following insurance policies as at [date of request]:

<b>Insurance Type</b>	<b>e.g. Employer's All Risk</b>	<b>Workmen's Compensation</b>	<b>Social Security</b>	<b>Employer's Liability</b>	<b>General Liability</b>
Risks	e.g. Public				
Persons	e.g. [Access Seeker],				
Amount insured	e.g. RM20 Million				
Period of validity	e.g. 3 years from 1 January 2006				
Name of Insurer	e.g. MAA Assurance				
Insurance					



**Terms and Conditions for Technical Matters**

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**TERMS AND CONDITIONS**

**FOR TECHNICAL MATTERS**

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**SECTION I – OPERATIONAL PROCEDURES**

1.1 The Parties shall:

- (a) within four (4) weeks from the date of this Agreement or any other date as may be mutually agreed by the Parties, use their best endeavours to negotiate, agree and document new or modified provisions of the Technical and Implementation Manual and the Operations and Maintenance Manual and any other manuals which the Parties deem necessary to establish pursuant to the Access Agreement;
- (b) comply with the operational procedures and methods set out in the Manuals; and
- (c) where such procedures and methods have not been agreed, negotiate operational procedures and methods, in relation to :
  - 1) the planning, ordering, provisioning and delivery of the relevant Facilities and/or Services;
  - 2) the management of the relevant Facilities and/or Services including:
    - (i) QoS indicators, reporting on performance in terms of those indicators and determining the appropriate action to be taken in the event that service quality falls below the agreed indicator levels;
    - (ii) network operations in the event of Network failure, congestion and blockage;
    - (iii) ensuring that the Parties' Networks are adequately protected from harm;
    - (iv) test procedures and other technical and operational matters relating to the provision of Facilities or Services by the Access Provider to the Access Seeker;
    - (v) the handling of Customer operations; and
    - (vi) such other matters as the Parties may agree.

1.2 Where relevant, the detailed procedures and/or contents pertaining to matters set out in **Sections II to X** shall be documented.

1.3 In the event of any inconsistency between the agreed operational procedures and the terms of this Agreement, the terms of this Agreement shall prevail.

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## Terms and Conditions for Technical Matters

### Section II

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#### SECTION II - FORECASTING

##### 1. General

- 1.1 **Section II** sets out forecasting terms and procedures that are applicable in relation to the provision of the Facilities and/or Services.
- 1.2 Subject to **Subsections 1.4** and **2.2** below, the Access Provider may require that the Access Seeker provides Forecasts in good faith with regard to a certain period of supply of access to Facilities and/or Services in accordance with this **Section II**, of this Agreement.
- 1.3 The Access Seeker may request preliminary information from the Access Provider about the availability and capacity of its Facilities and/or Services to the extent the Access Seeker requires such information to provide Forecasts.

##### 2. Forecasting Obligations

###### 2.1 Forecasting Requirements

- 2.1.1 The Access Seeker and the Access Provider shall discuss in good faith the planning and design of the relevant part of the respective networks and the dimensioning of Network Capacity to carry traffic within the Party's Network.
- 2.1.2 The Access Seeker shall meet the requirements of forecasting process to the extent that it enables the Access Provider to plan for the expected need for the Facilities and/or Services in order to carry the forecasted traffic and conform to the agreed Grade of Service standards.
- 2.1.3 The Access Seeker shall provide traffic forecast between particular destinations. The Access Seeker and the Access Provider shall discuss in good faith the planning and design of the relevant part of the respective networks and the dimensioning of Network Capacity to carry traffic within the Access Provider's Network.
- 2.1.4 In addition to the forecasting requirement above under **Condition 2.1.2**, the Parties shall mutually agree on forecasts to be provided for such Facilities and/or Services in respect of New Services in good faith over a certain period of supply of access to Facilities and/or Services (as the case may be) in accordance with this **Section II** (the forecast requirements under this **Condition 2.1** shall be collectively referred to as "**Forecast**").
- 2.1.5 The information required by the Access Provider for the Forecast in **Condition 2.1.1A** shall be as set out in **Condition 2.2**.

###### 2.2 Confirmation of Forecast

Subject to **Condition 2.7(b)**, if the Access Provider, acting reasonably will incur significant costs in ensuring that access can be provided in accordance with a Forecast (for example,

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because it will need to proactively augment its Network to provide access within the requested timeframes), the Access Provider may request the Access Seeker to confirm the relevant Forecast. Once confirmed, the Forecast is deemed to be an Order for the purposes of this Agreement, and **Section III of the Terms and Conditions for Technical Matters**, beginning from **Condition 2.2.1** thereof will apply.

2.3 Forecast request

The Access Provider may request the Access Seeker to provide, with a sufficient level of detail to enable the Access Provider to carry out Network planning, the following information in the Access Seeker's forecast ("**Forecast Information**"):

- (a) the Facilities and/or Services in respect of which Forecasts are required;
- (b) the total period of time covered by each Forecast, which period:
  - (i) shall be determined having regard to the Access Provider's own planning and provisioning cycles and the Forecasting requirements which apply to the Access Seeker's own business units in using the relevant Facilities and/or Services; and
  - (ii) shall be the shorter of the period set out in the relevant Terms and Conditions for Regulated Facilities and/or Services and the period of forecasting which the Access Provider provides for itself for network planning and provisioning purposes , unless reasonably justified on grounds of the special Network management requirements of the relevant Facilities and/or Services;
- (c) the intervals or units of time to be used in making the Forecast, which shall be the shorter of the period set out in the relevant Terms and Conditions for Regulated Facilities and/or Services and intervals of times in which the Access Provider provides forecasting to itself;
- (d) the network area or operational area to which Forecasts shall relate, which area shall correspond to that which the Access Provider uses for its own network planning and provisioning;
- (e) the frequency with which a Forecast must be updated or a further Forecast made in accordance with this Agreement, which shall be the shorter of the period set out in the relevant Terms and Conditions for Regulated Facilities and/or Services and the length of time after which the Access Provider provides itself with the updated or further Forecasts; and
- (f) such other information that the Access Provider reasonably requires and stipulates in writing in advance in order to provide access to the Facilities and/or Services requested by the Access Seeker (which shall not include any information that the

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Access Provider does not provide to itself in connection with Forecasting for its own Facilities and/or Services).

2.4 Forecast Provision

The Access Provider may only require the Access Seeker to provide Forecasts in accordance with a Forecast Request no sooner than four (4) weeks after receipt of a Forecast Request.

2.5 Use of Forecast Information

Forecast information provided by the Access Seeker shall be treated by the Access Provider as the Confidential Information of the Access Seeker and shall only be used by those personnel of the Access Provider whose role is within either:

- (a) the Access Provider's wholesale or interconnection group; or
- (b) that part of the Network engineering group of the Access Provider responsible for interconnection

for the purpose of responding to and planning for the Forecast. The Access Provider must maintain records that indicate which persons are provided with access to Forecast information and on request from the Commission, provide a copy of such records certified by the Access Provider's Chief Executive Officer or Chief Operating Officer.

2.6 Distribution of Forecast Information

The Access Provider may only distribute Forecast Information of the Access Seeker outside the groups of people referred to in **Condition 2.5** if:

- (a) the Forecast information of the Access Seeker is aggregated with Forecasts provided by other operators and the Access Provider's own requirements (so as to protect the confidentiality of the Forecast Information); and
- (b) the Forecast Information or its use does not otherwise identify the Access Seeker in any manner.

2.7 Time for response

The Access Provider must notify the Access Seeker within five (5) Business Days of receiving a Forecast whether or not the Access Provider considers the Forecast to be in compliance with the Forecast Request and:

- (a) if, the Access Provider considers that the Forecast does not comply with the Forecast Request, to specify in that notice the additional information which the Access Seeker is to provide to comply with the Forecast Request and the Access Provider will not

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require such information to be provided sooner than four (4) weeks after such a notice; or

- (b) if, the Access Provider considers that the Forecast does comply with the Forecast Request, to specify in that notice that the Forecast is provisionally accepted subject to verification of the details of the Forecast and the matters set out in **Conditions 2.8(a) to 2.8(d)** below.

**2.8** Reasons for rejection

The Access Provider may only reject a Forecast where the Access Provider reasonably believes that the Forecast is inaccurate, unreasonable, and/or, there is insufficient capacity having regard to:

- (a) total current usage of the Facilities and/or Services Services by the Access Provider and all access seekers;
- (b) the current rate of growth of the Access Seeker’s usage of the Facilities and/or Services;
- (c) the current rate of growth of total usage of the Facilities and/or Services by the Access Provider and all access seekers; and
- (d) subject to Condition 2.31 and 2.32, Section III, Terms and Conditions for Technical Matters of this Agreement, the amount of capacity in the Facilities and/or Services that the Access Provider currently has available and can reasonably provision for the Access Seeker over the Forecast period, which must be at least equivalent to that which the Access Provider can reasonably provision for itself.

**2.9** Time for acceptance and rejection

Subject to **Condition 2.10 of Section X**, the Access Provider must give notice of any acceptance or rejection (“**Rejection Notice**”) of a Forecast to the Access Seeker:

- (a) within fifteen (15) Business Days of receipt of the relevant Forecast; and
- (b) such Rejection Notice (if any), must specify:
  - (i) the grounds on which the Access Provider rejects the Forecast in accordance with **Condition 2.8**, at a sufficient level of detail to enable the Access Seeker to understand the basis of the rejection and to undertake its own reassessment of the Forecast; and
  - (ii) an offer to meet within five (5) Business Days of the Rejection Notice of the Forecast to discuss the reasons for rejection and alternative methods of

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compliance. The meeting shall take place between the Access Provider and Access Seeker if the offer is accepted by the Access Seeker.

#### 2.10 Reconsideration by Access Seeker

The Access Provider must allow the Access Seeker to reconsider its Forecast following a Rejection Notice and allow the Access Seeker, within twenty one (21) Business Days of receipt of a Rejection Notice, either:

- (a) to confirm its rejected Forecast, and explain why the Access Seeker considers that the Access Provider is obliged to accept the Forecast under this Agreement; or
- (b) to submit a new Forecast which the Access Seeker regards as meeting the Access Provider's concerns.

If the Access Seeker does not respond within the stipulated time, the Access Seeker is deemed to have accepted the Rejection Notice.

#### 2.11 Reconsideration by Access Provider

The Access Provider shall reconsider any re-submitted or amended Forecast provided pursuant to **Condition 2.10**. In such an event, **Conditions 2.7 to 2.9** shall re-apply.

#### 2.12 Recovery for over-Forecasting

The Access Provider shall not seek to recover any costs or expenses incurred due to its acceptance of a Forecast from the Access Seeker, if the Forecast is not met by the Access Seeker, unless:

- (a) The relevant portion of the Forecasts that was not met by the Access Seeker does not relate to a Non-Binding Forecast period;
- (b) such costs and expenses were reasonably and necessarily incurred by the Access Provider.
- (c) the Access Provider reasonably seeks to mitigate its loss (including through its own usage) provided the Access Provider shall not be required to do so for any greater period than the relevant Forecast period; and
- (d) the Access Provider only recovers from the Access Seeker less than seventy-five percent (75%) of such costs and expenses which could not be mitigated under **Condition 2.12(c)** above.

The recovery for over-Forecasting (if any) shall be done on a quarterly basis and in support of any claims made by the Access Provider, the Access Provider shall submit a list of the costs that are not recovered.

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2.13 Failure to Provide Forecasts

2.13.1 In the event of any failure, neglect or refusal by the Access Seeker to update the Forecast, the Access Provider shall continue to provide access to the Access Seeker for a period of one (1) year based on the last Agreed Forecast.

2.13.2 The Access Provider shall not be responsible for any loss suffered or incurred by the Access Seeker due to the latter's failure to provide the Forecast.

2.14 Meeting Forecast

2.14.1 Subject to **Condition 2.7** to **2.9** above, the Access Provider and the Access Seeker (where applicable) must carry out network planning in order to enable Forecasts to be met. If an Access Seeker has confirmed a Forecast under **Condition 2.2** above, it will be binding on the Access Seeker.

2.15 Non-Permitted Information

2.15.1 The Access Provider must not request the Access Seeker to provide a Forecast that contains:-

- (a) any information that is or would allow the Access Provider to infer any non-permitted information listed in subsection 5.4.16 of the MSA Determination; and
- (b) any information that identifies or would enable the identification of the Customers or particular services of the Access Seeker.

2.16 Alternative Procedure

2.16.1 The Access Provider and the Access Seeker may agree to an alternative forecasting and ordering procedure other than that set out in this **Condition 2** as part of the Agreement. If agreement reached about such matters, the Access Provider and the Access Seeker will be bound by the terms of that alternative procedure and not this Section II of Terms and Conditions for Technical Matters in this Agreement.

2.17 Non-binding

2.17.1 Subject to **Condition 2.2** above, the Access Provider shall not require the Access Seeker to provide Forecasts that are legally binding on the Access Seeker, except to the extent that the Access Provider is permitted to recover costs and expenses as set out in **Condition 2.12** above.

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## Terms and Conditions for Technical Matters

### Section III

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#### SECTION III – ORDERING AND PROVISIONING

##### 1. General

- 1.1 **Section III** sets out ordering and provisioning terms and procedures that are applicable in relation to the provision of Facilities and/or Services.

##### 2. Ordering and Provisioning Obligations

###### 2.1 Contact Point or mechanism

The Access Provider shall designate and notify the Access Seeker of one or more of the following:

- (a) a person to whom Orders for access to Facilities and/or Services are to be delivered;
- (b) a contact point to which Orders for access to Facilities and/or Services are to be delivered (such as an e-mail address); and
- (c) a mechanism where Orders for access to Facilities and/or Services can be made (such as a web portal or B2B gateway), provided that if such a mechanism is the only method which the Access Provider provides for the receipt of Orders for that Facility and/or Services, the Access Provider cannot require the Access Seeker to unreasonably invest in specialized technology or systems (such as an automated interface between the operational support systems of the Parties).

###### 2.2 Order content

- 2.2.1 The Access Seeker may place firm Orders for Facilities and/or Services from time to time in line with the Agreed Forecast.

- 2.2.2 Prior to access being provided, the Access Provider may require the Access Seeker to provide it with an Order which outlines the Access Seeker's access requirements. The Access Provider may request the Access Seeker to provide (where applicable), at a level of detail (sufficient for planning provisioning), the following in an Order for access to Services:

- (a) the Facilities and/or Services to which access is requested;
- (b) a requested date and time for delivery;
- (c) the location of the points of delivery;
- (d) Equipment of the Access Seeker to be used in connection with the Order, to the extent it may adversely affect the Access Provider's Network;
- (e) the configuration of the requested Facilities and/or Services;

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- (f) level to be opened;
- (g) signaling point code;
- (h) contact person and telephone number;
- (i) in relation to Full-span Interconnection and Domestic Network Transmission Services requested by the Access Seeker, space availability at the Access Seeker's premises; and
- (j) such other information that the Access Provider reasonably requires in order for it to plan for the provision of access to the Facilities and/or Services as requested by the Access Seeker, provided that such information not include any information which:
  - (i) the Access Provider does not require from itself for similar provisioning;
  - (ii) identifies, or which enables the identification of, a Customer or services of the Access Seeker; or
  - (iii) is non-permitted information under **Condition 5.4.16** of **MSA Determination**.

2.2.3 When the Order is placed, the Access Seeker must give the Access Provider a priority list, allowing for progressive delivery and setting out its preferred order of delivery.

2.3 Use of Ordering Information

Ordering information provided by the Access Seeker shall be treated by the Access Provider as the Confidential Information of the Access Seeker and shall only be used by those persons within the Access Provider whose role is within:

- (a) the Access Provider's wholesale or interconnection group; and
- (b) that part of the network engineering group of the Access Provider responsible for interconnection;

for the purpose of responding to and provisioning for the Order.

2.4 Treatment for Orders and Service Qualifications

The Access Provider shall:

- (a) establish a single queue for all Orders and Service Qualifications for a given type of Facility and/or Service, whether those Orders and Service Qualifications are required for itself or any Access Seekers;

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- (b) give the equivalent priority to the handling of all Orders and Service Qualifications in each queue; and
- (c) otherwise treat all Orders and Service Qualifications in each queue in compliance with its queuing policy established under this **Condition 2.29**.

2.5 Acknowledgement of receipt

The Access Provider will acknowledge receipt of an Order for Facilities and/or Services, in writing (or any other material or electronic from agreed by the Parties), within the period specified in **Part A, the Terms and Conditions for Regulated Facilities and/or Services** of this Agreement for the purposes of this **Subsection 2.5**.

2.6 Notice of Receipt

2.6.1 The Access Provider must include in its Notice of Receipt the following information:

- (a) the time and date of receipt of the Order;
- (b) a list of any additional information reasonably required by the Access Provider from the Access Seeker to provision the Order;
- (c) if the relevant Facilities and/or Services available to the Access Provider are below the capacity required to provide the relevant Facilities and/or Services, the Access Provider shall inform the Access Seeker of the available capacity and timeframe for the fulfillment of the Order at the available capacity and (if relevant) with such augmentation as may be required to fulfill the Order as submitted;
- (d) whether the Access Provider needs to perform post-Order Service Qualification because information is not readily available to the Access Provider, for example in its Operational Support Systems, together with the reasons for needing to undertake the Service Qualifications; and
- (e) the position of the Order in the Access Provider's queue.

2.7 Further information

The Access Provider shall allow the Access Seeker a period of up to ten (10) Business Days after a request for additional information under **Condition 2.6.1(b)** above to provide the Access Provider with such information.

2.8 Service Qualifications

2.8.1 The Access Provider shall make Service Qualifications available to the Access Seeker prior to placing Orders if such pre-Order Service Qualifications are undertaken for a given Facility and/or Service by the Access Provider for itself.

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- 2.8.2 The Access Provider shall only require post-Order Service Qualifications to be requested if:
- (a) no pre-Order Service Qualification has been completed in accordance with the process to be developed under **Subsection 5.4.5** of the MSA determination;
  - (b) the Access Provider reasonably requires information from post-Order Service Qualifications which are not readily available, for example in its Operational Support Systems; and
  - (c) the Access Provider notifies the Access Seeker that the post-order Service Qualifications are necessary (together with the reasons for needing to take such Service Qualifications) at the time of providing the Access Provider's Notice of Receipt under **Condition 2.6** above, or, if further information has been requested under **Condition 2.7** above, within two (2) Business Days of the expiry of the period in **Condition 2.7** above.

For clarification, an Access Seeker may also seek the consent of the Access Provider to perform a Service Qualification itself, and such consent must not be unreasonably withheld.

#### 2.9 Commencement and completion of Service Qualifications

- (a) The Access Provider shall commence a Service Qualification on the date of issuing a Notice of Receipt and complete and notify the Access Seeker of the result of any Service Qualification within the shorter of:
    - (i) fifteen (15) Business Days after the date of the Notice of Receipt; or
    - (ii) the time within which the Access Provider performs and notifies the result of an equivalent Service Qualification undertaken for itself.
- 2.9A (b) Where there is a delay in the commencement and/or completion of the Service Qualification, and the delay is caused by either the Access Seeker or by a third party that is not acting under the Access Provider's direction or control:
- (i) the Access Provider shall notify the Access Seeker of the delay to the delivery date as soon as practicable after the Access Provider becomes aware of it;
  - (ii) the Access Provider and Access Seeker must work together to minimise the delay; and
  - (iii) the delivery date shall be extended for a further period as reasonably necessary, and the Access Provider shall promptly notify the Access Seeker of the revised completion date
- (c) If the relevant Facilities and/or Services available to the Access Provider are below the capacity required to provide the relevant Facilities and/or Services to the Access Seeker, the Access Provider shall notify the Access Seeker, at the same time as providing

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notice under paragraph 5.7.9(a), of the available capacity and timeframe for the fulfilment of the Order at the available capacity and (if relevant) with such augmentation as may be required to fulfil the Order as submitted.

#### 2.10 Withdrawal of Order following Service Qualifications

The Access Provider shall permit the Access Seeker to withdraw or continue its Order, by giving written notice to the Access Provider, without penalty, except that it may recover from the Access Seeker reasonable costs incurred by the Access Provider for any Service Qualification undertaken in respect of the withdrawn Order (irrespective of whether the Access Provider has accepted the Order or not) before the earlier of:

- (a) ten (10) Business Days after the Access Seeker receives the result of a Service Qualification under the **Condition 2.9** above; or
- (b) one (1) Business Day before the Access Provider commences civil works to provision the Order (where the civil works are required to provision the Facility and/or Service within the delivery timeframe specified in the Notice of Acceptance), and any civil works to be conducted must be subject to the issuance of a notice in writing by the Access Provider, which may be in the form of a Notice of Acceptance if civil works is to occur after the Access Provider has accepted the Order.

#### 2.11 Acceptance obligation

The Access Provider must use its reasonable efforts to accept and fulfil Orders from the Access Seeker for Services which comply with a Forecast accepted by the Access Provider pursuant to **Section II of the Terms and Conditions for Technical Matters**.

#### 2.12 Time for acceptance/rejection

2.12.1 The Access Provider must notify the Access Seeker that an Order is accepted or rejected within:

- (a) the specified time for the specific Service Description in **Part A, Terms and Conditions for Regulated Facilities and/or Services** of this Agreement for the purpose of this **Condition 2.12**; or
- (b) the timeframe within which it accepts or rejects equivalent Orders for itself,

whichever is shorter.

If the Access Provider notifies the Access Seeker that an Order is rejected, the Access Provider must advise the Access Seeker on the grounds of rejection and whether the Access Provider would be able to accept the Order in a modified form.

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2.13 Notice of acceptance

2.13.1 The Access Provider’s notice of acceptance to the Access Seeker must contain the following information:

- (a) the delivery date or activation date, which must be the date that is requested by the Access Seeker, or if that date cannot be met by the Access Provider, any other deliver date which must be no later than:
  - (i) the indicative delivery timeframes set out in **Part A, Terms and Conditions for Regulated Facilities and/or Services** of this Agreement for the purpose of this **Condition 2.13.1**; or
  - (ii) the period of time taken by the Access Provider to deliver, or activate, such Facilities and/or Services for itself,

whichever is shorter;

- (b) the date when civil works (if any) are intended to commence;
- (c) the charges applicable to fulfill the Order, including without limitation additional works such as internal wiring, right of way, land rental, local authority permits and third-party deposits;
- (d) such information as is reasonably necessary for the Access Seeker to benefit from access to the Facilities and/or Services ;
- (e) the validity period of the acceptance of the Order which shall be no less than ninety three (3) months from the date of the Notice of Acceptance (“**Validity Period**”).

2.14 Commencement of delivery timeframes

2.14.1 The applicable delivery timeframe for an Order, as determined in **Condition 2.13.1(a)** above of this Agreement shall commence from:

- (a) where the Access Seeker’s confirmation of an Order is required under **Condition 2.15** below, the date the Access Seeker confirms an Order in accordance with **Condition 2.15** below; or
- (b) in any other case, from the start of the Validity Period.

2.15 Access Seeker confirmation

2.15.1 The Access Seeker’s confirmation of an Order is not required if the Access Provider accepts the Order without change. A change may include circumstances where delivery dates are delayed, estimated charges are exceeded, a post-Order Service Qualification is required or any other matter that requires further confirmation from the Access Seeker before the Access Provider can proceed with the Order.

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2.15.2 Where the Access Seeker's confirmation is required for the Access Provider to proceed with fulfilling an Order as provided for under **Condition 2.15.1** above, the Access Provider shall permit the Access Seeker to provide its confirmation within the Validity Period and shall not provision the Order until the confirmation is received. Upon receipt of such confirmation, the Access Provider shall fulfil the Order in accordance with the Notice of Acceptance.

2.16 Estimated charges

2.16.1 If the Notice of Acceptance provided by the Access Provider under **Condition 2.13** contains estimates of charges (e.g. based on time and materials):

- (a) the Access Provider shall not exceed the estimate without providing the Access Seeker with written notice prior to exceeding the estimate that:
  - (i) the estimate will likely be exceeded;
  - (ii) an explanation of the reasons for exceeding the estimate; and
  - (iii) a further estimate of the charges for the work necessary to fulfill the Order
- (b) the Access Provider shall permit the Access Seeker to withdraw the Order without penalty within ten (10) Business Days of the notice given by the Access Provider under **Condition 2.16.1(a)** above if the revised estimate in that notice exceeds the original estimate by more than ten percent (10%);
- (c) where the actual cost incurred by the Access Provider exceeds an estimate or revised estimate for a specific scope of work provided by the Access Provider due to :-
  - (i) information or facts which are inaccurate or erroneous, or which were not disclosed or provided by the Access Seeker, or
  - (ii) due to a change in the scope of work by the Access Seeker,the Access Seeker shall be obliged to pay the Access Provider for the actual cost incurred (but in no other circumstances); and
- (d) the Access Provider shall commence work after the Access Seeker confirms that it is agreeable to the estimate or revised estimate, whereby such confirmation is to be provided by the Access Seeker within the timeframe set out in **Condition 2.13.1(e)** or **Condition 2.16.1(b)** above, as applicable.

2.17 Reasons for rejection

2.17.1 The Access Provider may only reject an Order from the Access Seeker where:

- (a) subject to **Condition 3.5.2 of the General Terms and Conditions**, it is not technically

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feasible to provide access to the Facilities and/or Services requested by the Access Seeker;

- (b) subject to **Condition 2.31** and **Condition 2.32** below, the Access Provider has insufficient capacity to provide the requested Facilities and/or Services ;
- (c) subject to **Condition 2.19**, the Order is in excess of agreed Forecast levels;
- (d) the Order or variation request duplicates an Order awaiting fulfillment;
- (e) there are reasonable grounds to believe that the Access Seeker would fail, to a material extent, to comply with the terms and conditions of this Agreement and such concern cannot be addressed to the Access Provider’s satisfaction, acting reasonably (eg. through the application of a security requirement in accordance with this Agreement); or
- (f) there are reasonable grounds to believe that the Access Seeker would fail, in connection with the supply of the Facilities and/or Services to protect the integrity of the Access Provider or its Network; or the safety of individuals working on, or using services supplied by means of, a Network or Equipment and such concern cannot be addressed to the Access Provider’s satisfaction, acting reasonably (eg. through the application of reasonable security or escorted access requirements).

**2.18 Notice of rejection**

**2.18.1** The Access Provider’s Notice of Rejection of an Order to the Access Seeker must:

- (a) set out the grounds on which the Access Provider rejects the Order, at a sufficient level of detail to enable the Access Seeker to understand the basis of the rejection and to undertake its own re-assessment of the Order; and
- (b) offer to meet, and meet if the offer is accepted by the Access Seeker, within five (5) Business Days of the Notice of Rejection of the Order to discuss the reasons for rejection and alternative methods of compliance.

**2.19 Order in excess of Forecast**

Notwithstanding **Condition 2.17.1(b)** above, the Access Provider must use its reasonable efforts to provide sufficient capacity to enable the Access Provider to accept and fulfil Orders from the Access Seeker for Facilities and/or Services which are in excess of the relevant Forecast. The Access Provider is only required to do so if, after meeting the Forecast requirements of other Access Seekers and itself, there is available capacity or the Access Provider could readily upgrade existing capacity. The Access Provider shall allocate the available capacity on a non-discriminatory basis to meet the over Forecast requirements of all Access Seeker and itself. The Access Provider is not required to supply Services in excess of the Forecast if, despite adopting any reasonable improvements (including upgrading capacity), this would cause a material degradation in the quality of Facilities and/or Services provided to all Access Seekers and/or itself.

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2.20 Required extra capacity

The Access Provider may by written notice require the Access Seeker to procure such additional capacity on the Access Seeker's side of the Network to the extent that the Access Provider, in good faith and reasonably estimates that the Parties may require additional capacity may cause an adverse impact on the operation of the Access Provider's Network. Where the Access Seeker fails to so procure additional capacity and the demand exceeds the capacity on the Access Seeker's Network, the Access Provider must notify the Access Seeker in writing, and the Access Seeker and the Access Provider must meet [no later than five (5) Business Days after receipt of the notice from the Access Provider] to attempt to identify alternative sources of capacity. If the matter cannot be resolved within ten (10) Business Days of the date of that meeting, the Access Provider may bar or block calls to the Access Seeker's Network to the extent necessary to minimize congestion within the Access Provider's Network.

2.21 Other uses

The Access Provider shall permit capacity installed in connection with the provision of a network service to be used, to the extent technically feasible, in connection with another network service, at the Access Seeker's option.

2.22 Delivery dates

The Access Provider shall deliver the Order for the Facilities and/or Services by the delivery date or activation date (as applicable) as specified in the Notice of Acceptance or the extended delivery date (if any) as determined in accordance with **Condition 2.24** below.

2.23 Early Delivery Dates

If the Access Provider, in the normal course of business, is able to offer a delivery date earlier than the delivery date that would otherwise apply, it must advise the Access Seeker and, if requested by the Access Seeker, deliver access to the relevant Facilities and/or Services at the earlier delivery date.

2.24 Delayed Delivery Dates

2.24.1 Where there is a delay in the delivery of an Order, and:

- (a) the delay is caused by the Access Provider or by a third party, that is not acting under the Access Provider's direction or control:
  - (i) the Access Provider shall notify the Access Seeker of the delay to the delivery date, together with the reasons for the delay, as soon as practicable after the Access Provider becomes aware of the possible delay;
  - (ii) the Access Provider shall permit the Access Seeker notified under **Condition 2.24.1(a)** to cancel the Order without penalty if the delay is longer than the

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equivalent time period for delivery of the Facility and/or Service; and

- (iii) the delivery date shall be extended for a further period as reasonably necessary, and the Access Provider shall promptly notify the Access Seeker of the revised delivery date; or
  
- (b) where the delay is caused by the Access Seeker:
  - (i) the Access Provider shall notify the Access Seeker of the delay to the delivery date as soon as practicable after the Access Provider becomes aware of it;
  
  - (ii) the Access Provider and Access Seeker must work together to minimise the delay; and
  
  - (iii) the delivery date shall be extended for a further period as reasonably necessary, and the Access Provider shall promptly notify the Access Seeker of the revised delivery date;

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#### 2.25 Cancellation and Variation of Orders

2.25.1 The Access Provider shall allow the Access Seeker to cancel or vary an Order at any time subject to **Condition 2.26** below.

#### 2.26 Cancellation or variation penalty

Except where this Access Agreement provides that cancellation of an Order is to be at no penalty:

- (a) the Access Provider may impose a charge for the cancellation or variation of the Order; and
- (b) the charge which the Access Seeker is required to pay shall not exceed the lesser of the following amounts:
  - (i) the sum of cost necessarily incurred by the Access Provider which is directly attributable to the cancellation or variation; or
  - (ii) an amount equal to the sum of charges that would have been payable by the Access Seeker for six (6) months immediately following the cancellation or variation had the Order not been cancelled or varied,

and reduced to the extent that those costs have been mitigated, or would have been mitigated had the Access Provider used its best endeavours to do so.

#### 2.27 Testing and Provisioning

2.27.1 The Access Provider:

- (a) shall co-operate with the Access Seeker in relation to the testing and provisioning of ordered Services; including, but not limited to, by implementing a proof of concept if requested by the Access Seeker;
- (b) shall treat the Access Seeker's testing and provisioning on an equivalent basis to that which the Access Provider treats itself; and
- (c) may require reasonable co-operation by the Access Seeker in respect of such activities.

#### 2.28 Non-refundable Processing Fee and/or Resource Charge

2.28.1 (a) Subject to **Condition 2.28.1(b)**, the Access Provider may charge the Access Seeker a non-refundable processing fee for undertaking the necessary administrative work to process the Order.

- (b) The fee for the respective Facilities and/or Services is set out in **Annexure 1** of the

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**General Terms and Conditions (“Processing Fee”).** Processing Fees for Facilities and/or Services not currently specified in **Annexure 1** of the **General Terms and Conditions** will be mutually agreed between the Parties from time to time.

- (c)
- (d) In the event that additional or non-routine work is required in order to process the Order, the Access Provider may charge a separate one-off non-refundable resource charge (**“Resource Charge”**), to be determined by reference to the reasonable cost incurred by the Access Provider for the allocation of manpower and other resources to enable the Access Provider and/or the Access Seeker to test and fulfill an Order for the new Facilities and/or Services, provided that the Resource Charge is reasonably justified by the Access Provider to the Access Seeker as necessary for the Access Provider to provide the requested Facilities and/or Services. Prior to commencing such additional and non-route work, the Access Provider shall provide an estimate of charges for the approval of the Access Seeker.
- (e) The Processing Fee as specified in **Condition 2.28.1(b)** will be set-off against the Access Charges for the ordered network facilities and network services upon the confirmation by the Access Seeker of the Order in accordance with **Condition 2.15** above.

#### 2.29 Queuing Policy

2.29.1 The Access Provider shall establish and maintain a queuing policy system for each Facility and/or Service which:

- (a) shall be non-discriminatory;
- (b) shall be applied to Orders and Service Qualifications of all Access Seekers and Orders and Service Qualifications for itself for the same or similar Facilities and/or Services, and shall treat the Orders and Service Qualifications of Access Seekers on an equivalent basis to that which the Access Provider treats Orders and Service Qualifications for itself for the same or similar Facilities and/or Services; and
- (c) shall seek to maximise the efficiency of its Ordering and provisioning process.

#### 2.30 Acceptance on Queue

The Access Provider shall promptly notify the Access Seeker, at the time of providing an acknowledgement of receipt of the Order under **Condition 2.5** above (and as specified in the Notice of Receipt under **Condition 2.6** above), of their acceptance of, and position in, the Access Provider’s queue.

#### 2.31 Constrained Capacity

2.31.1 If the Access Provider reasonably believes that the capacity in any Facilities and/or Services required by:

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- (a) the Access Seeker pursuant to the relevant Forecast and/or Order;
- (b) other access seekers, pursuant to their relevant Forecasts and/or Order; and
- (c) the Access Provider, for its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest.

would, in aggregate, exceed the capacity which the Access Provider will be in a position to be able to provide, the Access Provider must:

- (d) notify the Access Seeker and other persons to whom relevant capacity is supplied; and
- (e) allocate the available capacity between itself, the Access Seeker and other Access Seekers in accordance with the Access Provider's Capacity Allocation Policy.

**2.32 Capacity Allocation Policy**

**2.32.1** If the Access Provider claims or is likely to claim that it has insufficient capacity to meet an Access Seeker's Forecasts or Orders, the Access Provider shall maintain a Capacity Allocation Policy, which:

- (a) shall be disclosed, free of charge, to each Access Seeker upon entry into an Access Agreement, the Commission upon the Effective Date, to both Access Seekers with whom the Access Provider has an Access Agreement and the Commission each time it is amended, and any other operator on request;
- (b) shall set out the principles in accordance with which the Access Provider shall determine how to allocate capacity between its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest and any other operator, in circumstances where the amount of capacity available is less than the aggregate of capacity required by the Access Provider's own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest, and the other operator;
- (c) shall:
  - (i) be fair and reasonable;
  - (ii) be consistent, so far as practicable, with the Access Provider's general duty of non-discrimination in accordance with subsection 149(2) of the Act;
  - (iii) treat the requirements of all access seekers on an equivalent basis to the Access Provider's own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest; and
  - (iv) allocate the available capacity in the relevant Facilities and/or Services in proportion to each operator's Forecast and/or Order requirements; and

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- (d) shall set out the Access Provider's plans to expand their capacity over time (if any), where such information must be provided to Access Seekers on a non-discriminatory basis in terms of its content and frequency of updates.

2.33 Late delivery

2.33.1 If the Access Provider fails to meet the delivery date or any extended delivery date notified to the Access Seeker in accordance with **Condition 2.24.1(a) iii** above, except where such failure has been caused solely by either the Access Seeker's delay or delay by a third party that is not acting under the Access Provider's direction or control (for example where a local authority or landowner delays providing necessary approval for works to commence), the Access Provider shall, without limitation to any other rights the Access Seeker may have under this Agreement or law, provide a rebate to the affected Access Seeker. The rebate shall be for an amount equivalent to the recurring charges payable for access to the Facilities and/or Services over a period equal to the period of the Access Provider's delay, and the unit rates for calculating such rebates shall be as set out in Part B of the Terms and Conditions for Regulated and Non-Regulated Facilities and/or Services in this Agreement. If the Access Provider alleges that a failure has been caused solely by the Access Seeker's delay or delay by a third party that is not acting under the Access Provider's direction or control, the Access Provider shall have the burden of demonstrating:

- (a) that allegation; and
- (b) that the Access provider has done all things reasonably practicable to minimise or avoid such failure.

2.34 Contractors under direction or control: For clarity, any employees and contractors of the Access Provider shall be deemed to be acting under the direction or control of the Access Provider for the purposes of section 5.7 of this Standard.

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#### SECTION IV – NETWORK CONDITIONING

##### 1. General

- 1.1 **Section IV** sets out network conditioning terms and procedures that are applicable in relation to the provision of Facilities and/or Services.

##### 2. Network Conditioning Obligations

###### 2.1 Non-discrimination

The Access Provider shall perform Network Conditioning on an equivalent basis to that which the Access Provider performs Network Conditioning for itself for the same or similar Facilities and/or Services.

###### 2.2 Impact of retail commercial arrangements

The Access Provider must not refuse to commence or complete Network Conditioning on the basis that the commercial arrangements (other than arrangements in relation to matters specified under **Condition 2.3** below, to the extent relevant) are not agreed between the Parties in relation to the retail service for which the Network Conditioning is to be provided.

###### 2.3 Commencement

- 2.3.1 The Access Provider must commence Network Conditioning for a Facility and/or Service which requires the Access Provider to conduct such Network Conditioning immediately following the acknowledgement of receipt of an Order from the Access Seeker and agreement by the Access Provider and the Access Seeker in relation to the following matters, to the extent relevant:

- (a) geographical coverage;
- (b) number information (i.e length and code allocation)
- (c) origins from or destinations to which access is required.
- (d) network routes (including which Party is responsible for the provisioning of the interconnection links); and
- (e) handover arrangements and relevant Points of Interface.

###### 2.4 Number range activation

- 2.4.1 Subject to **Conditions 2.5** below, if the supply of a Facility and/or Service requires the Access Provider to activate a code or number range on its Network, the Access Provider shall:

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- (a) use its best endeavours to activate in the Access Provider's Network the code or number range, including a code or number range allocated to the Access Seeker's MVNO, within the shorter of the timeframe between the time that the Access Provider would activate the code or number range for itself, including on an urgent basis, and ten (10) Business Days of being requested to do so by the Access Seeker; and
- (b) in any event, activate the code or number range, including a code or number range allocated to the Access Seeker's MVNO, within one (1) month of being requested to do so by the Access Seeker.

2.5 Intra-Network codes and numbers

**Condition 2.4** does not apply to codes or number ranges not intended for use across interconnected Networks.

2.6 Inter-Closed Number Area service:

The Access Provider shall offer interconnection to permit calls to be transmitted across Closed Number Area boundaries, whether directly or in transit.

2.7 Apportionment of Cost

2.7.1 The costs incurred in Network Conditioning shall be apportioned between the Parties as follows:

- (a) if the work has been carried out in accordance with a Government or Commission requirement, the Parties will bear their own costs; and
- (b) if the work has been carried out to fulfil an Order made in accordance with this Agreement, the costs shall be apportioned in an equitable manner between the Parties having regards to cost causation.

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**SECTION V – POINT OF INTERFACE AND DECOMMISSIONING**

**1. General**

1.1 **Section V** sets out point of interface and decommissioning terms and procedures that are applicable in relation to the provision of Facilities and/or Services.

**2. Point of Interface Location**

2.1 The technical consideration for determining POI/POP locations by the Access Provider shall include the following:

- (a) whether switching and transmission facilities have the capacity to interconnect with other networks;
- (b) timely and efficient deployment of sufficient capacity of links to support the required Grade of Service to Customers; and
- (c) preservation of network security.

The Access Provider may in its absolute discretion determine not to establish a POI/POP at a location where the aforesaid technical considerations does not warrant the same.

2.2 The Parties shall publish on its publicly accessible website and keep updated a list of the general locations and technical feasible points:

- (a) in respect of which virtual co-location is available;
- (b) in respect of which In-Span Interconnection is available; and
- (c) at which physical Co-Location is available,

on and from the date of publication for the following twelve (12) months.

The list of POIs offered by the Parties is set out in **Appendix 1 to this Section V**.

2.3 The Access Provider shall ensure that network co-location at each POI/POP is offered to the Access Seeker in accordance with **Part A & Part B of Section V of the Terms and Conditions for Regulated Facilities and/or Services** in this Agreement.

**3. Criteria for Establishing a New POI/POP**

3.1 Prior to accepting the establishment of a new POI/POP, the Parties shall comply with the following:-

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- (a) as a result of special network management requirements, the Access Seeker shall submit its five (5) years' including traffic and circuit forecast, and Interconnect Link Service requirement at the proposed new POI/POP ;
  - (b) the Interconnect Link Service shall be re-dimensioned to provide for a minimum of three (3) years provisioning period for the purposes of planning;
  - (c) indicate the number of routes and nodes that will be served by the Interconnect Link Service that is provided at the proposed POI/POP ; and
  - (d) specify whether the method of provisioning is In-span Interconnection or Full-span Interconnection ; and
  - (e) determine the availability of the switch capacity at the nodes.
- 3.2 For the purpose of physical interconnection between Parties, the Parties agree to the following configuration option:
- (a) Full Span Interconnection;
  - (b) In-Span Interconnection;
  - (c) Physical Co-location;
  - (d) Virtual Co-location.
- 3.3 For an In-Span Interconnection, the connection shall be provided by means of optical fiber circuits.
- 3.4 The following shall also be agreed for In-Span Interconnection:
- (a) the right to use the number of E1s of the installed POI capacity for each Party shall be on an equal basis;
  - (b) the in-span fiber connection shall be at a point mutually agreed;
  - (c) the Access Seeker's microwave equipment (where the same is used) must also be compatible with the Access Provider's Equipment;
  - (d) the connection between one Party to another will be point to point with protection in accordance with the agreed service level availability;
  - (e) the number of other nodes to be served by this POI capacity;
  - (f) at the time of provision of the In-Span Interconnection, the latest technology is preferred, in particular Internet Protocol (IP) and the type of equipment at both ends shall be compatible with the technology agreed; and
  - (g) the provision of additional transmission facilities at the POI shall be agreed once any of the following conditions are met:

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- (i) the total utilization of the existing transmission facilities is at seventy five per cent (75%); and/or
- (ii) the demand of circuits exceeds the forecasted circuits.

**3.5 Interconnect Link Service - Usage**

**3.5.1** The cost of establishing the necessary transmission links and equipment required carrying and terminating Interconnect traffic shall be either:

- a) borne equally by the Parties (where each Party is entitled to an equal share of the capacity within the link); or
- b) borne separately by either Party where each Party is responsible for its own equipment and portion of the infrastructure (where each Party is entitled to an equal share of the capacity within the link).

**3.5.2** Each Party shall be responsible for maintaining its own transmission links and equipment on its side of the agreed POI/POP.

**4. POI/POP Procedures**

**4.1 Interconnection**

Each Party shall interconnect and keep its Network interconnected with the Network of the other Party in accordance with the terms of this Agreement.

**4.2 Lack of space**

Subject to **Condition 13 of Part A Section V Terms and Conditions For Regulated Facilities and Services**, if there are space constraints at a particular location, the Access Provider shall take reasonable steps to optimize its usage of the space, including through the upgrading of Facilities and/or transferring equipment to an alternative location subject to the cost being borne by the Access Seeker. If the Access Provider has used its best efforts to accommodate all access seekers and it is not physically possible for any further access seekers to be accommodated, the Access Provider shall:

- (a) notify the Commission of the lack of space at the location:
- (b) provide any supplementary information which may be requested by the Commission (which may include physical inspection by the Commission); and
- (c) be excused from providing physical co-location at that location, unless and until the Commission notifies the Access Provider that the Commission considers that the physical co-location can and must be provided, in which case the Access Provider shall provide physical co-location as directed by the Commission.

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#### 4.3 Access Seeker requested Point of Interface

The Access Provider shall reasonably consider a request by the Access Seeker to interconnect at a point other than that specified in **Appendix 1**. The Access Provider shall notify the Access Seeker whether it accepts or refuses a request by the Access Seeker under this **Condition 4.3**, and provide the Access Seeker with reasons if it rejects the Access Seeker's request.

#### 4.4 Network responsibility

Each Party is responsible for the provisioning and maintenance of Facilities (including those Facilities which form part of the Interconnect Links and the transmission equipment) on its side of the Point of Interface.

#### 4.5 Third Party Point of Interface

The Access Provider shall permit an Access Seeker to nominate a Point of Interface of a third party for the purposes of interconnection and access between the Access Provider and the Access Seeker provided that the Access Seeker remains responsible for the costs of such interconnection and access and for the third party's act and omissions at the point of interface.

#### 4.6 Point of Interface factors

When determining which locations are to be listed under **Condition 2.2** above, or when determine a request under **Condition 4.3**, the Access Provider must have regard to each of the following:

- (a) The Access Provider shall offer (but shall not require) POI/POP for every Closed Number Area throughout Malaysia in which the Access Provider has network facilities;
- (b) in addition to offering POI/POP and co-location in accordance with **Condition 4.6 (a)** above, the Access Provider shall offer interconnection and co-location at each other's technically feasible point;
- (c) the Access Provider shall offer physical co-location in at least one POI/POP location for every Closed Number Area throughout Malaysia in which the Access Provider has network facilities, but may additionally offer other forms of co-location in relation to a particular location (e.g. virtual co-location)
- (d) the Access Provider shall not reserve space other than for its own current needs, its future needs (calculated by use of a reasonably projected rate of growth over two (2) years) and the needs of other access seekers who are currently occupying or have ordered additional space from that Access Provider; and

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- (e) any possible re-arrangement of its Equipment configuration to eliminate space inefficiencies.

**4.7 Acceptance of POI/POP Commissioning Procedure**

Both Parties shall mutually agree on the POI/POP commissioning date.

**5. Decommissioning Obligations**

**5.1 Decommissioning notice**

5.1.1 Either the Access Provider or the Access Seeker may request for the decommissioning of a Point of Interface.

5.1.2 Where the Access Provider request for the decommissioning of a Point of Interface, the Access Provider must provide no less than:

- (a) one (1) year's notice in writing to the Access Seekers prior to the decommissioning of a Point of Interface; or
- (b) six (6) months' notice in writing to the Access Seekers prior to the decommissioning of any other Facilities and/or Services,

except where an Access Provider is required to vacate the site where a Point of Interface is located, or any other Facilities and/or Services which relies on the Access Provider's use of that site, as a result of a third party landlord's notice (under an arm's length tenancy agreement) or a local authority's notice. In such event, the Access Provider must provide the Access Seeker with as much notice as possible in relation to the matters above.

**5.2 Co-operation**

5.2.1 The Parties must co-operate and negotiate in relation to the timetable for decommissioning of the relevant Point of Interface, Facilities and/or Services.

5.2.2 The Party seeking to decommission a POI/POP shall ensure that there will be no traffic interruption and should be responsible for re-routing the existing traffic before decommissioning of the relevant POI/POP.

**5.3 Alternative arrangements**

The Access Provider which notifies the other Party of its intention:

- (a) to decommission a POI/POP, shall provide to the Access Seeker functionally equivalent interconnection at another POI/POP on terms and conditions and at a recurring charge which are not disadvantageous to the other Party, relative to the terms and conditions and recurring charge applying in respect of the POI/POP that is

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proposed to be decommissioned, for a period of three (3) years from the date of decommissioning; or

- (b) to decommission any other network facilities or network services, shall provide to the Access Seeker access to an alternative network facilities or network services on terms and conditions and at a recurring charge which are not disadvantageous to the other Party, relative to the terms and conditions and recurring charge applying in respect of the network facilities or network services that is proposed to be decommissioned, for a period that is no less than three (3) years from the date of decommission.

**5.4 Decommissioned POI/POP compensation**

The Access Provider seeking to decommission a POI/POP shall pay the Access Seeker reasonable costs necessarily incurred in:

- (a) decommissioning any links to the POI/POP that is proposed to be decommissioned that are rendered or will be redundant by the proposed decommissioning;
- (b) installing or otherwise procuring links between the POI/POP that is proposed to be decommissioned and the substitute POI/POP to be provided pursuant to **Condition 5.3(a)**; and
- (c) the carriage of traffic between the POI/POP that is proposed to be decommissioned and the substitute POI/POP to be provided pursuant to **Condition 5.3(a)** for a period that is no less than three (3) years from the date of decommissioning,

**5.5 Decommissioned Facilities and/or Services compensation**

Except where decommissioning is caused by Force Majeure, the Access Provider shall pay the Access Seeker reasonable costs, necessarily incurred in:

- (a) moving the Access Seeker's Equipment from the decommissioned Facilities to the alternative Facilities offered in accordance with **Condition 5.3(b)**; or
- (b) re-arranging Equipment to connect to the alternative Services offered in accordance with **Condition 5.3(b)**.

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**Appendix 1**

**List of POIs**

**For YTLC:**

<b>YTLC's POIs</b>	
<b>Fixed</b>	<b>Cellular</b>
Sentul, KL	Sentul, KL

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#### SECTION VI – NETWORK CHANGE

##### 1. General

1.1 **Section VI** sets out the network change terms and procedures that are applicable in relation to the provision of Facilities and/or Services.

##### 2. Network Change Obligations

###### 2.1 Scope

This **Condition 2** applies where a Party proposes to implement a Network Change of a type referred to in **Condition 2.2** which necessitates a change in the hardware or software (including interface software) of the other Party's Network in Order to ensure the continued proper operation and compatibility of the Party's respective Networks, services and procedures.

###### 2.2 Types of Changes

The following kinds of proposed Network Changes may be within the scope of **Condition 2.1**:

- (a) any change by the Party proposing to make the change ("**Notifying Party**") to any technical specification of the interconnection interface between their respective Networks ("**Interface Change**");
- (b) any change by the Notifying Party to any technical specification or characteristic of the Facilities and/or Services to which the other Party ("**Recipient Party**") has access to, which will or might affect:
  - (i) the Recipient Party's Network;
  - (ii) the Recipient Party's use of the Services provided by the Notifying Party,("Facility and/or Service Change");
- (c) any change by the Notifying Party to any technical specification or characteristic of that Notifying Party's Network which will or might affect the Recipient Party's Network ("**Other Network Change**");
- (d) any change by the Notifying Party to any of the Operational Support Systems used inter-operator processes, including without limitation:
  - (i) the billing system;
  - (ii) the Ordering and provisioning systems; or

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- (iii) the Customer Churn process,  
 (“OSS Change”); and
- (e) any enhancement by the Notifying Party of the feature, functions or capabilities of the Facilities and/or Services to which the Recipient Party has access, which enhancement the Notifying Party proposes to make available either:
  - (i) to itself; or
  - (ii) to any other Party,
 (“Functionality Change”),  
 (collectively, “Relevant Changes”).

**2.3 Notification of change**

**2.3.1** If a Notifying Party proposes to make a Relevant Change to its Network, services or procedures, the Notifying Party shall provide the Recipient Party with notice in writing (“Change Notice”) of:

- (a) the nature, effect, technical details and potential impact on the Recipient Party’s Network of the proposed Relevant Change, described at a sufficient level of detail to enable the Recipient Party to identify and begin planning such changes as may be necessary or desirable for the Recipient Party to make to its Network, services or procedures in consequence of the Relevant Change; and
- (b) a date, which shall be no later than ten (10) Business Day from the date of the Change Notice, on which representatives of the Notifying Party will be available to discuss with representatives of the Recipient Party the proposed Relevant Change and the changes that may be necessary or desirable for the Recipient Party to make to its network, services or procedures in consequence of the Relevant Change,

as soon as reasonably practicable and, in any event with not less than the relevant notice period set out in the table below or such other notice period agreed between the Notifying Party and the Recipient Party in this Agreement:

<b>Relevant Change:</b>	<b>Notice period:</b>
Interface Change	Three (3) Months
Other Network Change	Three (3) Months
Facility and/or Service Change	Three (3) Months
OSS Change	Three (3) Months
Functionality Change	Three (3) Months

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2.4 Post-notification procedures

2.4.1 The Notifying Party shall:

- (a) meet with representatives of the Recipient Party in the date set out in the Change Notice or as soon as practicable thereafter (but no later than the notice period set out in the table in **Condition 2.3**), for the purpose of discussing the Relevant Change and any changes that may be necessary or desirable for the Recipient Party to make to its Network, services or procedures in consequence of the Relevant Changes;
- (b) provide any additional information reasonably requested by the Recipient Party no later than ten (10) Business Days after the Recipient Party's request for such additional information; and
- (c) take reasonable account of concerns raised and proposal made by the Recipient Party to minimise any adverse impact of the Relevant Changes on the Recipient Party and revise the Change Notice accordingly.

2.5 Testing

2.5.1 The Notifying Party shall, bearing its own costs in doing so:

- (a) co-operate with the Recipient Party to develop procedures for testing the impact of the Relevant Changes on the proper operation and compatibility of the Parties' respective Networks;
- (b) jointly carry out testing with the Recipient Party in a timely manner, using its best endeavours to accommodate any timing requested by the Recipient Party and, in any case, no less than twenty (20) Business Days before the Notifying Party proposes to effect the Relevant Changes. The testing shall be conducted in accordance with the testing procedures developed under **Condition 2.5.1(a)** above.

2.6 Testing failure

2.6.1 Subject to the Recipient Party having co-operated with the Notifying Party in relation to the conduct of tests under **Condition 2.5**, if such tests:

- (a) are not accepted by ten (10) Business Days prior to the date when the Notifying Party proposes to effect the Relevant Changes; or
- (b) do not provide reasonable assurance of the continued proper operation and compatibility of the Parties' respective Networks, services and procedures, the Notifying Party must postpone implementation of the Relevant Changes. The period of postponement will be for a period until a successful solution is implemented but

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such period shall not be shorter than the period necessary to allow the Parties to repeat the steps in **Conditions 2.3** to **Condition 2.5** above.

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**SECTION VII – NETWORK FACILITIES ACCESS AND CO-LOCATION**

**1. General**

1.1 **Section VII** sets out the terms and procedure for Facilities Access and co-location procedures that are applicable in relation to the provision of Facilities and/or Services.

**2. Facilities Access - General Procedures**

2.1 The Facilities Access will be for a fixed period and the period may vary depending on the type of facilities/premises provided.

2.2 The Parties may agree from time to time on such further terms of Facilities Access for different types of facilities/premises. Such terms of Facilities Access for different types of facilities will be set having regard to such matters as *inter alia*:

- (a) the reasonable life span of the Facilities or Equipment on the Access Provider's standard planning horizons;
- (b) the reasonable life span of the Access Seeker's Facilities or Equipment which it installs within or attaches to or uses in conjunction with the Facilities and/or Services to which access is provided, or the Access Seeker's standard planning horizons; and
- (c) the type of Facilities or Equipment to be deployed to the Access Seeker.

2.3 The Access Provider shall have reasonable physical access to the Access Seeker's network facilities and/or premises with respect to any Facilities and/or Services requested by the Access Seeker for the purpose of installation, commissioning, maintenance, modification, decommissioning and removal of equipment installed within, attached to, or situated in the Access Seeker's premises.

2.4 Where the Access Seeker relocates, rebuilds or replaces any premise and/or Facilities to which the Access Provider has access to during the fixed period of access, the Access Seeker will provide access to a replacement premise and/or Facilities on substantially similar terms.

**3. Network Facilities Access and Co-Location**

**3.1 Inspection and Site Survey**

3.1.1 The Access Provider shall allow nominated employees or contractors of a potential Access Seeker to physically inspect a network premise and/or facility of the Access Provider during normal business hours provided that:

- (a) the Access Seeker has provided no less than five (5) Business Days' notice of its request to perform a physical inspection and details of its nominees; and

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- (b) the nominations made by the Access Seeker are reasonable, having regard to the position of each person and the number of persons nominated.

**3.2 Physical access**

- (a) Where required to fulfil an Order for Infrastructure Sharing or for a Network Co-Location Service or for the Access Seeker to perform operations or maintenance activities, the Access Provider shall allow the Access Seeker, its nominated employees and/or contractors to physically access the Access Provider's network facilities and the Access Seeker's Equipment, and to have physical control over the Access Seeker's Equipment located such network facilities, at equivalent times and in accordance with equivalent processes and procedures as are applicable to itself.
- (b) Where access to the Access Provider's network facilities is required for emergency maintenance and repairs, the Access Seeker shall provide the Access Provider with a verbal notice on the day access is required and a facsimile confirmation within twenty four (24) hours.
- (c) Notwithstanding **Conditions 3.2(a) and 3.2(b)** above, access to the Access Provider's network facilities/premises shall at all times be subject to the terms and conditions of the respective tenancy agreement which shall be made known to the Access Seeker by the Access Provider at the time of fulfillment of an Order.

**3.2A Nominated Personnel**

The employees and/or contractors nominated by the Access Seeker under **Conditions 3.2, 3.3 and 3.4** will be reasonable, having regard to:

- (a) the position of each person and the number of persons nominated; and
- (b) the position of each of the Access Provider's own personnel and the number of the Access Provider's personnel to which the Access Provider provides physical access to such network facilities.

**3.2B Safety and Security**

**3.2B.1** Each Party shall be responsible and held accountable for all safety and security issues when carrying out any works in the other Party's premises. Each Party shall provide supervision of all such works and shall be responsible for breach of any safety and security standards when on the premises of the other Party. Each Party shall ensure that all the personnel deployed in the performance of any works at the premise of the other Party shall be fully trained and competent and perform their duties in a safe and orderly manner.

Subject to **Condition 9.6.4** under the General Terms and Conditions, each Party shall indemnify the other against all loss and damage arising out of or in connection with any breach by the other of this **Condition 3.2B.1**.

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3.3 Escorts

3.3.1 The Access Provider is only permitted to require an escort to be present when nominated employees and/or contractors of the Access Seeker wish to enter onto the Access Provider's property if the Access Provider requires an escort for its own employees and/or contractors in the same circumstances. If the Access Provider determines that it is necessary to have an escort present when the nominated employees and/or contractors of the Access Seeker wish to enter into the Access Provider's property, the Access Provider shall:

- (a) bear the costs of such escort service;
- (b) subject to **Condition 3.3.1(d)** below, provide immediate physical access to the Access Seeker for emergency maintenance requests, twenty-four (24) hours a day, seven (7) days a week;
- (c) subject to **Condition 3.3.1(d)** below, provide physical access at the time requested by the Access Seeker for planned maintenance requests on the shorter of:
  - (i) two (2) Business Days' notice for manned sites and five (5) Business Days' notice for unmanned sites; and
  - (ii) the period of notice which it requires from itself when providing itself with physical access for planned maintenance;
- (d) for both planned and emergency maintenance requests at unmanned sites only, have it escort arrive within the shorter of:
  - (i) thirty (30) minutes of time required by the Access Seeker pursuant to **Condition 3.3.1(b)** or **Condition 3.3.1(c)** above (as applicable) plus a reasonable window to allow for travel time (which must be estimated in an operations and maintenance manual given to the Access Seeker, or estimated at the time of responding to the Access Seeker's physical access request); and
  - (ii) the period of time it requires for its escorts to arrive for planned and emergency maintenance at unmanned sites.

3.4 Absence of escort

3.4.1 For the purposes of **Condition 3.2**, if an escort does not arrive at the Access Provider's property within the timeframe specified in **Condition 3.3.1** above, the Access Seeker's nominated employees and/or contractors may proceed to enter the Access Provider's property without an escort subject to the security requirements of the Access Provider and the terms and conditions of any tenancy agreement.

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3.4.2 If the tenancy agreement requires that the Access Seeker be escorted by the Access Provider in order to gain physical access to the Access Provider’s network facility, the Access Provider shall escort the Access Seeker.

3.5 Site register

3.5.1 The Access Seeker must establish and maintain a register of all persons who visit the Access Provider’s property, which must be made available for inspection by the Access Provider, upon request.

3.5.2 If the Access Seeker does not maintain or properly maintain a site register, the Access Provider may prohibit any representatives of the Access Seeker from entering the premises.

3.6 Utilities and ancillary services

3.6.1 If the Access Provider has permitted access or physical co-location at a particular location or network facilities that Access Provider must, where the relevant utilities and ancillary services are within the Access Provider’s control, ensure that all necessary utilities and ancillary services are provided to benefit from such access or co-location to the same extent that the Access Provider provides to itself, including but not limited to:

- (a) access to roads;
- (b) access to land;
- (c) power, including the provision of backup power;
- (d) environmental services (including but not limited to heat, light, ventilation and air-conditioning, fire protection);
- (e) Security, taking care to ensure that its agents, representatives or sub-contractors do not damage any Equipment, and keeping the location secure and protected from vandalism or theft; and
- (f) site maintenance.

3.7 Cost

3.7.1 The utility and ancillary costs in respect of the network facilities/premises as contemplated in this **Condition 3.6** above shall be apportioned (in accordance with fair and equitable principles) between the Access Provider and other Access Seekers at the relevant location.

3.8 Conditional supply

3.8.1 The Access Provider shall not require the Access Seeker to acquire another Service or Facility from the Access Provider as a condition of providing access to Facilities or Services to the Access Provider’s network facilities or premises under this Agreement.

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#### SECTION VIII – OPERATIONS AND MAINTENANCE

##### 1. General

1.1 Subject to **Section I of the Terms and Conditions for Technical Matters**, this **Section VIII** sets out the operations and maintenance procedures that are applicable in relation to the provision of Facilities and/or Services.

##### 2. Operations and Maintenance Obligations

###### 2.1 Operations & Maintenance Standard & Procedure

2.1.1 The Parties shall take such reasonable steps within their respective Networks to facilitate end-to-end connection of Call Communications across each other's Network in accordance with agreed operations and maintenance standards.

2.1.2 Where this Agreement and the documents referred to in **Section I of Terms and Conditions for Technical Matters** do not cover any operations and maintenance standards, the Parties may, upon mutual agreement, use ITU-T standards and or any quality standards determined by the Commission.

2.1.3 The Parties shall ensure that the operations and maintenance standards and procedures used in the respective Network do not adversely affect the operations of each other's Networks.

2.1.4 Each Party shall be responsible for the operations and maintenance of its own Facilities and/or Services and shall provide for adequate management of the operations and maintenance of its Facilities and/or Services and support systems.

2.1.5 Each Party shall on its own establish the recommended maintenance procedures for maintaining and servicing its own Facilities and/or Services.

2.1.6 Each Party shall be responsible for managing the traffic from its own Gateway to the other Party's Gateway. This includes applying Network management actions for traffic control under situations like abnormal traffic upsurge, Network instability and other abnormal traffic behaviors.

2.1.7 The Parties will take all necessary precautions to avoid causing damage to the equipment and premises of the other Party when such facilities are placed in the same co-located space.

2.1.8 The Parties will comply with the relevant national safety laws and regulations.

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#### **2.2 Fault reporting systems & fault management**

- 2.2.1 The Parties will co-operate to enable each other to meet the terms of their respective Licenses and to fulfil their obligations under this Agreement and to provide Communications Services to their Customers.
- 2.2.2 The Parties will manage their Networks to minimise disruption to Services and, in the event of interruption or failure of any Service, will restore those Services in accordance with **Table A of Condition 2.12** of this **Section VIII of Terms and Conditions for Technical Matters**.
- 2.2.3 Each Party must manage, notify and correct faults arising in its Network which affect the provision of any Communications Service by the other Party:
- (a) as it would in the ordinary course for similar faults affecting the provision of Communications Services by it;
  - (b) in accordance with the fault notification procedures and the principles of priority of repair of faults documented in this **Section VIII of Terms and Conditions for Technical Matters**.
  - (c) in accordance with any service quality standards mutually agreed and/or determined by the Commission.
- 2.2.4 Each Party will use its best endeavor to determine faults on its own Network and establish the nature of the fault by carrying out thorough tests as is of common practice in Malaysia on its Network. If such tests prove that the fault is genuine and not residing on its own Network, then the Party will report this fault to the other Party's full reporting center.

#### **2.3 Customer fault reporting service**

- 2.3.1 Each Party shall establish and maintain a fault reporting service that allows Customers who are directly connected to the Network of that Party and to whom that Party supplies services (inter alia), to report faults relating to any Network or Facilities and/or Services.
- 2.3.2 Both Parties shall maintain a twenty-four (24) hours a day, seven (7) days a week fault reporting and rectification service.
- 2.3.3 Each Party will advise all of its directly connected Customers to report all faults to its own fault reporting service described in this **Condition 2.3**.
- 2.3.4 If the fault concerns the service of the other Party, the Party may promptly inform the other Party's interconnect fault reporting centre of the reported fault.

#### **2.4 Cross-referrals**

- 2.4.1 If a Customer reports a fault to a Party:

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- (a) when the Customer is directly connected to another Party; or
- (b) which clearly relates to a Network, Facility and/or Service of another Party,

that Party which receives the report shall promptly inform the other Party of the reported fault, or refer that Customer to the other Party's fault reporting service.

**2.5 Network fault responsibility**

2.5.1 The Party in whose Network the fault occurs is responsible for rectifying it and restoring services including for the purpose of restoring the supply of Facilities and/or Services which are used in another Party's Network.

2.5.2 Each Party is responsible for the operations and maintenance of their portion of the In-Span Interconnect Link Service, alongside with any Network elements under its control and ownership.

2.5.3 Each Party will be responsible for its own fault management escalation procedures and shall offer full assistance for interconnection faults.

**2.6 Transmission service faults**

The Party that supplies transmission services is responsible for maintaining and repairing that transmission service, notwithstanding that the transmission service may be used in the other Party's Network.

**2.7 Major inter-working faults**

2.7.1 If a major fault occurs which affects a Communication that crosses or would cross both Parties Networks, initial responsibility for identifying the fault rests with the Party who first becomes aware of the fault.

2.7.2 If a Party identifies the presence of a fault, the Party shall first establish the nature of the fault. The Party shall verify that the fault does not reside in its own Equipment and/or Network, by conducting thorough tests of its Equipment and/or Network. Upon ensuring that the fault does not reside in its Equipment and/or Network, the Party shall then inform the other Party of the fault for rectification.

**2.8 Faults affecting other Networks or Equipment**

2.8.1 If a Party identifies a fault occurring in its Network or with its network facilities which may have an adverse effect on the other Party's Network, network facilities, network services or Equipment, the first-mentioned Party must promptly inform the other Party of:

- (a) the existence and nature of the fault;

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- (b) the actions being taken by the first mentioned Party to rectify the identified faults and restore the service; and
- (c) the outcome of those actions.

2.9 Bear own costs

Each Party is responsible for establishing and maintaining a fault reporting service at its own cost irrespective of the location of the fault.

2.10 Fault priority

Each Party shall give priority to faults in the following order:

- (a) the highest service loss impact in terms of the number of Customers affected;
- (b) those which have been reported on previous occasions and have re-occurred; and
- (c) all other faults.

2.11 Fault rectification

2.11.1 Each Party shall rectify faults on a non-discriminatory basis and on first come first serve basis where the priority level is the same.

2.11.2 In respect of faults relating to Interconnect traffic which crosses or would cross both Parties' Networks or faults occurring at the POI/POP, both Parties shall have joint restoration procedures to achieve the target times set out in **Table A of Condition 2.12 of this Section VIII of Terms and Conditions for Technical Matters**.

2.11.3 In undertaking service restoration in respect of interconnection, the Parties shall have regard to matters including the following:-

- (a) service restoration shall take priority over Equipment repair;
- (b) available standby capacity shall be automatically brought it and/or undertaking network management actions shall be undertaken to restore service;
- (c) performing testing to determine the nature and location of the fault in cooperation with the distant end as necessary;
- (d) immediate rectification of an identified fault, if possible;
- (e) where the source of a fault cannot be quickly identified and rectified, the Party who has identified the fault shall notify the other Party of the problem and keep that other Party informed of progress in relation to the identification and rectification of the fault;

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- (f) where the source of a fault has been identified by a Party but immediate rectification is not feasible, the Party responsible for rectification shall immediately notify the other Party of the estimated fault rectification time (based on the Party rectifying the fault using its best endeavours in view of the nature of the fault and its effect on services);
- (g) where an Party has rectified a fault on a temporary basis, that Party shall inform the other Party of this fact and provide the timeline required for permanent rectification; and
- (h) faults unresolved within stipulated target times shall be discussed at regular operation and maintenance meetings;

2.11.4 For the avoidance of doubt, any spares which are required to rectify a fault shall be provided by the Party which owns the relevant Equipment.

2.12 Target times

2.12.1 Each Party shall respond to and rectify and restore faults within the lesser of:

- (a) timeframes set out in a relevant Service Specific Obligation or if there is no such timeframe, the response timeframes, progress update frequencies and rectification timeframes set out in **Table A** below;
- (b) timeframes which will result in compliance by the affected Party with any applicable mandatory standards that apply to service availability and restoration; and
- (c) timeframes equivalent to that which the Access Provider provides to itself.

**TABLE A**

Priority Level	Fault Types (examples)	Response Timeframe	Progress Update Frequency	Rectification Timeframe
Level 1	1. Major switch outage 2. Transmission bearer total outage 3. Route blocking > 30% 4. Major signaling problem 5. Major routing issues 6. Fraudulent calls	Within one (1) hour	Every one (1) hour	Four (4) hours
Level 2	1. Minor switch outage 2. Minor routing issue 3. Minor signaling problems 4. Route blocking 10% - 30% 5. Cross line & silent calls 6. Mobile number portability issues	Within four (4) hours	Every four (4) hours	Twenty-four (24) hours

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Level 3	1. Faults affecting single or small number of Customers 2. Route blocking <10%	Within twenty-four (24) hours	Every twenty-four (24) hours	Seventy-two (72) hours
Level 4	1. Remote Congestion > 3% 2. External Technical Irregularities (ETI) > 3% 3. Other performance related issues	Within forty-eight (48) hours	Every forty-eight (48) hours	Ten (10) Business Days

**Explanatory Notes to Condition 2.12 above:**

- (a) All faults reported shall be ascribed with a “**Priority Level**” as set out in the above table for response and rectification purposes and the Parties involved shall cooperate with one another to achieve the target timeframes corresponding to the severity of the fault reported as set out in the **Table A** above.
- (b) The “**Fault Types**” listed in the **Table A** above are only examples of possible types of faults. Parties may mutually agree to categorise all faults by reference to the specified Priority Levels, Response Timeframes and Rectification Timeframes.
- (c) “**Response Timeframe**” refers to the timeframe for the Party whose Network, Facility and/or Service is faulty to respond to and appropriately attend to the fault. Response Timeframes are to be measured from either the time the fault is notified by the other Party or from the time when the Party first becomes aware of the fault, whichever is the earlier.
- (d) “**Progress Update Frequency**” refers to the frequency to update the other Party until the fault is rectified.
- (e) “**Restoration Time**” refers to the time taken by the Party to restore a faulty Network, Facility and/or Service and is determined by the period between the reporting of a fault to the relevant fault reporting centre of the Party and the rectification of the fault on a permanent or temporary basis (provided that if rectified on a temporary basis, the Party must continue attempting to achieve a permanent rectification without delay).

2.12.2 The Rectification Time shall be measured each month as “**Mean Time To Rectify**” or “**MTTR**” and means the average Rectification Time it takes to rectify a fault over a twelve (12) rolling month period. The MTTR shall be met in the following timelines:

Priority Level 1: 4 hours  
Priority Level 2: 24 hours  
Priority Level 3: 72 hours  
Priority Level 4: 10 Business Days

The MTTR shall be discussed for tracking purposes at service review meetings.

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2.12.3 The Parties shall cooperate with each other to achieve the Response Timeframe, Progress Update Frequency and Rectification Timeframe as applicable to the priority level of the reported fault.

2.13 Planned maintenance

2.13.1 If the Access Provider intends to undertake planned maintenance which may affect the Access Seeker's Network, the Maintenance Party must:

- (a) provide at least the greater of the time which it notifies its own Customers and ten (10) Business Days' notice of the planned maintenance;
- (b) use its reasonable endeavours to minimise any disruption to the carriage of Call Communications which cross or are to cross both Parties' Networks, and which are caused by the maintenance or re-routing;
- (c) where the Parties agree that it is practicable, provide alternative routing or carriage at no additional cost to the Access Seeker;
- (d) in the event that both Parties are involved in the planned maintenance activities, interconnect testing must be carried out by both Parties on completion of the planned maintenance activity to ensure no inter-working problems arise. If only one Party is involved in the planned maintenance activities, then only that Party is required to perform the interconnect testing and such testing shall be determined on a case by case basis; and
- (e) if the planned maintenance is not restored to full service within the expected duration, the additional maintenance time shall be regarded as an unplanned outage occasioned by a planned outage and the procedure for dealing with unplanned outages applies. The Party responsible for the outage shall inform the other Party of the cause of the unplanned outage.

2.14 Planned maintenance windows

The Access Provider shall undertake planned maintenance within windows of time agreed with the Access Seeker, and where the windows of time for such planned maintenance have the least effect on end-users.

2.15 Planned Emergency maintenance

2.15.1 If the Access Provider needs to undertake emergency maintenance which may affect the Access Seeker's network, the Access Provider must, if it is able to:

- (a) alert the Access Seeker of the emergency maintenance via an immediate verbal communication followed by a written notice;

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- (b) use its reasonable endeavours to minimise any disruption to the carriage of Call Communications which cross or would cross both Parties' Networks, and which are caused by the maintenance or re-routing; and
- (c) where the parties agree that it is practicable, provide alternative routing or carriage at no additional cost to the other Party.

for the purpose of this **Condition 2.15**, **Condition 2.13.1(d)-(e)** and **Condition 2.14** of this **Section VIII of Terms and Conditions for Technical Matters** shall apply.

**2.16** Interconnection Fault Reporting Centre

**2.16.1** Both Parties shall maintain a twenty-four (24) hours a day, seven (7) days a week fault reporting and rectification service.

**2.16.2** All interconnection faults must be reported to the respective fault reporting centre. Fault reports to a Party's interconnect fault reporting centre shall be acted upon promptly and shall include the exchange of:

- (a) a unique fault reference number for a fault report;
- (b) the date and time the fault was initially reported; and
- (c) the date and time the fault was informed to the other Party.

**2.17** Joint Investigation

Prolonged or recurring faults may need to be investigated by a joint engineering team consisting of representatives from the Parties. The formation of such a team does not imply that a Party's representatives have any rights of access to the other Party's premises, Equipment, documentation and other property, for the purposes of inspection.

**2.18** Complaints Handling

The Parties must report all interconnection and access outages that relate to Network, Facilities and/or Services to their respective fault reporting and rectification service.

**3. Network Monitoring and maintenance**

**3.1** Each Party is responsible for monitoring of alarms belonging to its own Network.

**3.2** The Parties shall ensure that either Party's Network which may affect either Party's traffic is subject to a Network alarm management system and monitored in a way which is consistent with the operations and maintenance procedures as agreed between the Parties.

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3.3 Routine Testing

3.3.1 The Parties shall conduct Interconnection Service tests at agreed annual intervals to ensure the maintenance of Interconnection Service at agreed service levels in accordance with the standards as agreed by both operators in this Agreement or such other standards as may be determined by the Commission. In the event that there are any abnormalities arising from the routine tests, the Party must notify the other Party within five (5) Business Days from the time of discovery of the abnormality.

3.4 Detailed Testing

3.4.1 The Parties shall conduct detailed interconnection service tests as and when required and agreed by both Parties to ensure the maintenance of interconnection service at agreed service levels in accordance to ITU-T standards and or quality standards determined by the Commission. Each Party must supply the other Party with a list of test numbers to be used for testing of the interconnect links. Such testing must be kept to a minimum and shall be conducted during traffic off-peak hours (to be determined on a case by case basis). In the event that a Party wished to conduct bulk circuit testing using automatic testers, prior agreement must first be sought from the other Party.

3.5 The Party must notify the other Party of any and all abnormal test results obtained from the interconnect link tests within five (5) Business Days from the time of discovery. Such abnormal test results may also be raised as an issue by the Party at a subsequent service review meeting.

3.6 Interconnection circuit utilization details

The Parties may, where required, exchange records of circuit utilization and call connection performance over the Point of Interface at regular intervals to ensure that service over the interface is maintained at agreed levels. Both Parties shall exchange outbound traffic utilization for critical routes at a triggering point of seventy-five per cent (75%) utilization.

3.7 Fault history

The Parties must each keep a record of fault escalations ("**Fault Escalation Record**"), which shall be retained for a period of two (2) years from the date of the faults. The Fault Escalation Record must contain details including the fault reference number, the cause of the fault, the fault report date/ time, restoration action and the corresponding restoration date/time. These records may be used to determine the performance of the Services.

**4. Quality of Service**

4.1 The Parties shall hold meetings on a monthly basis or at mutually agreed intervals to review the performance of interconnection between the Party's Network and mutually exchange operational information. In addition, the Parties shall discuss at the meetings, any other

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inter-working issues that may arise. The information provided in such reports is confidential information and subject to confidentiality obligations under this Agreement.

- 4.2 The Parties shall use best endeavors to manage their respective Networks at a level that will enable each Party to provide to their Customers Call Communications at the service qualities outlined in the Quality of Service Standard set out in the table below.

<b>Network Quality %</b>	<b>Threshold</b>	<b>Remarks</b>
<b>1.0 Successful Call</b>		
<b>1.1 Answered Call</b>		Number of calls that successfully seized a trunk group and are answered.
<b>1.2 Busy Call</b>		Number of calls that successfully seized a trunk group and are terminated after connection due to “terminating subscriber is busy”.
<b>1.3 No Answer Call</b>		Number of calls that successfully seized a trunk group and are rejected because either the called device did not answer or the Calling Party went on-hook during ringing.
	$\geq 94\%$	
<b>Call Establishment Rate</b>		
(1.1 + 1.2 + 1.3)	$\geq 85\%$	Expressed as the sum of Answered, Busy and No Answer Call that indicate the calls are successfully seize the circuits to the total of call attempt.
<b>2.0 Unsuccessful Call</b>	$\leq 6\%$	
<b>2.1 Network Congestion</b>	$\leq 3\%$	
Internal Congestion (ICONG)	$\leq 1\%$	Number of calls offered to a trunk groups that are rejected in the own switch. (Internal congestion of originating POI and interconnect route congestion that is due to insufficient capacity to support the current traffic).
External Congestion (OCONG)	$\leq 2\%$	Number of calls that, after a trunk group is seized, are rejected upon receiving a backward signal indicating far end congestion occurred within the terminating POI and the subsequent terminating Network.

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<b>Network Quality %</b>	<b>Threshold</b>	<b>Remarks</b>
<b>2.2 Network Fault</b>	$\leq 3\%$	
External Technical Irregularities/Error (ETI)	$\leq 2\%$	Calls that being successfully connected through the Network are rejected upon detection of technical irregularities or faults in the far end radio subsystem in the other Network Element.
Internal Technical Irregularities/Error (ITI)	$\leq 1\%$	Calls that being successfully connected through the Network are rejected upon detection of technical irregularities in the originating Network.

**4.3 Minimising Technical Fault Rate**

The Parties must use best endeavours to minimise the technical fault within their respective Networks. Sampling data is derived from service observations or test calls. The Parties must use best endeavours to:

- (a) achieve a Network Technical Fault rate of less than three percent (3%); and
- (b) identify and take appropriate action to reduce any Network Technical Fault within the service levels set out in the Quality of Service Standard set out above.

If both Parties are unable to identify the cause of the Network Technical Fault, both Parties must agree on a joint investigation schedule to rectify the problem.

**5. Maintenance of POI/POP**

5.1 Each Party shall be responsible for *inter alia*:

- (a) maintaining its Point of Interface Equipment located in POI/POP sites in good working condition;
- (b) maintaining the POI/POP sites in a tidy and safe condition;
- (c) ensuring that flammable material is not left in or around POI/POP sites following maintenance works or other operations;
- (d) take such other action as a reasonable prudent operator of such POI/POP equipment would take.

**6. Business Contingency Plan**

6.1 A Major Unplanned Outage is an outage which occurs in a region ("Affected Region") if:-

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- (a) the entire interconnection between the Parties in the Affected Region is interrupted (for example, because of disruptions in a transmission link or disruptions in a POI/POP switch); or
  - (b) Call Communications between the Parties' Networks cannot be established in the Affected Region; and
  - (c) the Parties anticipate that the network services are unlikely to be restored within three (3) hours of the outage.
- 6.2 The Parties acknowledge that the occurrence of a Major Unplanned Outage will have considerable impact on the Networks of the Parties. In view thereof, the Parties must agree on a contingency plan ("**Business Contingency Plan**"), which may include the rerouting of Call Communications between the Parties' Networks outside the Affected Region ("**Contingency Rerouting Plan**"). This is to partially normalise network services in the event of Major Unplanned Outages.
- 6.3 In the event of a Major Unplanned Outage and a Contingency Rerouting Plan are mutually agreed:-
- (i) the Parties must within three (3) hours of agreeing on the Contingency Rerouting Plan, implement the agreed Contingency Rerouting Plan;
  - (ii) the Parties will inform their respective billing and settlement departments on the day following the implementation of the Contingency Rerouting Plan by the Parties; and
  - (iii) the Party whose Network is the source of the outage must provide a written incident report to the other Party within two (2) Business Days of the occurrence of the outage.
- 6.4 Notwithstanding anything to the contrary in this Agreement, the Parties' obligations in the event of any Major Unplanned Outages (due to any reason whatsoever) as set out in this **Condition 6** shall not be suspended or excused on the grounds that the Major Unplanned Outage occurred due to a Force Majeure event.

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**Terms and Conditions for Technical Matters**

**Section IX**

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**SECTION IX - CHURN OBLIGATIONS**

**1. General**

1.1 **Section IX** sets out the churn obligations that are applicable in relation to the provision of Facilities and/or Services.

**2. Churn Obligations**

2.1 Where relevant, the Parties shall mutually agree on the churn obligations in accordance with the principles set out in **Section 5.15 of the MSA Determination**.

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## Terms and Conditions for Technical Matters

### Section X

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#### SECTION X – OTHER TECHNICAL MATTERS

##### 1. General

- 1.1 **Section X** sets out the other technical matters and procedures that are applicable in relation to the provision of Facilities and/or Services.

##### 2. Technical Obligations

###### 2.1 Compliance

The Parties shall adhere to the relevant guidelines issued by the Commission from time to time to the extent that they have not been expressly revoked and are not inconsistent with any technical obligations set out in the MSA Determination.

###### 2.2 Prevention of technical harm and interference

- 2.2.1 Each Party is responsible for the safe operation of its Network and must take all reasonable and necessary steps to ensure that its Network, its Network operations and implementation of the Agreement:

- (a) do not endanger the safety or health of the officers, employees, contractors, agents or Customers of the other Party; and
- (b) do not damage, interfere with or cause any deterioration in the operation or impedes or interrupts the continuous use of the other Party's Network.

- 2.2.2 Each Party must take reasonable measures to ensure that interconnection and access do not cause physical or technical harm to the other Party's Network, which measures shall be no less robust than the measures which the Party takes in respect of new facilities or Equipment incorporated into its own Network.

- 2.2.3 Each Party must comply with any applicable technical Standard adopted by the Commission under **Chapter 3 of Part VII of the Act**.

- 2.2.4 Each Party must not do anything, or knowingly permit any third person to do anything, in relation to Network, network facilities, network services or Equipment which:

- (a) cause interference; or
- (b) materially obstructs, interrupts or impedes the continuous use or operation of, the Network, network facilities, network services or Equipment of another Party.

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**Terms and Conditions for Technical Matters**

**Section X**

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2.3 Prohibition of tampering and modification

2.3.1 A Party must not modify, or take any action which would have the effect of modifying the operation of the Network of the other Party or take any action with respect to the other Party's Network without the other Party's permission.

2.4 Notice of interference and rectification

If a Party (**Notifying Party**) notifies another Party that the other Party's network facilities, network services or Equipment is causing interference to the Notifying Party's Network, network facilities, network services or Equipment:

- (a) the other Party shall rectify the situation as soon as possible, and in any case, within twenty four (24) hours of receiving notice from the Notifying Party, so that no interference is caused; or
- (b) if the other Party is not able to locate the source of the interference within twenty four (24) hours under **Condition 2.4(a)** above, the other Party shall promptly notify the Notifying Party, and both Parties shall meet as soon as possible, in any case, within twenty four (24) hours of such notice and jointly examine each other's network facilities, network services or Equipment to locate the source of the Interference.

2.5 CLI

2.5.1 For the purpose of billing reconciliation and call charge verification and other use cases, Parties will provide CLI to each other subject to CLI being forwarded to it from another Network with which its Network is interconnected subject to CLI being forwarded to it. Other use cases include prevention and investigation of spam and fraud, display to customers, emergency services and malicious call tracing.

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**Terms and Conditions for Technical Matters**

**Section X**

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2.6 Dummy CLIs

2.6.1 The Party must route a Customer's original CLI and must not translate numbers, use dummy numbers or dummy CLI, or use any means to alter numbers which may confuse or have the tendency to confuse the other Party's Network (including transit Networks) or billing systems. Where technical problems for routing or billing so demand, then use of dummy numbers shall only be permitted as agreed between the Parties.

2.7 Designation of Point of Interface

2.7.1 The Parties shall:

- (a) designate in writing the POI/POP for the handover of Interconnect Traffic destined for every Home Area and Closed Number Area; and
- (b) provide at least two (2) months prior written notice of its intention to designate a POI/POP as the point for the handover of particular Interconnect Traffic that would affect the interconnect charges payable by a Party to the other Party on any particular route. This notice period can be shortened by agreement between the Parties.

2.8 Termination of Calls to the RVA

2.8.1 In the event that a Call Communication from the Network of the Access Seeker is terminated at the RVA of the Access Provider's Network, the Access Provider shall forward the answer signal to the Access Seeker's Network on the activation of the RVA and/or the intervention of a human operator, if applicable, on the Access Provider's Network.

2.9 Re-dimensioning of Network

2.9.1 In the event that a Call Communication from the Network of the Access Seeker is not completed due to trunk congestion (which is exhibited by signaling for congestion) on the Access Provider's Network, the Access Provider shall forthwith re-dimension their Network including Interconnect Capacity and Interconnect Conditioning, as soon as possible, to enable a Call Communication from the Network of the Access Seeker to be completed on the Network of the Access Provider.

2.10 Excessive Request

2.10.1 In the event that the Access Provider receives large number of Access Requests, Forecasts and/or Orders from the Access Seeker and various other access seekers such that it is not:-

- (a) within the reasonable estimation or contemplation of the Access Provider;
- (b) reasonably practicable for the Access Provider to process the Access Requests, Forecast and/or Orders within their respective time frames as stipulated in this Agreement; and/or

**Terms and Conditions for Technical Matters**

**Section X**

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- (c) fair and equitable to process the Access Requests, Forecasts and/or Orders on a first come first served basis,

the Access Provider shall notify the Access Seeker in writing of the same. Such written notice shall specify, in sufficient details, the reasons for not being able to process the Access Requests, Forecasts and/or Orders. The Parties and/or other interested parties shall meet within five (5) Business Days or such other period to be mutually agreed to develop a process to manage the large volume of Access Requests, Forecasts and/or Orders made to ensure fair and equitable management or processing of the Access Requests, Forecasts and/or Orders received (“**Excessive Request Process**”).

- 2.10.2 Notwithstanding anything in **Condition 3 of the General Terms and Condition and Sections II and III of the Terms and Conditions for Technical Matters**, the Parties agree that, upon the occurrence of any event specified in **Condition 2.10.1**, the Access Provider shall not be bound by the time frames applicable for the management and processing of the Access Requests, Forecasts and/or Orders (as specified in **Condition 3 of the General Terms and Condition and Sections II and III of the Terms and Conditions for Technical Matters** respectively) provided that the management and processing of the same is in accordance with the Excessive Request Process.

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**Terms and Conditions for Regulated Services and/or Facilities**

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**TERMS AND CONDITIONS FOR  
REGULATED SERVICES AND/OR FACILITIES**

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**Terms and Conditions for Regulated Services and/or Facilities**

**General**

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**1. General**

- 1.1 The General Terms and Conditions and the Terms and Conditions for Technical Matters shall also apply to these Services subject to any modifications specified herein.
- 1.2 These Terms and Conditions for Regulated Facilities and/or Services must be registered with the Commission in accordance with section 150 of the Act and shall only take effect upon registration.
- 1.3 These Terms and Conditions for Regulated Facilities and/or Services comprise of:-
- (a) Part A – Service Description
  - (b) Part B – Charging Principles and Access Charges

**2. List of Regulated Services**

- 2.1 The list of Regulated Services under this document are as follows:

<b>Facilities / Services</b>	<b>Sections in Part A and B</b>
Fixed Network Termination Service	Section I
Fixed Network Origination Service	Section I
Mobile Network Termination Service	Section II
Mobile Network Origination Service	Section II
Interconnect Link Service	Section III
Infrastructure Sharing Services	Section IV
Network Co-Location Service	Section V

**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section I**

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**PART A**

**SERVICE DESCRIPTION**

**SECTION I - FIXED NETWORK ORIENTATION AND TERMINATION SERVICE**

**1. General**

1.1 This **Section I of Part A** sets out the terms and conditions which would be applicable to:

- (i) Fixed Network Origination Services and
- (ii) Fixed Network Termination Service.

unless otherwise expressly stated.

1.2 The charges and the charging principles herein are based on the Variation to Commission Determination on the Mandatory Standard on Access Pricing (Determination No.1 of 2023), Determination No.1 of 2020 until a new Mandatory Standard on Access Pricing is determined by the Commission.

**2. Scope of Service**

2.1 A Fixed Network Origination Service is an Interconnection Service provided by means of a Fixed Network for the carriage of Call Communications (excluding SMS and MMS Service Communications) from an 'A' party to POI. The Fixed Network Origination Service comprises transmission and switching, whether packet or circuit, for Fixed Network-to-Fixed Network, Fixed Network-to-Mobile Network and Fixed Network-to-international outgoing calls insofar as they relate to freephone 1800 number services, toll free 1300 number services, and other similar services which require Any-to-Any Connectivity.

The functionalities of the Fixed Network Origination Service include:

- (a) transmission and switching, whether packet or circuit; and
- (b) the signaling required to support the Interconnection Service.

Examples of technologies used in the provision of the Fixed Network Origination Service include PSTN, Integrated Services Digital Network ("ISDN"), other IP based networks and any other fixed network technology which is currently available or which may be developed in future that involves the carriage of Call Communications (excluding SMS and MMS Service Communications).

2.2 A Fixed Network Termination Service is an Interconnection Service provided by means of a Fixed Network for the carriage of Call Communications from a POI to 'B' party. The Fixed Network Termination Service comprises transmission and switching, whether packet or circuit, for Fixed Network-to-Fixed Network, Mobile Network-to-Fixed Network and incoming international-to-Fixed Network calls and messages which require Any-to-Any Connectivity.

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section I**

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The functionalities of Fixed Network Termination Service include:

- (a) transmission and switching, whether packet or circuit; and
- (b) the signaling required to support the Interconnection Service;

Examples of technologies used in provision of the Fixed Network Termination Service include PSTN, Integrated Services Digital Network (“ISDN”), other IP based networks and any other fixed network technology which is currently available or which may be developed in future that involves the carriage of Call Communications.

- 2.2 Both the Fixed Network Origination Service and the Fixed Network Termination Service are to be provided reciprocally and the obligations in respect of these Services are regarded as reciprocal.

**3. General Terms and Conditions**

- 3.1 Subject to the Interconnection Service being provided in accordance with **Section III of Part A and Part B** and the Access Seeker’s compliance with the Service Ordering Procedures, the Access Provider will provide this Interconnection Service in this **Section I of Part A** in accordance with the agreed provisioning procedures, as set out in the **Terms and Conditions for Technical Matters** and the relevant Manuals.
- 3.2 Each Party must ensure that the carriage of Call Communications by it conforms to the QoS Standards for the carriage of Call Communications in respect of which the Party has control.
- 3.3 The Access Seeker will pay the Access Provider for Interconnection Services stated in this **Section I of Part A** provided by the Access Provider, Access Charges in accordance with the applicable provisions set out in **Section I of Part B**. For avoidance of doubt, International Inbound Calls are considered as domestic Call Communications.
- 3.4 The routing and call handover principles to be applied to this type of Call Communication are set out in the relevant Manuals.
- 3.5 In the event that a Call Communication to a number (the ‘B’ party number) which is allocated to either Party is “forwarded” to either Party’s Fixed Number, the forwarded portion of the call shall be considered in all respect to be a second and separate call for the purposes of calculating any Access Charges. Any Access Charges incurred in forwarding the call from the account of the ‘B’ party number to another Fixed Number of another network, shall be to the account of the ‘B’ party or the Party to which the ‘B’ party is connected. The DTS/MSC/media gateway shall submit the ‘B’ party number to the terminating exchange and not the original ‘A’ number when the call is subjected to “call forwarding”. International call forwarding is not permitted.
- 3.6 The Parties agree that the Interconnection Services are provided by the Access Provider for the carriage of Call Communications between the Access Provider and the Access Seeker’s

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section I**

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respective Customers only. Each Party undertakes not to use the Interconnection Services obtained from the other Party to provide wholesale or hubbing services to any third parties.

3.7 The Billing Cycle for O&T Services will be monthly.

3.8 The Access Provider shall perform Network Conditioning on an equivalent basis to that which the Access Provider performs Network Conditioning for itself for the same or similar type of O&T Services.

**4. Forecasts**

4.1 For the purpose of **Condition 2.3, Section II, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall only request Forecasts where:

- (a) the maximum period of time covered by Forecasts regarding O&T Services is one (1) year;
- (b) the minimum intervals or units of time to be used in Forecasts regarding O&T Services is six (6) months; and
- (c) the maximum frequency to update or to make further Forecasts regarding O&T Services is once every six (6) months.

**5. Acknowledgement of Receipt**

5.1 For the purposes of **Condition 2.5, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall acknowledge receipt of each Order for the O&T Services within one (1) Business Day.

**6. Time for acceptance or rejection**

6.1 Subject to any shorter timeframe required under **Condition 2.12, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider must notify an Access Seeker that an Order for O&T Service is accepted or rejected within ten (10) Business Days after:

- (a) issuing the Notice of Receipt in respect of the Order, where the Access Provider did not undertake any post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement; or
- (b) providing the Access Seeker with the result of post-Order Service Qualification under **Condition 2.9, Section III, Terms and Conditions for Technical Matters** of this Agreement, where the Access Provider has undertaken post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement.

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section I**

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**7. Indicative delivery timeframe**

7.1 For the purpose of **Condition 2.13.1(a), Section III, Terms and Conditions for Technical Matters** of this Agreement, the indicative delivery timeframe for O&T Service is twenty (20) Business Days. For clarification, the indicative delivery timeframe in this **Condition 7.1** commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with **Condition 2.14, Section III, Terms and Conditions for Technical Matters** of this Agreement.

**8. Numbering**

8.1 The Parties are to comply with the obligations, operations and procedures in relation to the Fixed Numbers determined by the Number Plan promulgated by the Commission.

8.2 The Parties shall have full discretion in allocating the Fixed Numbers which have been allocated for their respective use by the Commission subject to the following conditions:

- (i) save for Telephony Service over IP numbers, every 10,000 block of numbers must be capable of reference to and restricted to one Telephone Area; and
- (ii) any allocation of Fixed Number facilitates access to and routing over the Party's Network in according with the procedures laid down in the **Term and Conditions for Technical Matters** and the Technical and Implementation Manual.

**9. Special Terms and Conditions**

9.1 Fixed Network Origination Service

9.1.1 Customer Billing and Debt

The Access Seeker shall be responsible for Customer billing, collection and bad debts in respect of the provision of Communication Services to its Customers by the Access Seeker using the Fixed Network Origination Services.

9.2 Freephone 1800 Service and Toll Free Service

9.2.1 All calls to Freephone Numbers and Toll Free Numbers of the Party providing the Services shall be handed over on a Near End Handover basis or other handover basis mutually agreed between the Parties.

9.2.2 In respect of the above mentioned Service, the Access Seeker may terminate their requirement for such service provided it serves the Access Provider with at least a three (3) months written notice provided that the notice can only be given after the expiry of three (3) months from the Effective Date.

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section I**

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9.3 Telephony Services over IP or TSoIP

- 9.3.1 The Party agrees that all calls to be terminated to TsoIP numbers shall be handed over on a Near End Handover basis and/or any other handover basis as may be mutually agreed by the Parties.

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section II**

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**PART A**

**SERVICE DESCRIPTION**

**SECTION II – MOBILE NETWORK ORIGINATION AND TERMINATION SERVICE**

**1. General**

1.1 This **Section II of Part A** sets out the terms and conditions which would be applicable to :

- (i) Mobile Network Origination Services; and
- (ii) Mobile Network Termination Service.

Unless otherwise expressly stated.

1.2 The charges and the charging principles herein are based on the Variation to Commission Determination on the Mandatory Standard on Access Pricing (Determination No.1 of 2017),

**2. Scope of Service**

2.1 A Mobile Network Origination Service is an Interconnection Service for the carriage of Call Communications from ‘A’ party to a POI(excluding SMS and MMS Service Communications) . The Mobile Network Origination Service supports Mobile Network-to-Mobile Network, Mobile Network-to-Fixed Network and Mobile Network-to-international outgoing calls insofar as they relate to freephone 1800 number services, toll free 1300 number services, and other similar services which require Any-to-Any Connectivity.

The functionalities of the Mobile Network Origination Service include:

- (a) transmission and switching, whether packet or circuit; and
- (b) the signaling required to support the Interconnection Service.

Examples of technologies used in Mobile Network Origination Service would be:

- (i) Global System for Mobile Communications (“GSM”);
- (ii) Worldwide Interoperability for Microwave Access (“WIMAX”);
- (iii) Long-Term Evolution (“LTE”);
- (iv) International Mobile Telecommunications – Advanced (“IMT-Advanced” or “LTE-Advanced”);
- (v) 5G New Radio (“5G”); and
- (vi) any other mobile technology which is currently available or which may be

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section II**

---

developed in future that involves the carriage of Call Communications (excluding SMS and MMS Service Communications).

- 2.2 A Mobile Network Termination Service is an Interconnection Service for the carriage of Call Communications from a POI to 'B' party. The Mobile Network Termination Service supports Mobile Network-to-Mobile Network, Fixed Network-to-Mobile Network, incoming international-to-Mobile Network calls and messages which require Any-to-Any Connectivity.

The functionalities of the Mobile Network Origination Service include:

- (a) transmission and switching, whether packet or circuit; and
- (b) the signaling required to support the Interconnection Service.

Examples of technologies used in Mobile Network Termination Service would be:

- (i) Global System for Mobile Communications ("GSM");
- (ii) Worldwide Interoperability for Microwave Access ("WIMAX");
- (iii) Long-Term Evolution ("LTE");
- (iv) International Mobile Telecommunications – Advanced ("IMT-Advanced" or "LTE-Advanced");
- (v) 5G; and
- (vi) any other mobile technology which is currently available or which may be developed in future that involves the carriage of Call Communications) .

- 2.3 Both the Mobile Network Origination Service and the Mobile Network Termination Service are to be provided reciprocally and the obligations in respect of these Services are regarded as reciprocal.

**3. General Terms and Conditions**

- 3.1 Subject to the Interconnection Service being provided in accordance with **Section III of Part A and B** and the Access Seeker's compliance with the Service Ordering Procedure, the Access Provider will provide this Interconnection Service in accordance with the agreed provisioning procedure, as set out in the **Terms and Conditions for Technical Matters** and the relevant Manuals.
- 3.2 Each Party must ensure that the carriage of Call Communications by it conforms to the QoS Standards for the carriage of Call Communications in respect of which the Party has control.
- 3.3 The Access Seeker shall pay to the Access Provider for the Services provided by the Access Provider stated in this **Section II of Part A**, Access Charges in accordance with the applicable provisions set out in the **Section II of Part B**.

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section II**

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- 3.4. The routing and call handover principles to be applied to this type of Call Communication is set out in the relevant Manuals.
- 3.5. A Call Communication made to or from a mobile terminal in Malaysia who is roaming from its base network in a foreign country on the network of a Party in Malaysia (“**Visited Network**”) will, as between the Parties, be treated:-
- (a) where the Call Communication is made from the mobile terminal, in all respect as if it was from a Mobile Number from which the Visited Network is the Network on which the Call Communication is originated; or
  - (b) where the Call Communication is made to the mobile terminal, in all respect as if it was to a Mobile Number from which the Visited Network is the Network on which terminating access is provided.
- 3.6. In the event that a Call Communication to a number (the 'B' party number) which is allocated to either Party is "forwarded" to either Party's Fixed Number or Mobile Number, the forwarded portion of the call shall be considered in all respect to be a second and separate call for the purposes of calculating any Access Charges. Any Access Charges incurred in forwarding the call from the original 'B' party number to another Fixed Number or Mobile Number or to another network, shall be to the account of the 'B' party or the Party to which the 'B' party is connected. For the avoidance of doubt, the international call forwarding shall be prohibited.
- 3.7. The Parties agree that the Interconnection Services are provided by the Access Provider for the carriage of Call Communications between the Access Provider and the Access Seeker's respective Customers only. Each Party undertakes not to use the Interconnection Services obtained from the other Party to provide wholesale or hubbing services to any third parties.
- 3.8. For the purpose of **Condition 5.1.1(e), General Terms and Conditions** of this Agreement, between the Parties, the Billing Period for O&T Services will be monthly.
- 4. Forecasts**
- 4.1. For the purpose of **Condition 2.3, Section II, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall only request Forecasts where:
- (a) the maximum period of time covered by Forecasts regarding O&T Services is one (1) year;
  - (b) the minimum intervals or units of time to be used in Forecast regarding O&T Services is six (6) months; and

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section II**

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- (c) the maximum frequency to update or to make further Forecasts regarding O&T Services is once every six (6) months.

**5. Acknowledgment of receipt**

- 5.1 For the purposes of **Condition 2.5, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall acknowledge receipt of each Order for the O&T Services within one (1) Business Day.

**6. Time for acceptance or rejection**

- 6.1 Subject to any shorter timeframe required under **Condition 2.12, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider must notify an Access Seeker that an Order for O&T Service is accepted or rejected within ten (10) Business Days after:

- (a) issuing the Notice of Receipt in respect of the Order, where the Access Provider did not undertake any post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement; or
- (b) providing the Access Seeker with the result of post-Order Service Qualification under **Condition 2.9, Section III, Terms and Conditions for Technical Matters** of this Agreement, where the Access Provider has undertaken post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement.

**7. Indicative delivery timeframe**

- 7.1 For the purpose of **Condition 2.13.1(a), Section III, Terms and Conditions for Technical Matters** of this Agreement, the indicative delivery timeframe for O&T Service is twenty (20) Business Days. For clarification, the indicative delivery timeframe in this **Condition 7.1** commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with **Condition 2.14, Section III, Terms and Conditions for Technical Matters** of this Agreement.

**8. Numbering**

- 8.1 The Parties are to comply with the obligations, operations and procedures in relation to the Mobile Numbers determined by the Number Plan promulgated by the Commission.
- 8.2 The Parties shall have full discretion in allocating to its Customers the Mobile Numbers which have been allocated for their respective use by the Commission subject to the following conditions:
  - (a) Each Mobile Number must be allocated in accordance with the cellular mobile Party's respective numbering plan; and

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section II**

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- (b) Each Mobile Number must be capable of reference to the Home Area.
- 8.3 The Parties shall ensure that while the MVNO who are connected to and using its Network have full discretion in allocating the Mobile Numbers which have been allocated for their use by the Commission, each such MVNO shall comply with the following conditions:
- (a) each Mobile Number must be allocated in accordance with the MVNO's numbering plan; and
- (b) each Mobile Number must be capable of reference to the Home Area.
- 9. SMS Termination Access Service**
- 9.1 The Parties shall in its usage of the SMS access comply and shall ensure that their respective Customers comply with all applicable laws Ordinance, rules and regulations applicable in Malaysia.
- 9.2 The SMS Access shall solely be provided to the Party's directly connected customers only or the directly connected Customers of the Mobile Virtual Network Operator who is connected to and utilising its Network.
- 9.3 For clarification, the Parties agree that the SMS access shall be provided for "peer to peer" SMS traffic between the Parties only. The Parties further agree that it shall not deliver and terminate SMS traffic, which are originated from message aggregators (for example E-Bay and other companies who conduct business of the same nature), unless otherwise mutually agreed in writing by the Parties.
- 9.4 The Parties shall ensure that no "Information-On-Demand" traffic (for example stock information services, directory services and other type of services) will be carried and terminated to the directly connected Customer of the other Parties, unless otherwise agreed in writing by the Parties.
- 9.5 The Parties agrees that any and all advertisement via SMS originated by the Access Seeker shall be prohibited from being sent to the Access Provider's Customers, unless otherwise agreed in writing by the Parties.
- 9.6 Without limitation to the foregoing conditions, upon receipt of sufficient notification from a Party, the other Party shall, within a reasonable time use their best efforts to ensure that their Customers shall not send SMS Communications to the other Party's Customer which are:-
- (a) unsolicited or unwelcome SMS Communications;
- (b) for any purpose against public interest, public order or national harmony;
- (c) defamatory, obscene or other unlawful material;

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section II**

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(d) in connection with the infringement of any copyright, patent, trademark, trade secret or other proprietary rights of any third party or rights of privacy, provided such notification is accompanied by a court order in respect to such infringement.

9.7 The Parties shall entitled to block, in its Network, any SMS Communication made from the other Party's Network, which does not fill the requirement set out in this Agreement.

**10. Special Terms And Conditions**

10.1 Customer Billing and Debt

The Access Seeker shall be responsible for Customer billing, collection and bad debts in respect of the provision of Communication Services to its Customers using the Mobile Network Origination Service.

10.2 Freephone 1 800 Service and Toll Free Service

10.2.1 All calls to Freephone Numbers and Toll Free Numbers of the Party providing the Services shall be handed over on a Near End Handover basis or other handover basis mutually agreed between the Parties.

10.2.2 In respect of the above mentioned Service, the Access Seeker may terminate their requirement for such service provided it serves the Access Provider with at least three (3) months written notice.

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section III**

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**PART A**

**SERVICE DESCRIPTION**

**SECTION III - INTERCONNECT LINK SERVICE**

**1. General**

1.1 This **Section III of Part A** sets out the terms and conditions which are applicable to Interconnect Link Service.

**2. Scope of Service**

2.1 The Interconnect Link Service is a Facility and/or Service which enables the connection between the network of an Access Provider and the network of the Access Seeker for the purpose of providing an Interconnection Service, including but not limited to:

- (a) The interconnection of the IP-based network of an Access Provider to the IP-based network of an Access Seeker; and
- (b) the interconnection of the Signalling System Number Seven (“SS7”) network of an Access Provider to the SS7 network of an Access Seeker at the signal transfer points. and

2.1A Interconnection of the kind described in subparagraph 2.1(a) above includes the provision of bandwidth at the following increments:

- (i) 1 Gbps
- (ii) 10Gbps; and
- (iii) Any other amount or increment of bandwidth agreed between the Access Provider and the Access Seeker.

**3. Forecasts**

3.1 For the purpose of **Condition 2.3, Section II, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall only request Forecasts where:

- (a) the maximum period of time covered by Forecasts regarding Interconnect Link Service is three (3) year;
- (b) the minimum intervals or units of time to be used in Forecasts regarding Interconnect Link Service is one (1) year; and
- (c) the maximum frequency to update or to make further Forecasts regarding Interconnect Link Service is once a year.

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section III**

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**4. Acknowledgement of receipt**

4.1 For the purposes of **Condition 2.5, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall acknowledge receipt of each Order for the Interconnect Link Service within two (2) Business Days.

**5. Time for acceptance or rejection**

5.1 Subject to any shorter timeframe required under **Condition 2.12, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider must notify an Access Seeker that an Order for the Interconnect Link Service is accepted or rejected within fifteen (15) Business Days after:

- (a) issuing the Notice of Receipt in respect of the Order, where the Access Provider did not undertake any post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement; or
- (b) providing the Access Seeker with the result of post-Order Service Qualification under **Condition 2.9, Section III, Terms and Conditions for Technical Matters** of this Agreement, where the Access Provider has undertaken post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement.

**6. Indicative delivery timeframe**

6.1 For the purpose of **Condition 2.13.1(a), Section III, Terms and Conditions for Technical Matters** of this Agreement, the indicative delivery timeframe for Interconnect Link Service is:

- a) twenty (20) Business Days if the Interconnect Link Service is requested at an existing POI between the Access Provider and the Access Seeker; or
- b) four (4) months if the Interconnect Link Service is requested at a new POI between the Access Provider and the Access Seeker.

For clarification, the indicative delivery timeframe in this **Condition 6.1** commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with **Condition 2.14, Section III, Terms and Conditions for Technical Matters** of this Agreement.

**7. Pre-Requisites For Applying For Interconnect Link Service**

7.1 The Access Provider shall not be obliged to provide to the Access Seeker Interconnect Link Service unless the Access Seeker has first applied and subscribed to:-

- (a) (i) Fixed Network Origination Service; and/or
- (ii) Fixed Network Termination Service; and/or

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- (b) (i) Mobile Network Origination Service; and/or
- (ii) Mobile Network Termination Service.

7.2 The terms and conditions pertaining to:-

- (a) (i) Fixed Network Origination Service; and/or
- (ii) Fixed Network Termination Service; and/or
- (b) (i) Mobile Network Origination Service; and/or
- (ii) Mobile Network Termination Service

as more particularly set out in **Sections I and II of Part A**, which shall apply to this **Section III of Part A** subject to the amendments and modifications contained herein.

**8. Interconnection Services**

8.1 The Access Provider will provide agreed Interconnection Service in accordance with this Agreement including the relevant provisions of **the Terms and Conditions for Technical Matters**.

8.2 Each Party shall ensure that:

- (a) its Facilities provided at each POI conform to the QoS Standards and Technical Specifications; and
- (b) the network signaling standards and interworking procedures to be used conform to the Access Provider's current practices.

8.3 The Access Seeker shall follow the standard and specification that has been established at the Access Provider Network.

8.4 The Access Seeker will pay to the Access Provider for the Interconnection Services in This **Section III of Part A** provided by the Access Provider, the Access Charges in accordance with the applicable provisions set out in **Section III of Part B**.

8.5 The minimum period for which the Access Seeker may request Interconnect Link Service is one (1) year.

**8.6 Interconnect Link Service - Generally**

- 8.6.1 (a) Each Party must provide, install, test, make operational and maintain all Facilities on its side of the POI unless otherwise agreed.
- (b) In relation to Interconnect Traffic from directly connected Customers to each Party's Network, each Party shall provide its own Interconnect Link Service to the POI.

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- (c) Any circuits installed in relation to Interconnect Link Service can be used for Interconnect Link Service and for other transmission services including Domestic Network Transmission Service and any other services as may be notified by the Parties.

**8.7 In-span Interconnection**

- 8.7.1** (a) The preferred mode of provisioning Interconnect Link Service between the Parties shall be In-span Interconnection subject to an agreement between the Parties on the location and the time of installation of the POI. Where In-span Interconnection is utilised between the Parties, each Party shall, subject to Condition 4.7.1(b) below, pay to the Other Party the Access Charges for Interconnect Conditioning Charges and In-Span Interconnection as set out in **Section III of Part B**.

- (b) For the purposes of clarification:-
  - (i) such Interconnect Conditioning Charges are only payable in respect of the Gateway;
  - (ii) no other Access Charges shall be payable in respect of such In-span Interconnect Link Service between the Parties unless otherwise agreed; and
  - (iii) In-span Interconnection shall be provided by means of optical fibre circuits except where as agreed, due to location, speed or other reasons, microwave or other methods may be used to provide the Interconnection for an Interim Period.

**8.8 Full-span Interconnect Link Service provided on behalf of the Access Seeker**

- 8.8.1** (a) Where the Access Provider provides Interconnect Link Service from its Gateway to the Access Seeker's Gateway (via the POI) for and on behalf of the Access Seeker, the Access Charges set out in **Section III of Part B** for Interconnect Link Service, which is inclusive of Interconnect Conditioning Charges for DTS or MSC or Media Gateway originating and/or terminating capacity, shall apply.
- (b) Where such Interconnect Link Service provided for and on behalf of the Access Seeker uses SS7 signaling/SIGTRAN on a particular route as agreed between the Parties, then the Access Charges, as set out in the Access Agreement, for the provision of such circuits for both incoming and outgoing traffic (two way Interconnect Link Service) is to be based on utilisation of the Interconnect Link Service on that route. For the purpose of clarification, Interconnect Link Service shall be provided on unidirectional circuits unless otherwise agreed by the Parties.
  - (c) The minimum period in which the Access Seeker may lease Interconnect Link Services is one (1) year.

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**9. Technical Terms**

9.1 Unless otherwise specified in this Agreement, an Access Seeker is responsible for providing Interconnect Link for its outgoing Interconnect Traffic from its Network to the Access Provider's Network.

9.2 The provision of additional capacity for the Interconnect Link at the POI shall be agreed once any of the following conditions are met:-

- (a) the utilization of the existing interconnect facilities reaches eighty- five percent (85%) or more; or
- (b) the demand of circuits exceeds the Forecasted circuits provided always that the demand shall be based on the reasonable assessment by the Access Seeker of its traffic pattern/flow and call pattern which is derived from information which is available to the Access Seeker.

The Parties agree that in order to have a reasonable lead time in provisioning of additional capacity for the Interconnect Link at the POI, the notification for provisioning additional capacity for the Interconnect Link shall be provided once utilization of the existing Interconnect facilities reaches seventy-five (75%).

9.3 The Parties will:

- (a) test the Interconnect Link in accordance with the agreed testing specifications;
- (b) make any adjustment to the Interconnect Link which are necessary to meet the test requirements of the specification;
- (c) provide a copy of the test results to the Access Seeker on or prior to the committed or agreed delivery dates.

9.4 On the date of the commissioning of the circuit, which is to be agreed, duly authorized representative of each Party will sign handover documentation to acknowledge that each Party has tested (or has waived testing of) the network facility of the other Party so far as is necessary to establish that Interconnection with its network had taken place properly and safely.

**10. Interconnect Support**

10.1 Incidental to the provision of related Interconnection Service, the Access Provider will provide related Interconnect Support and related operations and maintenance support subject to any agreed Access Charges.

**Terms and Conditions for Regulated Services and/or Facilities**

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**11. Installation of POI/POP**

- 11.1 (a) Subject to mutual agreement of the Parties, each Party is to assign, establish and install at least one POI/ POP for each Closed Number Area or Home Area, as the case may be, throughout the country for the delivery and acceptance of Interconnect Traffic.
- (b) Where a Party assigns, establishes and installs a POP, the Party who assigns, establishes and installs a POI/POP shall bear the costs of trunking the Interconnect Traffic to and from such POI/POP to the Closed Number Area where that Party's Gateway is located.
- (c) If and when a Party initiates a request to change the interconnection for an existing link, the requesting Party shall bear all the cost and charges needed to test and re-establish the link in accordance with **Condition 2.5.1 of Section VI of the Terms and Conditions for Technical Matters**.

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**Terms and Conditions for Regulated Services and/or Facilities**

**Part A – Section IV**

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**PART A**

**SERVICE DESCRIPTION**

**SECTION IV – INFRASTRUCTURE SHARING SERVICES**

**1. General**

1.1 This **Section IV of Part A** sets out the terms and conditions which are applicable to Infrastructure Sharing.

**2. Scope of service**

2.1 Infrastructure Sharing:

- (a) Infrastructure Sharing is a Facility and/or Service which comprises the following:
  - (i) provision of physical access, which refers to the provision of space (including rooftop space) at specified network facilities to enable an Access Seeker to install and maintain its own equipment; or
  - (ii) provision of access to in-building Common Antenna Systems and physical access to central equipment room.
- (b) Specified network facilities include towers and Associated Tower Sites.
- (c) Physical access includes power, environmental services (such as heat, light, ventilation and air-conditioning), security, site maintenance and access for the personnel of the Access Seeker.
- (d) Provision of space at Associated Tower Sites include space where the Access Seeker may place its cabin or outdoor equipment and space required for cable gantry connecting to the tower and generator set.

**3. Forecasts**

3.1 For the purpose of **Condition 2.3, Section II, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall only request Forecasts where:

- (a) the maximum period of time covered by Forecasts regarding Infrastructure Sharing is one (1) year;
- (b) the minimum intervals or units of time to be used in Forecasts regarding Infrastructure Sharing is one (1) year; and
- (c) the maximum frequency to update or to make further Forecasts regarding Infrastructure Sharing is once a year.

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**4. Acknowledgment of receipt**

4.1 For the purposes of **Condition 2.5, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall acknowledge receipt of each Order for the Infrastructure Sharing within two (2) Business Days.

**5. Time for acceptance or rejection**

5.1 Subject to any shorter timeframe required under **Condition 2.12, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider must notify an Access Seeker that an Order for the Infrastructure Sharing is accepted or rejected within ten (10) Business Days after:

- (a) issuing the Notice of Receipt in respect of the Order, where the Access Provider did not undertake any post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement; or
- (b) providing the Access Seeker with the result of post-Order Service Qualification under **Condition 2.9, Section III, Terms and Conditions for Technical Matters** of this Agreement, where the Access Provider has undertaken post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement.

**6. Indicative delivery timeframe**

6.1 For the purpose of **Condition 2.13.1(a), Section III, Terms and Conditions for Technical Matters** of this Agreement, unless mutually agreed by the Access Seeker and the Access Provider, the indicative delivery timeframe for Infrastructure Sharing is

- (a) for ground-based towers and new sites, ninety (90) Business Days; and
- (b) for Common Antenna Systems in High Priority Areas:
  - (i) which are existing Common Antenna Systems, forty (40) Business Days; and
  - (ii) which are new Common Antenna Systems, one hundred and twenty (120) Business Days;
- (c) for fixed telecommunications poles, ten (10) Business Days; and
- (d) for all other structures (including street furniture), forty (40) Business Days.

6.2

For clarification, the indicative delivery timeframe in this **Subsection 6.1** commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with **Condition 2.14, Section III, Terms and Conditions for Technical Matters** of this Agreement. The Access Provider shall provide progress updates of the site delivery to An Access Seeker on a monthly basis.

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**7. Billing Cycle**

7.1 The Billing Cycle for Infrastructure Sharing will be one (1) year in advance for the first year and quarterly in advance for subsequent years.

**8. Pre-Requisites for Applying for Infrastructure Sharing**

8.1 The Access Provider shall not be obliged to provide to the Access Seeker Infrastructure Sharing, unless:

(a) the Access Provider:

(i) is the legal owner of the Designated Tower and the land on which the Designated Tower resides or has exclusive rights of use of the land (save in respect of portions of the land which has been sub-tenanted or sub-leased) pursuant to a lease or tenancy agreement on which the Designated Tower resides and the Access Provider has been granted approval by the owner or landlord of said land to permit the Access Seeker to use the said land in accordance with the terms herein contained; or

(ii) is the legal owner of the in-building CAS and has exclusive rights for the use of the CER or the Access Seeker has been granted the approval by the building management to use the CER or any other space for the purpose of installing and maintaining the Access Seeker's equipment.

(b) the Access Seeker has the appropriate license under the Act and its subsidiary legislation to operate the service for the purpose for which the equipment is to be installed and other approvals from relevant authorities, where required;

(c) the Access Seeker has first obtained the approval from a third party to use its tower where the tower structure of the third party resides in the Access Provider's compound; and

(d) there is sufficient space and in the case of in-building CAS, the Access Seeker is to seek alternative space from the building management if the existing CER is insufficient and cannot be expanded.

**9. Infrastructure Sharing**

9.1 The Access Provider agrees to provide Infrastructure Sharing at the designated tower or associated tower sites ("**Designated Tower or Associated Tower Sites**") or in-building CAS or CER to the Access Seeker in accordance with the terms of this Agreement including the relevant **Terms and Conditions for Technical Matters** and the terms and conditions of this **Section IV**.

9.2 Where third party towers are located on the Access Provider's premises, Infrastructure Sharing by the Access Provider shall be limited to providing support services at Associated Tower Sites only.

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9.3 The list of the Designated Tower and Associated Tower Sites and / or in-building CAS or CER owned or managed by the Access Provider may be obtained from the Access Provider upon written request.

9.4 The Access Seeker shall pay to the Access Provider for Infrastructure Sharing Service stated in this **Section IV of Part A** provided by the Access Provider, Charges in accordance with the applicable provisions set out in **Section IV of Part B** of this Agreement.

**10. Duration of Infrastructure Sharing**

10.1 Infrastructure Sharing at a Designated Tower or Associated Tower Site or CAS and/or CER, agreed between the Parties, shall be for a fixed period of three (3) years unless a lesser period is stipulated by the Access Provider (where the Access Provider's right to use the land on which the Designated Tower or Associated Tower Site is located or the Access Provider's right to use the building space is less than three (3) years) and may be further renewed subject to the mutual agreement of the Parties. The Access Seeker shall within six (6) months prior to the expiry of the term of the Infrastructure Sharing at the Designated Tower or Associated Tower Sites or CAS, notify the Access Provider in writing as to whether or not it wishes to renew the term of the Infrastructure Sharing.

10.2 The term of the Infrastructure Sharing shall commence on the date ("**Start Date**"):

(a) the Access Provider provides physical access to the shared space ("**Shared Space**") at the Designated Tower or Associated Tower Site or CAS and/or CER in accordance with the agreed specifications and the Access Provider has notified the Access Seeker in writing of the same; or

(b) the Access Seeker takes physical possession of the Shared Space at the Designated Tower or Associated Tower Site or CAS and/or CER,

whichever is the earlier.

10.3 Access Seeker shall, together with the request made for Infrastructure Sharing pay a non-refundable processing fee of RM300 per site to the Access Provider for processing such request.

**11. Access Seeker's Obligations**

**11.1 Utilities**

11.1.1 The Access Seeker shall be responsible to apply for its own individual meter and power supply to the Shared Space and shall be further responsible for and bear the cost of all electricity utilised by the Access Seeker at the Shared Space.

11.1.2 In the event that the Access Seeker's application to the relevant authority for an individual meter is not successful, the Access Seeker may:

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- (a) subject to the Access Provider’s prior written approval, utilise the electricity supplied to the Access Provider at that premises provided that:
- (i) the Access Provider is of the opinion that the electricity power load is sufficient to be shared with the Access Seeker and other access seekers within its tower or associated tower site; and
  - (ii) the Access Seeker reimburse the Access Provider for all electricity charges utilised (and any additional charges for back-up power) by the Access Seeker at the Shared Space, the charges of which are set out in **Section IV of Part B**; or
- (b) where the Access Provider is not able to provide the electricity supply to the Access Seeker, the Access Seeker shall be entitled to bring and install its own generator at the Shared Space only at the Designated Tower or Associated Tower Site.

**11.2 To Permit the Access Provider to Enter and View Condition**

Where the Shared Space at the Designated Tower or Associated Tower site is in an enclosed or secured area, the Access Seeker shall permit the Access Provider and his agents, servants and contractors, to enter the Shared Space at all reasonable times and upon giving five (5) Business Days’ written notice for the purpose of viewing the state and condition thereof or for any other reasonable purpose. The Parties agree however, that in an emergency, the Access Provider may, upon the provision of an advance verbal notice, be entitled to enter the said Secured Shared Space and take reasonable actions as the circumstances dictate to address the emergency situation but shall subsequently notify the Access Seeker within twenty four (24) hours from the giving of the verbal notice, in writing. The Access Seeker shall have the option to provide an escort to the Access Provider, at its own cost, but the Access Provider shall not be prevented from entering if the escort fails to be present.

**11.3 Use of Shared Space**

**11.3.1** The Access Seeker shall only use the Shared Space for the sole purpose of providing communication services and shall not do or permit to be done any act or thing which is illegal or may become a nuisance or give reasonable cause for complaint from the owner or owners of adjacent buildings or any of the other access seekers at the site.

**11.3.2** If the Access Seeker has not complied with **Condition 11.3.1** above, the Access Seeker shall take the necessary rectification or remedial action to address any legitimate complaints made by the Access Provider or the affected owners or other access seekers in the Designated Tower or Associated Tower Site.

**11.3.3** The Access Seeker’s right to use the Shared Space and the right of access does not entitle the Access Seeker to any proprietary rights or interest whether under statute, common law, equity or any theory of law in any building, land, fixture, other structure or in or to the Designated Tower or Associated Tower Sites at CAS save for the Access Seeker’s own equipment and materials.

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11.3.4 Where the Designated Tower or Associated Tower Sites is owned or controlled by a third party (“**Infrastructure Site Owner**”) and the Access Provider’s use of the Designated Tower or Associated Tower Sites is pursuant to a licence, tenancy or lease (“**Infrastructure Site Owner’s Lease**”), the Access Provider shall be under no obligation to seek any renewal of the term of the licence, tenancy or lease. The Access Seeker agrees that it shall not seek a licence, tenancy or lease to the Designated Tower or Associated Tower Sites from the Infrastructure Site Owner unless the Access Provider signifies in writing that it is no longer interested in the use of the Designated Tower or Associated Tower Sites or the Infrastructure Site Owner advertises or makes or takes any action to indicate that the Designated Tower or Associated Tower Sites is up for tenancy or lease to the best available offer.

11.3.5 Notwithstanding anything to the contrary herein, the Access Provider shall as soon as reasonably practicable give notice to the Access Seeker if the infrastructure site owner’s lease is terminated or will be terminated or if the Access Provider’s right to use a Designated Tower or Associated Tower Site otherwise comes to an end or if the provision of the Infrastructure Sharing or communication service relating to the Designated Tower or Associated Tower Site is disrupted as a result of any action, direction or determination by the landlord of the said Designated Tower or Associated Tower Site, the Access Provider or any other party (including government and regulatory authorities) prior to the expiry of the tenancy or lease.

11.4 Storage

11.4.1 The Access Seeker shall not permit to be kept on the Shared Space or any part thereof:

- (a) any materials the storage of which may contravene any applicable ordinance, statute, regulation or by-law;
- (b) any materials the storage of which an increased rate of insurance is usually required save for the Access Seeker’s Equipment which conforms to industry standards; or
- (c) any substance which by nature is explosive, combustible or radioactive.

11.4.2 The Access Seeker may store fuel for its generator sets kept in the Shared Space provided that there is sufficient space for its safe storage and the amount of fuel does not exceed that stored by the Access Provider for its own usage at the same Shared Space.

11.5 Increase in Premium

11.5.1 The Access Seeker shall not do or permit to be done anything (save for the equipment of the Access Seeker which are required or otherwise ancillary to the operation of the Access Seeker) which would render the insurance policy or policies with respect to the Access Provider’s Designated Tower or Associated Tower Site on which the Shared Space is located void or voidable or whereby the premium of the said policy or policies may be increased. In the event of an increase in premium or other expenses on renewal of such policy of policies

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due to a breach or non-observance of this Condition by the Access Seeker, the Access Seeker undertakes to repay all sums paid by the Access Provider including the expenses incurred thereto.

**11.6 Repairs**

11.6.1 In the event of any damage caused to the Shared Space by the Access Seeker, the Access Seeker shall, at its own cost and expense, restore and forthwith make good within a reasonable time, any replacement and /or repair (fair wear and tear excepted) as specified in the notice in writing given by the Access Provider to the Access Seeker. Where applicable, the Access Provider may specify therein all necessary replacements and/or repairs to be effected to the plant, facilities and equipment to be effected as may be commensurate with the extent of the damage caused by the Access Seeker.

11.6.2 If the Access Seeker fails to effect the replacements and/or repairs within the time period stipulated in the notice (which period must be a reasonable time), the Access Provider may, whether or not together with its workmen, enter the Shared Space and make all necessary replacements and/or repairs to the plant, facilities and equipment. The costs for all such necessary replacements and/or repairs shall be a debt due from the Access Seeker and shall be recoverable by the Access Provider save where the replacements and/or repairs were due to the natural failure of the structure or due to the Access Provider.

**11.7 Tenantable Condition**

11.7.1 The Access Seeker shall keep the Shared Space and the interior thereof including the flooring and interior plaster or other surface material or rendering on walls or ceilings and the Access Provider's fixtures thereon including doors, windows, glass shutters, locks, fastenings, electric wires, installations and fittings for electricity supply and other fixtures and additions and other goods therein including the items specifically attached thereto, if any, in good and tenantable repair and condition (reasonable wear and tear excepted).

**11.8 Consents, Licences and Approvals**

11.8.1 The Access Seeker shall be fully responsible to obtain applicable consents, permits, approvals and licenses from third parties and governmental authorities or agencies to carry out/provide its communications services at the Shared Space including operating and using all equipments, systems, cables, links and devices.

11.8.2 The Access Seeker shall further observe and comply with applicable laws, by-laws, rules and regulations affecting the Access Seeker which are now in force or which may hereafter be enacted.

11.8.3 The Access Seeker shall further observe and perform and cause all its employees, independent contractors, agents or invitees to observe and perform all rules and regulations made by the Access Provider (and which rules and regulations equally apply to all access seekers) from time to time and notified to the Access Seeker in writing Provided Always that the Access Provider shall not be liable to the Access Seeker in any way for violation of the

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rules and regulations by any person including the Access Seeker or its employees, independent contractors, agents or invitees. Notwithstanding the aforesaid, the Access Provider shall be responsible for its own actions.

**11.9 Installation of Equipment**

**11.9.1** The Access Seeker shall ensure that all equipment, system or devices on the Shared Space shall:

- (a) be type-approved and comply with all relevant laws and regulations;
- (b) not cause any frequency interference to the Access Provider's and/or any other access seekers' equipment or services provided in or around the Shared Space. Where the Access Seeker's equipment causes frequency interference to the Access Provider's and/or other access seekers' equipment or services provided in or around the Shared Space, the Access Seeker shall immediately (and in any event no longer than 24 hours) take all such necessary steps to stop any such interference; and/or
- (c) be electromagnetically compatible in accordance with the prescribed standards and shall not cause electromagnetic interference to the Access Provider's and/or any other access seekers' equipment or services provided in or around the Shared Space. Where the Access Seeker's equipment causes electromagnetic interference to the Access Provider and/or other access seekers' equipment or services provided in or around the Shared Space, the Access Seeker shall immediately (and in any event no longer than 24 hours) upon receipt of a written notification take all such necessary steps to stop any such interference.

**11.9.2** In the event that:

- (a) the Access Seeker fails to fulfil its obligations under **Condition 11.9.1** above; or
- (b) the Equipment, system or devices of the Access Seeker is or poses an imminent threat or danger to:
  - (i) the public health as declared by the government or manufacturer of the Equipment or system or device; or
  - (ii) public safety; or
  - (iii) the Access Provider and/or other access seeker's facilities, Equipment, device or system,

the Access Provider may direct the Access Seeker to take such remedial action as may be necessary to remedy such breaches including temporary shutting down of the Equipment, system or devices.

**11.9.3** The Access Seeker shall only be permitted to install its Equipment, system and/or devices (which shall include Equipment, system and/or devices licensed or leased or hired) on the

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Shared Space for the provision of its Communications Service and shall not be permitted to install any other operator's equipment, system and/or devices on the Shared Space without the prior written approval of the Access Provider.

11.9.4 The Access Seeker shall not damage, tamper, modify, alter or handle any Equipment, system or devices belonging to the Access Provider or any other access seeker in the POI site and/or the Shared Space without the prior written approval of the Access Provider and/or the other access seeker.

11.9.5 The Access Seeker shall be responsible for insuring its Equipment and shall purchase the necessary insurances when carrying out any works including installation works on the Access Provider's Designated Tower or Associated Tower Sites. In particular, the Access Seeker shall obtain or procure an Erection All Risks insurance, whereby the Access Provider is a named insured (whether solely or jointly) in the insurance policy, against all risks of physical loss or damage to the Access Provider's Designated Tower or Associated Tower Sites including all plants, equipment and material incidental thereto for the duration of the works, the amount of such insurance to be reasonably agreed on a case-by-case basis.

11.10 Installation of Electrical Points and Plumbing Connection

11.10.1 The Access Seeker shall only install any electrical sockets, plugs or electrical power points or electrical motor or engine or appliances or make any additional plumbing connections on or to the Shared Space where mutually agreed upon at the time of acceptance of the Order of the Access Seeker or the building management where the CAS resides, as the case may be..

11.11 Safety and Health and Security Procedures

11.11.1 The Access Seeker and Access Provider shall comply with the provisions and requirements of the Occupational Safety and Health Act 1994 ("OSHA"). These provisions include the usage of personal protective equipment such as safety helmet, safety boots, safety goggles and other safety gadgets as prescribed by OSHA.

11.11.2 The Access Seeker shall exercise due care in the execution of their work so as to minimise the occurrence of accidents and are required to report any incidents including but not limited to accidents as a result of their works to the Access Provider within twenty four (24) hours from the time of the occurrence.

11.11.3 The Access Seeker shall comply and cause its employees, agents and contractors to comply with all guidelines, rules and regulations issued by the Access Provider (and which guidelines, rules and regulations equally apply to all access seekers) from time to time on site access and security procedures with respect to access to and use of the Shared Space. Further, the Access Seeker shall take reasonable measures to ensure that there is no unauthorised entry to the Shared Space.

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**11.12 Sub-letting and Assignment**

11.12.1 The Access Seeker shall not sub-let, assign or part with the possession of the Shared Space without the prior written approval of the Access Provider. Where the Access Provider allows the Access Seeker to sub-let the Shared Space, the Access Seeker shall be fully responsible for the acts and omission of its sub-lessee and shall ensure that its sub-lessee complies with all the Access Seeker's obligations with respect to the Shared Space under this Agreement.

**12. The Access Provider's Obligations**

**12.1 Exclusive Possession**

12.1.1 The Access Seeker recognises that it does not have exclusive possession of the Shared Space since the Access Provider occupies the Shared Space and may sub-let or intend to sub-let the Shared Space to other parties. However, the Access Provider agrees that it shall not tamper or handle any or interfere with equipment, system or devices belonging to the Access Seeker at the Shared Space for the duration of the Infrastructure Sharing unless an emergency situation arises and immediate notice has been given to the Access Seeker.

**12.2 Payment of Quit Rents, Rates and Taxes**

12.2.1 The Access Provider will pay all quit rents, rates including local council fees (save for utilities), taxes, assessments which are or may hereafter be charged upon the Designated Tower or Associated Tower or CAS and/or CER. Any increase in quit rent, assessment, taxes or rates from the relevant Start Date of the Infrastructure Sharing shall be borne by the Access Provider and all access seekers in proportion to their usage of space.

**12.3 The Access Provider's Covenant**

12.3.1 The Access Seeker acknowledges and agrees that it is using the Shared Space at its own risk as the Access Provider does not warrant or represent that it has obtained all the necessary authorisation, approvals or permits from the relevant authorities (including the Federal and State Government) to erect the infrastructure on the Designated Tower or Associated Tower Site in which the Shared Space has been rented to the Access Seeker or use to occupy the land on which the said Designated Tower or Associated Tower Site is located. The Access Provider shall, upon request of the Access Seeker, inform the Access Seeker if specific approvals or permits have been obtained in respect of a particular Designated Tower or Associated Tower Site.

12.3.2 In the event that:

- (a) the Access Provider is required by the relevant authorities (whether directly or through a directive to the owner/landlord of the land) to dismantle the infrastructure and/or network facilities ; or
- (b) any governmental or State authority or owner/landlord of the land on which the Designated Tower resides or the building management where the CAS resides,

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requires the Access Provider to vacate the land (on which the Designated Tower resides) or the building (where the CAS resides) for whatsoever reason,

such that the Access Seeker is not able to install its equipment, system or devices thereon or to provide its communication services in the Shared Space, the Access Seeker and/or the Access Provider may, notwithstanding the minimum term, terminate the Infrastructure Sharing at Shared Space without liability. Any advance payment will be refunded on a pro-rated basis. The Parties agree that the remedies set out in this **Condition 12.3** shall be the only remedy against the Access Provider. Neither Party shall be liable to the other Party for any damages, costs and/or expenses including but not limited to the costs of dismantling and removing the other Party's equipment, system or devices. However, the Access Provider will use its best endeavours to offer the Access Seeker other suitable Designated Tower or Associated Tower Sites, if available.

- 12.3.3** Where the Access Provider is required by any governmental authority or agency or any state backed company to sell or dispose of the Designated Tower to the governmental authority or its nominated person or entity, the Access Provider will use its endeavours (but does not guarantee that it will be able) to sell the Designated Tower subject to any existing rights of the Access Seeker to use the Shared Space on the Designated Tower. However, where the third party purchaser requires that the Access Seeker vacate the Shared Space prior to the sale of the Designated Tower, the Access Seeker shall dismantle its equipment, system and devices and vacate the Shared Space prior to the sale of the said Designated Tower to the third party. Any advance payment will be refunded on a pro-rated basis within sixty (60) days from the notice to dismantle, failing which interest at the rates specified in **Condition 5.2.4** of the **General Terms and Conditions** shall apply. The Parties agree that the remedies set out in this **Condition 12.3** shall be the only remedy against the Access Provider and the Access Provider shall not be liable to the Access Seeker for any damages, costs and/or expenses including the costs of dismantling and removing the Access Seeker's Equipment, system or devices.

**13. Vacating the Shared Space**

13.1 The Access Seeker shall on the expiration or termination of the Infrastructure Sharing at each Shared Space, at its own cost and expense, remove all its Equipment, system and devices which may have been installed by the Access Seeker and to peaceably and quietly yield up the Shared Space to the Access Provider with all the Access Provider's fixtures and additions thereto in good and tenable repair and condition (fair wear and tear excepted) in accordance with the covenants herein contained.

13.2 The Access Seeker shall be given:

- (a) a grace period of ten (10) Business Days effective from the expiry or termination of the Infrastructure Sharing at the Shared Space; or
- (b) where the Designated Tower or the CAS is to be dismantled or the Access Provider is to vacate the land (on which the Designated Tower resides) or the building (where the CAS resides) in accordance with **Conditions 12.3.2 and 12.3.3** above as notified

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by the Access Provider, such reasonable grace period as may be specified by the Access Provider taking into consideration the time lines provided by the relevant authorities (including any extension obtained from the relevant authorities) or the owner of the land / landlord to the Access Provider to dismantle relevant infrastructure and/or network facilities or to vacate the said land or building provided always that the Access Seeker must vacate the Shared Space earlier than the stipulated time line provided to the Access Provider to enable the Access Provider to comply with the requisite time lines,

to vacate the Shared Space, during which no monthly rental will be charged by the Access Provider. Should the equipment, system or devices not be removed within the grace period stated in **Condition 13.2(a)**, the Access Provider shall have the right to:

- (i) charge for the use of the Shared Space at the rate of two (2) times the current rental or the cost of reinstatement as debt due and payable; and
- (ii) Without any liability to the Access Seeker, dispose of the Equipment, system or devices in such manner as the Access Provider deems fit with a one (1) month's written notice. If the Access Seeker fails to settle any debt due, the Access Provider shall have a lien on the Equipment, system or devices and is entitled to retain such Equipment, system or devices or to sell the equipment system or devices at a commercially reasonable price in such manner as it deems fit for payment of any such debt and the cost of sale shall be borne by the Access Seeker. The Access Provider shall be entitled to set off the proceeds from the sale of the Equipment, system or devices against any and all debts due by the Access Seeker to the Access Provider.

**14. Maintenance and rectification:**

An Access Provider shall:

- (a) ensure that it maintains in reasonable working condition all fixed telecommunications poles which comprise specified network facilities (as that term is used in the description of the Infrastructure Sharing Service), subject to paragraph 15 (b); and
- (b) on notice by an Access Seeker, or upon otherwise becoming aware, that any fixed telecommunications pole does not comply with paragraph 15(a), perform within forty (40) Business Days such activities as required to rectify such non-compliance.

**Terms and Conditions for Regulated Services and/or Facilities****Part A – Section IV****15. Service Assurance Targets for Infrastructure Target:**

Security	Service Definition	Fault Type (including but not limited)	Response Time	Progress Update Frequency	Temporary Restoration Time	Rectification Time	Incident Report (RCA) Issuance
Level 1	Hub Sites (a site with more than 5 child sites)	<ul style="list-style-type: none"> <li>Outage caused by fault of AC power supply system provided by Access Provider</li> <li>Outage caused by power issue at landlord/building</li> <li>Outage caused by CME Issues</li> <li>Outage due to flooding</li> </ul>	1 hour	Every 1 hour	4 hours	48 hours	48 hours
Level 2	End Sites (Site that is not a Hub Site)	<ul style="list-style-type: none"> <li>Outage caused by fault of AC power supply system provided by Access Provider</li> <li>Outage caused by power issue at landlord/building</li> <li>Outage caused by CME Issues</li> <li>Outage due to flooding</li> </ul>	1 hour	Every 2 hours	4 hours	7 Business Days	5 Business Days
Level 3	No Service Affecting Fault	Issues related to power system asset belonging to Access Provider, landlord/building site access or CME Issues	1 hour	Every 24 hours	24 hours	14 Business Days	N/A

- (I) All faults reported shall be ascribed with a Severity Level set out above and Parties shall cooperate with one another to achieve Rectification Times based on the severity of the fault reported.
- (II) "Progress Update Frequency" means the frequency at which the Access Seeker may call the Access Provider for restoring the fault to obtain a verbal or written progress update.
- (III) "Response Time" refers to the time for the Access Provider to respond to the fault and is measured from the time the fault is reported by the Access Seeker to the Access Provider.
- (IV) "Rectification Time" refers to the time for the Access Provider to rectify a fault and is determined by the period the reporting of a fault by the Access Seeker to the Access Provider and the rectification of the fault on a permanent basis.
- (V) "Temporary Restoration Time" refers to the time for the Access Provider to temporarily rectify a fault and is determined by the period between the reporting of a fault by the Access Seeker to the Access Provider and the rectification of the fault on a temporary basis.

**16. Grounds for refusal**

In addition to the grounds for refusal in subsection 3.5.1 of this Agreement, an Access Provider may, based on reasonable safety and security reasons, refuse an Order Request to fixed telecommunication poles being utilised for critical government services, including in connection with government agencies, the military or the police.

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**17. Capacity Allocation Policy**

In addition to subsection 2.32 of this Agreement, the Access Provider's Capacity Allocation Policy for Infrastructure Sharing Services shall set out the principles to be applied on an equivalent basis between itself and other Access Seekers, where:

- (a) the Access Provider has already taken steps to optimise space by using the current available technology, including removing any unused cables;
- (b) the Access Provider shall determine the available space only after considering:
  - (i) the requirements for Infrastructure Sharing Services for the Access Provider's then existing maintenance purpose;
  - (ii) the reservation of the Infrastructure Sharing Service for future use by the Access Provider or another Access Seeker, applicable on an equivalent basis for six (6) months, upon receipt of an Order; and
  - (iii) the structural integrity of the infrastructure to safely accommodate additional capacity; and
- (c) the allocation of available space shall be:
  - (i) on a first-come, first-served basis;
  - (ii) applicable to reserved capacity that is not used by either the Access Provider or an Access Seeker within the seven (7) months from the date of the Order; and
  - (iii) to the extent possible, based on efficient allocation principles to minimise space wastage.

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**Terms and Conditions for Regulated Services and/or Facilities**

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**PART A**

**SERVICE DESCRIPTION**

**SECTION V – NETWORK CO-LOCATION SERVICE**

**1. General**

- 1.1 This **Section V of Part A** sets out the terms and conditions which are applicable to Network Co-location Service, and shall be read together with **Section V of Part B**.

**2 Network Co-Location Services**

- 2.1 The Network Co-Location Service is a Facility and/or Service which comprises:

- (a) Physical Co-Location, which refers to the provision of space at an Access Provider's premises to enable the Access Seeker to install and maintain equipment necessary for the provision of the Access Seeker's services through the Facilities and/or Services of any Party. Physical Co-Location includes physical space, power, environmental services (such as heat, light, ventilation and air-conditioning), security, site maintenance and access for the personnel of the Access Seeker;
- (b) virtual co-location, which refers to the provision of Facilities or Services at an Access Provider's premises to enable the acquisition by the Access Seeker of Facilities and Services in this Agreement, where equipment is owned and maintained by the Access Provider; or
- (c) in-span interconnection, which is the provision of a POI at an agreed point on a physical cable linking an Access Provider's network facilities to an Access Seeker's network facilities.

- 2.3 Network premises at which co-location is to be provided includes switching sites, submarine cable landing centres, earth stations, exchange buildings, other Customer Access Modules including roadside cabinets, any location where a main distribution frame is housed and such other network facilities locations associated with the provision of a Facility or Service in this Agreement

**3. General Terms and Conditions**

- 3.1 Network Co-Location at a Designated Site, agreed between the Parties, shall be for a fixed period of three (3) years unless a lesser period is stipulated by the Access Provider (where the Access Provider's right to use the Designated Site is less than three (3) years) and may be further renewed subject to the mutual agreement of the Parties. The Access Seeker shall within six (6) months prior to the expiry of the term of the Network Co-Location at the Designated Site notify the Access Provider in writing as to whether or not it wishes to renew the term of the Network Co-Location at the Designated Site. If the Access Seeker notifies the

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Access Provider that it wishes to renew the term of the Network Co-Location at a Designated Site but the Access Provider's lease or tenancy to use the land on which the Designated Site expires upon or will expire in the renewed term, the Access Provider shall, within one (1) month from the date of receipt of the Access Seeker written notice, inform the Access Seeker as to its intention whether to renew or not its lease or tenancy of the said land.

3.2 The term of the Network Co-Location shall commence on the date ("**Commencement Date**"):

- (a) the Access Provider makes available for physical possession the co-located space at the Designated Site ("**Co-Located Space**") in accordance with the agreed specifications and the Access Provider has notified the Access Seeker in writing of the same; or
- (b) the Access Seeker takes physical possession of the Co-located Space at the Designated Site,

whichever is the earlier.

3.3 The Access Provider agrees to provide Network Co-Location Service to the Access Seeker in accordance with the terms of this Agreement including the relevant **Terms and Conditions for Technical Matters** and the terms and conditions of this **Section V**.

3.4 The Access Seeker shall pay to the Access Provider for Network Co-Location Service stated in this **Section V of Part A** provided by the Access Provider, Charges in accordance with the applicable provisions set out in **Section V of Part B**.

**4. Forecasts**

4.1 For the purpose of **Condition 2.3, Section II, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall only request Forecasts where:

- (a) the maximum period of time covered by Forecasts regarding Network Co-Location Service is one (1) year;
- (b) the minimum intervals or units of time to be used in Forecasts regarding Network Co-Location Service is one (1) year; and
- (c) the maximum frequency to update or to make further Forecasts regarding Network Co-Location Service is once a year.

**5. Acknowledgement of receipt**

5.1 For the purposes of **Condition 2.5, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider shall acknowledge receipt of each Order for the Network Co-Location Service within two (2) Business Days.

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**6. Time for acceptance or rejection**

6.1 Subject to any shorter timeframe required under **Condition 2.12, Section III, Terms and Conditions for Technical Matters** of this Agreement, the Access Provider must notify an Access Seeker that an Order for the Network Co-Location Service is accepted or rejected within ten (10) Business Days after:

- (a) issuing the Notice of Receipt in respect of the Order, where the Access Provider did not undertake any post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement; or
- (b) providing the Access Seeker with the result of post-Order Service Qualification under **Condition 2.9, Section III, Terms and Conditions for Technical Matters** of this Agreement, where the Access Provider has undertaken post-Order Service Qualification for that Order under **Condition 2.8, Section III, Terms and Conditions for Technical Matters** of this Agreement.

**7. Indicative delivery timeframe**

7.1 For the purpose of **Condition 2.13.1(a), Section III, Terms and Conditions for Technical Matters** of this Agreement, the indicative delivery timeframe for Network Co-Location Service is twenty (20) Business Days. For clarification, the indicative delivery timeframe in this **Condition 7.1** commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with **Condition 2.14, Section III, Terms and Conditions for Technical Matters** of this Agreement.

**8. Billing Cycle**

8.1 The Billing Cycle for Network Co-Location Services will be one (1) year in advance for the first year and quarterly in advance for subsequent years.

**9. Pre-requisites for applying Network Co-Location Services**

9.1 General Pre-requisites for Network Co-Location

9.1.1 The Access Provider shall not be obliged to provide to the Access Provider Network Co- Location at the designated sites ("**Designated Sites**") unless:

- (a) the Access Provider:
  - (i) Is the legal owner of the Designated Site; or
  - (ii) has exclusive rights of use of the Designated Sites pursuant to a lease or tenancy agreement and the Access Provider has been granted the requisite approval by the owner or landlord of Designated Sites to permit the Access Seeker to use space for Physical Co-Location in accordance with the terms herein contained.

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- (b) Access Seeker has the appropriate license under the Act and its subsidiary legislation to operate the service for the purpose for which the equipment is to be installed and other approvals from relevant authority, where required;
- (c) there being sufficient space at the Designated Sites; and
- (d) that it is not technically infeasible to implement Network Co-Location at the Designated site.

9.1.2 The list of the Designated Sites may be obtained from the Access Provider upon written request.

**10. Publication of co-location locations and provision of co-location by Access Provider**

- (a) Subject to **Condition 25** below, the Access Provider shall publish on its publicly accessible website and keep updated a list of the general locations and technically feasible points at which physical co-location is available;
- (b) Subject to **Condition 12** below, where required due to physical constraints, Access Provider should jointly agree with Access Seeker as to which Access Seeker should be given the right to physically co-locate at each POI and each network facility and such access shall be granted on a non-discriminatory basis; and
- (c) The Access Seeker shall be granted either physical co-location, virtual co-location or in-span interconnection as requested by Access Seeker.

**11. Deemed Access Provider**

**11.1** If the Access Seeker (referred to in this **Condition 11.1** as the “**Deemed Access Provider**”) obtains physical co-location at a POI or network facility from the Access Provider (referred to in this **Condition 11.1** as the “**Principle Access Provider**”), and the Principle Access Provider is unable to provide virtual co-location or in-span interconnection as required in **Condition 10 (c)** above, it shall be deemed to be the Access Provider for the purposes of this **Section IV**. The Deemed Access Provider shall be required to permit access to Access Seekers following the same procedures for permitting access as those required to be followed by the Principle Access Provider. Within two (2) Business Days of reaching a co-location agreement with the Access Seeker, the Deemed Access Provider must notify the Principle Access Provider of the existence of the agreement and the identity of the Access Seeker, and must ensure that the Access Seeker complies with relevant co-location obligations contained in this **Section IV**. The Deemed Access Provider shall be responsible to the Principle Access Provider for all acts and omissions of any Access Seekers in connection with providing access to Facilities and/or Services under its co-location agreement.

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**12. Lack of space**

12.1 Subject to **Condition 13** below, if there are space constraints at a particular location, the Access Provider shall take reasonable steps to optimise its usage of the space, including through the upgrading of facilities and/or transferring Equipment to an alternative location subject to the cost being borne by the Access Seeker. If the Access Provider used its best efforts to accommodate all Access Seekers, and it is not physically possible for any further Access Seekers to be accommodated, the Access Provider shall:

- (a) notify the Commission of the lack of space at the location;
- (b) provide any supplementary information which may be requested by the Commission (which may include physical inspections by the Commission); and
- (c) be excused from providing physical co-location at that location unless and until the Commission considers that physical co-location can and must be provided, in which case the Access Provider shall provide physical co-location as directed by the Commission.

**13. Reservation of space**

13.1 The Access Provider shall not reserve space other than for its own current needs, its future needs, [calculated by use of a reasonably projected rate of growth over two (2) years] and the needs of other Access Seekers who are currently occupying or have ordered space from the Access Provider.

**14. Allocation of space**

14.1 The Access Provider shall allocate space at each location where co-location is to be permitted in a non-discriminatory way and will treat other access seekers as it treats itself.

**15. No minimum space requirement**

15.1 The Access Provider shall not impose minimum space requirement on the Access Seeker.

**16. Notice of refusal**

16.1 If the Access Provider proposes to refuse, or refuses a request for physical co-location from the Access Seeker on the basis of current or future needs of the Access Provider and/or the needs of other Access Seekers who are currently occupying or have ordered additional space from the Access Provider, it must also notify the Access Seeker and the Commission of:

- (a) the space currently used by the Access Provider;
- (b) the amount of space reserved for the Access Provider's future needs;

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- (c) the space currently occupied by other Access Seekers;
- (d) the space ordered by other Access Seekers; and
- (e) the total amount of space potentially available but for the uses set out above.

**17. Preparatory work by the Access Seeker**

17.1 If preparatory work is necessary for the purposes of allowing the Access Seeker to obtain access to an Access Provider's network facilities/premises, such Access Provider shall permit the Access Seeker's employees or contractors to perform such preparatory work if the Access Seeker satisfies the Access Provider (acting reasonably and in accordance with the policy referred to in this **Condition 17.1**) that such employees or contractors have the necessary qualifications. The Access Provider shall publish and make available a policy about the necessary qualifications applicable to employees and/or contractors who will be permitted to perform preparatory work under this **Condition 17.1**, and such policy to be non-discriminatory in its application to the Access Provider's personnel and the Access Seeker's employees and/or contractors who perform similar functions.

17.2 If the Parties agree that the Access Provider shall carry out the preparatory work on behalf of the Access Seeker, then the Access Provider shall undertake the preparatory work and the Access Seeker shall furnish all necessary and sufficient co-operation to the Access Provider to complete the preparatory work. The Access Seeker agrees to pay the Access Provider for undertaking the preparatory work.

**18. Preparatory work by the Access Provider**

18.1 If the Access Provider agrees to perform preparatory work and does so on the basis of an estimated charge (e.g. based on a time and materials basis):

- (a) the Access Provider shall not exceed the estimate without providing the Access Seeker with prior written notice that:
  - (i) the estimate will likely be exceeded; and
  - (ii) a further estimate of the charges for the work necessary to complete the preparatory work;
- (b) the Access Provider shall permit the Access Seeker to withdraw the request for preparatory work without penalty if the revised estimate exceeds the original estimate by more than ten percent (10%) of the original estimate.

18.2 Notwithstanding **Condition 18.1** above, where the actual cost incurred by the Access Provider exceeds an estimate or revised estimate for a specific scope of works provided by the Access Provider due to information or facts which are inaccurate or erroneous, or which were not disclosed or provided by the Access Seeker, or due to a change in the scope of

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work by the Access Seeker, the Access Seeker shall be obliged to pay the Access Provider for the actual cost incurred.

**19. Delays**

19.1 If the Access Provider agrees to perform preparatory work and the Access Provider is or is likely to be unable to perform such work within the agreed timeframe, the Access Provider shall:

- (a) notify the relevant Access Seeker of the delay to a delivery date, together with the reasons for the delay, as soon as practicable after the Access Provider becomes aware of the possible delay;
- (b) permit the Access Seeker notified under **Condition 19.1(a)** above to cancel the preparatory work without penalty if the delay is longer than ten (10) Business Days; and
- (c) compensate the Access Seeker for the costs it has incurred as a result of delay, subject to the Access Seeker using reasonable endeavours to mitigate those costs.

**20. Security caging**

20.1 The Access Provider shall not require the use of cages or similar structures to physically segregate co-located Equipment, or Equipment to be located at or on network facilities of the Access Provider.

**21. Equipment allowance**

21.1 The Access Provider shall permit the Access Seeker to locate Equipment on or at the Access Provider's network facilities which is necessary for the purposes of obtaining the benefit of access to the Facilities and/or Services provided in accordance with this Access Agreement, including but not limited to multi-functional Equipment which may also be used for purposes other those specified in this **Condition 21.1**.

**22. Marking**

22.1 The Parties will mark or label their Equipment, wires, cables, batteries and distribution boards in such a manner that they can be easily identified as the Equipment of the Party. At all times, during the Access Seeker's tenancy, it is the responsibility of the Access Seeker to ensure that the marking and labeling is done with reasonable quality.

**23. Maintenance**

23.1 The Access Provider shall permit, and do all the things reasonably necessary to allow the Access Seeker to maintain its Equipment at or on the network facilities/premises to which access has been granted under **Condition 3.2, Section VII of Terms and Conditions for Technical Matters** in this Access Agreement.

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**24. Extensions**

24.1 The Access Provider shall reasonably permit the Access Seeker, at the Access Seeker's cost, to extend network facilities of the Access Provider as may reasonably be required to meet the Access Seeker's requirements in the circumstances and to the extent technically feasible.

**25. Security and critical national information infrastructure:**

25.1 The Access Provider may decline to publish information in connection with particular Points of Interface and other locations where Facilities are located, for national or operational security reasons, but in such circumstances, the Access Provider shall:

- (a) promptly provide such information to other parties on request, subject only to the Parties entering into a confidentiality agreement in accordance with this Standard;
- (b) offer to provide, and if the offer is accepted, provide, updated location details to such Parties as Points of Interface and Facilities are withdrawn, introduced and changed; and
- (c) provide all such information to the Commission and, on a six (6) monthly basis, the locations at which the Access Provider is offering to supply Network Co-Location Service, the locations at which Access Seekers have requested Network Co-Location Service and the locations at which the Access Provider is actively supplying Network Co-Location Service.

25.2 The Access Provider may establish reasonable security procedures and processes (such as identity checks) to apply to personnel of Access Seekers who will physically access Points of Interface or other locations where Facilities are located. However, such procedures and processes shall:

- (a) not completely or substantially prohibit an Access Seeker from physically accessing a Point of Interface or other relevant location unless the Access Provider has been directed in writing to do so by the Government (in which case, the Access Provider shall notify the Commission); and
- (b) be no more restrictive or onerous than the procedures and processes that the Access Provider imposes on its own personnel who physically access the same Points of Interface and locations.

**26. Specific Terms and Conditions for Physical Co-Location**

**26.1 Use of Co-Located Space**

26.1.1 The Access Seeker shall only use the Co-Located Space for the sole purpose of providing Communication Services and shall not do or permit to be done any act or thing which is illegal or may become a nuisance or give reasonable cause for complaint by the owner or

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any of the other access seekers in the Access Provider's Designated Site or any other buildings adjoining the Designated Site.

26.1.2 If the Access Seeker has not complied with **Condition 26.1.1**, the Access Seeker shall take the necessary rectification or remedial action to address any complaints made by the Access Provider or other access seekers in the Designated Site.

26.1.3 The Access Seeker's right to use the Co-Located Space and the right of access does not entitle the Access Seeker to any proprietary rights or interest whether under statute, common law, equity or any theory of law in any building, land, fixture, other structure or in or to the Designated Site.

26.1.4 Where the Designated Site is owned or controlled by a third party ("**Site Owner**") and the Access Provider's use of the Designated Site is pursuant to a licence, tenancy or lease, the Access Provider shall be under no obligation to seek any renewal of the term of the licence, tenancy or lease. The Access Seeker agrees that it shall not seek a licence, tenancy or lease to the Designated Sites from the Site Owner unless the Access Provider signifies in writing that it is no longer interested in the use of the Designated Sites or the Site Owner advertises or makes or takes any action to indicate that the Designated Site is up for tenancy or lease to the best available offer.

26.2 Storage

26.2.1 The Access Seeker shall not permit to be kept on the Co-Located Space or any part thereof:

- (a) any materials the storage of which may contravene any ordinance, statute, regulation or by-law;
- (b) any materials the storage of which an increased rate of insurance is usually required;  
or
- (c) any explosive, combustible or radioactive substances.

26.2.2 The Access Seeker may store fuel for its generator sets kept in the Co-Located Space provided that there is sufficient space for its safe storage and the amount of fuel does not exceed that stored by the Access Provider for its own usage at the same Co-Located Space.

26.3 Increase in Premium

26.3.1 The Access Seeker shall not do or permit to be done anything which would render the insurance policy or policies with respect to the Access Provider's Designated Site on which the Co-Located Space is located void or voidable or whereby the premium of the said policy or policies may be increased. In the event of an increase in premium or other expenses on renewal of such policy or policies due to a breach or non-observance of this condition by the Access Seeker, the Access Seeker undertakes to repay all sums paid by the Access Provider including the expenses incurred thereto.

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26.4 Repairs

26.4.1 In the event of any damage caused to the Co-Located Space by the Access Seeker, the Access Seeker shall, at its own cost and expense, restore and to forthwith make good any damage to the original state and condition (fair wear and tear excepted) as specified in the notice in writing given by the Access Provider to the Access Seeker specifying therein all necessary replacements and/or repairs to be effected to the building, plant, facilities and equipment.

26.4.2 If the Access Seeker fails to effect the replacements and/or repairs within the time period stipulated in the notice (which period must be a reasonable time), the Access Provider may, whether or not together with its workmen, enter the Co-Located Space and make all necessary replacements and/or repairs to the building, plant, facilities and equipment. The costs for all such necessary replacements and/or repairs shall be a debt due from the Access Seeker and shall be recoverable by the Access Provider save where the replacements and/or repairs were due to the natural failure of the structure or due to the Access Provider.

26.5 Tenantable Condition

26.5.1 The Access Seeker shall keep the Co-Located Space and the interior thereof including the flooring and interior plaster or other surface material or rendering on walls or ceilings and the Access Provider's fixtures thereon including doors, window, glass shutters, locks, fastenings, electric wires, installations and fittings for electricity supply and other fixtures and additions and other goods therein including the items specifically attached thereto, if any, in good and tenantable repair and condition (reasonable wear and tear excepted).

26.6 Consents, Licences and Approvals

26.6.1 The Access Seeker shall be fully responsible to obtain all necessary consents, permits, approvals and licenses from third parties and governmental authorities or agencies to carry out/provide its Communications Services at the Co-Located Space including operating and using all equipments, systems, cables, links and devices.

26.6.2 The Access Seeker shall further observe and comply with all laws, by-laws, rules and regulations affecting the Access Seeker which are now in force or which may hereafter be enacted.

26.6.3 The Access Seeker shall further observe and perform and cause all its employees, independent contractors, agents or invitees to observe and perform all rules and regulations made by the Access Provider (and which rules and regulations equally apply to all access seekers) from time to time and notified to the Access Seeker in writing Provided Always that the Access Provider shall not be liable to the Access Seeker in any way for violation of the rules and regulations by any person including the Access Seeker or its employees, independent contractors, agents or invitees save where the Access Provider has been negligent.

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26.7 Payment of Quit Rents, Rates and Taxes

26.7.1 The Access Provider will pay all quit rents, rates (save for utilities), taxes, assessments which are or may hereafter be charged upon the Co-Located Space. Any increase in quit rent, assessment, taxes or rates on the Co-Located Space from the Commencement Date of the Network Co-Location shall be borne by the Access Provider and all access seekers in proportion to their usage of space.

26.8 The Access Provider's Covenant

**26.8.1** Where the infrastructure at the Designated Sites were erected on or before 30 June 2003 and at the time being are undergoing the process of being regularised under the Nationwide Rationalisation Exercise launched in 2003, the Access Provider does not warrant or represent that it has obtained all the necessary authorization, approvals or permits from the relevant authorities (including Federal and State Government) to erect the infrastructure on those Designated Sites in which the Co-Located Space has been rented to the Access Seeker or use or occupy the land on those Designated Sites.

26.8.2 In the event that:

- (a) the Access Provider is required by the relevant authorities to dismantle the infrastructure on the Designated Site; or
- (b) any governmental or State authority or owner/landlord of the Designated Sites, requires the Access Provider to vacate the Designated Site for whatsoever reason,

such that the Access Seeker is not able to:

- (i) install or utilise the Equipment, system or devices thereon; or
- (ii) provide its Communication Services at the Designated Site,

the Access Seeker and/or the Access Provider may, notwithstanding the minimum term, terminate the Network Co-Location at Co-Located Space without liability. Any advance payment will be refunded on a pro-rated basis. The Parties agree that the remedies set out in this **Condition 26.8** shall be the only remedy against the Access Provider and the Access Provider shall not be liable to the Access Seeker for any damages, costs and/or expenses including the costs of dismantling and removing the Access Seeker's Equipment, system or devices. However, the Access Provider will use its reasonable endeavours to offer the Access Seeker other suitable Designated Sites.

26.8.3 Where the Access Provider is required by any governmental authority or agency or any state backed company to sell or dispose the Designated Site to the governmental authority or its nominated person or entity, the Access Provider will use its endeavours (but does not guarantee that it will be able) to sell the Designated Site subject to any existing rights of the Access Seeker to use the Co-Located Space on the Designated Site. However, where the

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third party purchaser requires that the Access Seeker vacate the Co-Located Space prior to the sale of the Designated Site, the Access Seeker shall dismantle its Equipment, system and devices and vacate the Co-Located Space prior to the sale of the said Designated Site to the third party. Any advance payment will be refunded on a pro-rated basis within sixty (60) days from the notice to dismantle, failing which interest at the rates specified in **Condition 5.2.4 of the General Terms and Conditions** shall apply. The Parties agree that the Access Seeker and/or the Access Provider may, notwithstanding the minimum term, terminate the Network Co-Location at the Co-Located Space without liability. The Parties agree that the remedies set out in this **Condition 26.8.3** shall be the only remedy against the Access Provider and the Access Provider shall not be liable to the Access Seeker for any damages, costs and/or expenses including the costs of dismantling and removing the Access Seeker's equipment, system or devices except for damage to the Access Seeker's Equipment, system or devices caused by the Access Provider.

26.9 Utilities

26.9.1 The Access Seeker shall be responsible to apply for its own individual meter and power supply to the Co-Located Space and shall be further responsible for and bear the cost of all electricity utilised by the Access Seeker at the Co-Located Space.

26.9.2 In the event that the Access Seeker's application to the relevant authority for an individual meter is not successful, the Access Seeker may:

- (a) subject to the Access Provider's prior written approval, utilise the electricity supplied to the Access Provider at that premises provided that:
  - (i) the Access Provider is of the opinion that the electricity power load is sufficient to be shared with the Access Seeker and other access seekers within its Designated Site; and
  - (ii) the Access Seeker reimburse the Access Provider for all electricity charges utilised (and any other additional charges for back-up power) by the Access Seeker at the Co-Located Space, the charges of which are set out in the Charges and Charging Principles in **Section V of Part B**; or
- (b) where the Access Provider is not able to provide the electricity supply to the Access Seeker, the Access Seeker shall be entitled to bring and install its own generator at the Co-Located Space at the Designated Site.

26.10 To Permit the Access Provider to Enter and View Condition

26.10.1 Where the Co-Located Space is an enclosed or secured area, the Access Seeker shall permit the Access Provider and his agents, servants and contractors, to enter the Co-Located Space at all reasonable times and upon giving five (5) days' written notice for the purpose of viewing the state and condition thereof or for any other reasonable purpose. The Parties agree however, that in an emergency, the Access Provider may first enter the Co-Located

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Space but shall subsequently notify the Access Seeker within twenty four (24) hours. The Access Seeker shall have the option to provide an escort to the Access Provider, at its own cost, but the Access Provider shall not be prevented from entering if the escort fails to be present.

**26.11 Installation of Equipment**

**26.11.1** The Access Seeker shall ensure that all Equipment, system or devices on the Co-Located Space shall:

- (a) be type-approved and comply with all relevant laws and regulations;
- (b) not cause any frequency interference to the Access Provider's and/or any of the other access seekers' equipment or services provided in or around the Co-Located Space.; and/or
- (c) be electromagnetically compatible in accordance with the prescribed standards and shall not cause electromagnetic interference to the Access Provider's and/or any of the other access seekers' equipment or services provided in or around the Co-Located Space; and/or
- (d) not be connected to any equipment belonging to the Access Provider unless mutually agreed upon at the time of acceptance of the Order from the Access Seeker.

For the purposes of **Condition 26.11.1 (b) and (c)**, the Parties agree that where the Access Seeker's Equipment causes frequency interference or electromagnetic interference to the Access Provider and/or other access seekers' equipment or services provided in or around the Co-Located Space, the Access Provider shall provide immediate verbal notification followed by a written notice within 24 hours to the Access Seeker. The Access Seeker shall immediately (and in any event no longer than 24 hours) upon receipt of the verbal notification take all such necessary steps to stop any such interference.

**26.11.2** In the event that:

- (a) the Access Seeker fails to fulfil its obligations under **Condition 26.11.1** above; or
- (b) the Equipment, system or devices of the Access Seeker is or poses a threat or danger to:
  - (i) the public health as declared by the government or manufacturer of the equipment or system or device; or
  - (ii) public safety; or

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- (iii) the Access Provider and/or other access seeker's facilities, equipment, device or system,

the Access Provider may direct the Access Seeker to take such remedial action as may be necessary to remedy such breaches including temporary shutting down of the equipment, system or devices.

26.11.3 The Access Seeker shall only be permitted to install its Equipment (which shall include equipment, system and/or devices licensed or leased or hired) on the Co-Located Space for the provision of its Communications Services and shall not be permitted to install any other operator's equipment, system and/or devices on the Co-Located Space without the prior written approval of the Access Provider.

26.11.4 The Access Seeker shall not damage, tamper, modify, alter or handle any Equipment, system or devices belonging to the Access Provider or any other access seeker in the Designated Site and/or the Co-Located Space without the prior written approval of the Access Provider and/or the other access seeker.

26.11.5 The Access Seeker is responsible for insuring its Equipment and shall purchase the necessary insurances when carrying out any works including installation works on the Access Provider's Designated Site. In particular, the Access Seeker shall obtain or procure an Erection All Risks insurance against all risks of physical loss or damage to the Access Seeker's work whereby the Access Provider is a named insured (either solely or jointly) in the insurance policy for the duration of the works and the insurance shall be in the amount which is sufficient to insure the full value of the works carried out by the Access Seeker.

26.12 Installation of Electrical Points and Plumbing Connection

26.12.1 The Access Seeker shall not install any electrical sockets, plugs or electrical power points or electrical motor or engine or appliances or make any additional plumbing connections on or to the Co-Located Space without the prior written consent of the Access Provider.

26.13 Installation Works

26.13.1 The Access Seeker shall submit the installation and work plan which shall include installation and works schedule and work methods to the Access Provider and obtain the Access Provider's written approval prior to undertaking the installation or upgrading or any equipment in the Designated Sites or site preparation works.

26.13.2 Where required by the Access Provider, the Access Seeker shall secure certification by an independent consultant engineer that the installation or upgrading of its equipment in the Designated Sites or site preparation works undertaken and completed comply with the terms of all approvals, authorisation, permits, consents and clearances and the installation plans submitted to the Access Provider.

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- 26.13.3 Any revision to or revocations of the approvals, authorisations, consents, permits, clearances and installation plans shall be notified to the Access Provider. All revision to the installation plans must be approved in writing by the Access Provider.
- 26.13.4 No work shall be undertaken by the Access Seeker at a Designated Sites, in the event, the approvals, consents, permits, authorisations and clearances are revoked.
- 26.13.5 The Access Provider shall be entitled at any time to visit and inspect the installation works and the site preparation works.
- 26.13.6 Upon completion of the installation works and site preparation works, the Access Seeker shall inform the Access Provider.
- 26.13.7 The Access Provider shall be entitled to conduct an inspection of the Designated Sites to verify that the installation of equipment at the Designated Sites and completion of the site preparation works comply with the approved installation and work plan. In the event there is any non-compliance by the Access Seeker, the Access Seeker shall commence and complete rectification works within ten (10) Business Days failing which the Access Provider shall be entitled to terminate the licence granted herein.
- 26.13.8 All connections of the Access Seeker's equipment to the Facilities of the Access Provider shall be carried out by the Access Provider and the Access Seeker shall pay the reasonable cost incurred by the Access Provider.
- 26.14 Safety and Health and Security Procedures
- 26.14.1 The Access Seeker shall comply with the provisions and requirements of the Occupational Safety and Health Act 1994 ("OSHA"). These provisions include the usage of personal protective equipment such as safety helmet, safety boots, safety goggles and other safety gadgets as prescribed by OSHA.
- 26.14.2 The Access Seeker shall exercise due care in the execution of their work so as to prevent accidents and are required to report any incidents including but not limited to accidents as a result of their works to the Access Provider within twenty four (24) hours from the time of the occurrence.
- 26.14.3 The Access Seeker shall comply and cause its employees, agents and contractors to comply with all guidelines, rules and regulations issued by the Access Provider (and which rules and regulations equally apply to all access seekers) from time to time on site access and security procedures with respect to access to and use of the Co-Located Space. Further, the Access Seeker shall undertake all such necessary measures to ensure the security of its Co-Located Space prevents unauthorised access to the Co-Located Space.

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26.15 Exclusive Possession

26.15.1 The Access Seeker recognises that it does not have exclusive possession of the Co-Located Space since the Access Provider occupies the Co-Located Space and may sub-let or intends to sub-let the Co-Located Space to other parties. However, the Access Provider agrees that it shall not tamper, or handle any or interfere with equipment, system or devices belonging to the Access Seeker at the Co-Located Space for the duration of the Physical Co-Location unless an emergency situation arises and immediate notice has been given to the Access Seeker.

26.16 Vacating the Co-Located Space

26.16.1 The Access Seeker shall on the expiration or termination of the Physical Co-Location at each Co-Located Space, at its own cost and expense, remove all its equipment, system and devices which may have been installed by the Access Seeker and to peaceably and quietly yield up the Co-Located Space to the Access Provider with all the Access Provider's fixtures and additions thereto in good and tenantable repair and condition (fair wear and tear excepted) in accordance with the covenants herein contained.

26.16.2 The Access Seeker shall be given:

- (a) a grace period of ten (10) Business Days effective from the expiry or termination of the Physical Co-Location at the Co-Located Space; or
- (b) where the infrastructure on the Designated Site is to be dismantled or the Access Provider is to vacate the Designated Site in accordance with **Condition 26.8**, such reasonable grace period as may be specified by the Access Provider taking into consideration the time lines provided by the relevant authorities (including any extension obtained from the relevant authorities) or the owner of the land / landlord to the Access Provider to dismantle the infrastructure or to vacate the Designated Site provided always that the Access Seeker must vacate the Co-Located Space earlier than the stipulated time line provided to the Access Provider to enable the Access Provider to comply with the requisite time lines,

to vacate the Co-Located Space, during which no monthly rental will be charged by the Access Provider. Should the equipment, system or devices not be removed within the grace period as stated in **Condition 26.16.2(a)**, the Access Provider shall have the right to:

- (i) charge for the use of the Co-Located Space at the rate of two (2) times the current rental or the cost of reinstatement as debt due and payable; and
- (ii) without any liability to the Access Seeker, dispose of the equipment, system or devices in such manner as the Access Provider deems fit with a one (1) month's written notice. If the Access Seeker fails to settle any debt due, the Access Provider shall have a lien on the equipment, system or devices and is entitled to retain such equipment, system or devices or to sell the equipment, system or devices at a

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commercially reasonable price in such manner as it deems fit for payment of any such debt and the cost of sale shall be borne by the Access Seeker. The Access Provider shall be entitled to set off the proceeds from the sale of the equipment, system or devices against any and all debts due by the Access Seeker to the Access Provider.

**27. Specific Terms and Conditions for Virtual Co-Location**

- 27.1 Virtual Co-Location at a Designated Site shall be subject to the availability of the equipment which the Access Seeker is requesting the Access Provider to own and maintain on its behalf.
- 27.2 The terms of Virtual Co-Location at a Designated shall be subject to terms and conditions (including the Charges thereof) to be mutually agreed on a case by case basis.

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**Terms and Conditions for Regulated Services and/or Facilities****Part B – Section I****PART B****CHARGES AND CHARGING PRINCIPLES****SECTION I – FIXED NETWORK ORIGINATION AND TERMINATION SERVICE****1. General**

1.1 This **Section I of Part B** sets out the charges and the charging principles which would be applicable to:

- (i) Fixed Network Origination Services and
- (ii) Fixed Network Termination Service

unless otherwise expressly stated.

1.2 The charges and the charging principles herein are based on Variation to Commission Determination on the Mandatory Standard on Access Pricing (Determination No.1 of 2023), until a new Mandatory Standard on Access Pricing is determined by the Commission.

**2. Charges and Charging Principles**

2.1 Fixed Network Origination Services and Fixed Network Termination Services supplied by the Access Provider will, where applicable, be subject to the Access Charges listed in **Table A** below and shall be applied for carriage of voice Call Communications (including facsimile) only. For the purposes of clarification, all other Fixed Network Origination Service and Fixed Network Termination Service not listed in **Table A** below are negotiated charges.

**TABLE A: CHARGES FOR FIXED NETWORK ORIGINATION AND TERMINATION SERVICES**

<b>Interconnect Chargeable Calls: (a) Fixed Network Origination Service</b>			
<b>Type of Charge</b>	<b>Sen per minute, 24 hour weighted average</b>		
	<b>2023</b>	<b>2024</b>	<b>2025</b>
National	1.24	1.16	1.03
<b>Interconnect Chargeable Calls: (b) Fixed Network Termination Service</b>			
<b>Type of Charge</b>	<b>Sen per minute, 24 hour weighted average</b>		
	<b>2023</b>	<b>2024</b>	<b>2025</b>
National	1.24	1.16	1.03

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- 2.2.1 The agreed time units for calculating the Charges for Fixed Network Origination Service and Fixed Network Termination Service, on a call by call basis, for all types of Call Communications are set out in **Table B** below.

**TABLE B: TIME UNIT FOR CALL COMMUNICATIONS**

Type of call	Time Units for Charging (On call by call basis)
All voice Calls involving a Fixed Component	One (1) second or part thereof.

where the charging unit is smaller than a minute, the rate for each unit shall be expressed in 6 decimal points for RM and 4 decimal points for sen for the purposes of calculating the Charges.

**2.3 Charges and Charging Principles for Freephone 1 800 Service and Toll Free Service****2.3.1 Freephone 1 800 Service****2.3.1.1 Fixed Numbers**

For calls from a Party's Fixed Numbers to the Freephone Numbers of the Party providing the Freephone 1 800 Service:

- (a) where the call is from a Party's Fixed Number, the Party may charge the other Party (who is providing the Freephone 1 800 Service) the Fixed Number Origination National charge as set out in **Table A of Part B of Section I**;
- (b) where the call is from a Party's TSOIP Number, that the Party may charge the other Party (who is providing the Freephone 1 800 Service) the Fixed Network Origination Service National charges as set out in **Table A of Part B of Section I**.

The Party providing the Freephone 1 800 Service shall not charge the other Party any termination charge for call destined to its Freephone Numbers.

**2.3.2 Toll Free Services****2.3.2.1 Fixed Numbers**

For calls from a Party's Fixed Numbers to the Toll Free Numbers of the Party providing the Toll Free Service:

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- (a) where the call is from a Party's PSTN Fixed Number, the Party will:-
  - (i) retain the local call charge levied on its originating PSTN Fixed Number; and
  - (ii) charge the other Party (who is providing the Toll Free Service) the Fixed Number Origination National charge as set out in **Table A of Part B of Section I**, while the other revenues generated by the call shall be retained by the Party; and
  
- (b) where the call is from a Party's TSoIP Number, that Party will.
  - (i) retain its retail charges levied on its originating TSoIP Fixed Number; and
  - (ii) charge the other Party (who is providing the Toll Free Service) the Fixed Network Origination Service National charges as set out in **Table A of Part B of Section I**. while the other revenues generated by the call shall be retained by the other Party (who is providing the Toll Free Service); and

The Party providing the Toll Free Services shall not charge the other Party any termination charge for calls destined to the Toll Free Number of the Party providing the Toll Free Service.

2.4 Discounts and Applicable Charges

2.4.1 For the purposes of clarity, any discount given by a Party to its Customers for the use of its services shall be borne by the Party and shall not in any way result in a decrease in the applicable Access Charges.

2.5 For the purpose of clarification, between the Parties, the Billing Period for O&T Services will be monthly.

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1.1 This **Section II of Part B** sets out the charges and the charging principles which would be applicable to:

- (i) Mobile Network Origination Services and
- (ii) Mobile Network Termination Service.

unless otherwise expressly stated.

1.2 The charges and the charging principles herein are based on the Variation to Commission Determination on the Mandatory Standard on Access Pricing (Determination No.1 of 2023) until a new Mandatory Standard on Access Pricing is determined by the Commission.

**2. Charges and Charging Principles**

2.1 Mobile Network Origination Services and Mobile Network Termination Services supplied by the Access Provider, only to the extent necessary, be subjected to the charges listed in **Table A** below for carriage of voice Call Communications (including facsimile) only. For purposes of clarification, all other Mobile Network Origination Services and Termination Services not listed in **Table A** below are negotiated charges.

**TABLE A: CHARGES FOR MOBILE NETWORK ORIGINATION AND TERMINATION SERVICES**

<b>Interconnect Chargeable Calls: (a) Mobile Network Origination Service</b>			
<b>Type of Charge</b>	<b>Sen per minute, 24 hour weighted average</b>		
	<b>2023</b>	<b>2024</b>	<b>2025</b>
National	0.68	0.38	0.07
<b>Interconnect Chargeable Calls: (b) Mobile Network Termination Service</b>			
<b>Type of Charge</b>	<b>Sen per minute, 24 hour weighted average</b>		
	<b>2023</b>	<b>2024</b>	<b>2025</b>
National	0.68	0.38	0.07

**Private and Confidential****Terms and Conditions for Regulated Services and/or Facilities****Part B– Section II****2.2 Time Units for Charging**

- 2.2.1 The time units for calculating the Access Charges, on a call by call basis, for Call Communications are set out in **Table B** below.

**TABLE B: TIME UNIT FOR CALL COMMUNICATIONS**

Type of call	Time Units for Charging (On call by call basis)
All Calls Involving a Mobile Component	One (1) second or part thereof.

where the charging unit is smaller than a minute, the rate for each unit shall be expressed in 6 decimal points for RM and 4 decimal points for sen for the purposes of calculating the Access Charges.

- 2.2.2 The SMS Access Charges shall be based on Successful SMS Communication, which is more specifically detailed in **Table C** herein.

**TABLE C: SMS Access Charges**

Type of Handover	SMS Access Charges (Sen per message)
Mutually agreed handover point	Five (5) sen per message

- 2.2.3 The following terms will apply for the purpose of interpreting various SMS Communications between the Parties:-

- (a) **“Successful SMS Communication”** occurs when the originating exchange sends the messages signal to the terminating exchange as follows:-
- (i) the SMS Communication is sent by the Calling Party and received by the Called Party; and
  - (ii) the originating SMSC receives an acknowledgement signal from the terminating exchange.
- (b) **“Unsuccessful SMS Communication”** occurs when the terminating exchange does not send an acknowledgement signal to the originating exchange as follows:-
- (i) the Called Party’s mobile phone is not active or is turned off; or
  - (ii) the Called Party’s mobile phone is out of range.

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- (iii) the SMS Communication has expired after attempts to send the SMS Communication exceed the level set by the SMSC of the originating Network.
- (c) “**Chargeable SMS Communication**” refers only to Successful SMS Communication and excludes Unchargeable SMS Communication.
- (d) “**Unchargeable SMS Communications**” shall refer to all test SMS Communications before commissioning of an SMS POI, Unsuccessful SMS Communications, Multiple SMS Communication and incomplete SMS Communication.

**2.3 Charges and Charging Principles for Freephone 1 800 Service and Toll Free Service**

**2.3.1 Freephone 1 800 Service**

**2.3.1.1 Mobile Numbers**

- (a) For calls from a Party’s Mobile Numbers to the Freephone 1 800 Service Numbers, the Party of the Mobile Number which originates the call may charge the other Party who is providing the Freephone 1 800 Service the Mobile Network Origination Service National charge as set out in **Table A** of this **Section II of Part B**.
- (b) For the purpose of clarification, the Party will not charge its mobile Customers the retail rates for calls to the Freephone Number of the Party providing the Freephone 1 800 Service.

The Party providing the Freephone 1 800 Service shall not charge the other Party any termination charge for call destined to its Freephone Numbers.

**2.3.2 Toll Free Services**

**2.3.2.1 Mobile Numbers**

- (a) For calls from a Party’s Mobile Numbers to Toll Free Numbers of the Party providing the Toll Free Service, the Party of the Mobile Number which originates the call may charge the other Party who is providing the Toll Free Service Mobile Network Origination Service National charge as set out in **Table A** above of this **Section II of Part B**.
- (b) For the purpose of clarification, the other Party may charge its mobile Customers the local retail rates for directly dialled calls for calls to Toll Free Number of the Party providing the Toll Free Service.

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The Party providing the Toll Free Services shall not charge the other Party any termination charge for calls destined to the Toll Free Number of the Party providing the Toll Free Service.

2.4 Discounts and Applicable Charges

2.4.1 For the purposes of clarity, any discount given by the Party to its Customers for the use of its services shall be borne by the Party and shall not in any way result in a decrease in the applicable Access Charges.

2.5 For the purpose of clarification, between the Parties, the Billing Period for O&T Services will be monthly.

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Terms and Conditions for Regulated Services and/or Facilities

Part B – Section III

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PART B

CHARGES AND CHARGING PRINCIPLES

SECTION III – INTERCONNECT LINK SERVICE

**1. General**

1.1 This **Section III of Part B** sets out the charges and the charging principles which would be applicable to Interconnect Link Service.

1.2 The charges and the charging principles herein are based on the Variation to Commission Determination on the Mandatory Standard on Access Pricing (Determination No.1 of 2023) until a new Mandatory Standard on Access Pricing is determined by the Commission.

**2. Charges and Charging Principles**

2.1 Interconnection Link Services supplied by the Access Provider shall, only to the extent necessary, be subject to the Charges listed in **Appendix 1** to this **Section III**.

2.2 The Access Seeker may lease any or all of the Interconnect Link Services referred to in **Appendix 1 to this Section III** from the Access Provider for duration of one (1) year. The Charges, referred to in **Appendix 1 to this Section III**, shall be the rental chargeable for a year or part thereof. Where an Interconnect Link Service is commissioned in a particular year (e.g. 2018) and continues through to the following calendar year (e.g. 2019), the Access Charges set out in **Appendix 1** to this **Section III** (as applicable) for that contract period, shall be apportioned and calculated based on the stipulated Access Charges applicable to the relevant calendar year.

2.3 The Access Seeker will not be entitled to terminate any of the lease agreements in respect of any Interconnect Link Services referred to in **Condition 2.2** above in the first year. If the Access Seeker terminates the lease agreement in the first year, the Access Seeker shall pay the applicable charges for the minimum period of one (1) year irrespective of use. After the first year, the Access Seeker may terminate the lease agreement by providing the Access Provider six (6) months prior written notice. Any advance payment for the unutilized portion of the lease agreement will be refunded on a pro-rated basis. Upon expiry, the lease agreement will be automatically renewed for the same duration unless either Party gives a written notice to the Other Party, three (3) months prior to the expiry of the agreement, stating its intention not to renew the agreement.

**3. Payment Terms**

3.1 The payment terms for Interconnect Link Services shall be as follows:

- (i) one (1) year in advance for the first year; and

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- (ii) quarterly payment in advance for the subsequent years
- 3.2 The Access Seeker shall pay the Access Provider the one (1) year minimum charge irrespective of use for the first year.
- 3.3 The contract period for the lease agreement shall commence from the date of commissioning of the respective Interconnect Link Service circuit.
- 3.4 For the purpose of clarification, between the Parties, the Billing Period for Interconnect Link Service will be one (1) year in advance for the first year and quarterly in advance for subsequent years.

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**APPENDIX 1 TO SECTION III**

**CHARGES FOR INTERCONNECT LINK SERVICES**

**TABLE: INTERCONNECT LINK SERVICE CHARGES (IN-SPAN INTERCONNECTION)**

For each pair of fiber cable	Ringgit Malaysia per km per month		
	2018	2019	2020
Link employing a fibre cable(per km)	52.60	49.90	47.40
Installation (non-recurring charge)	2327	2397	2469

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**PART B**

**CHARGES AND CHARGING PRINCIPLES**

**SECTION IV (a) – INFRASTRUCTURE SHARING SERVICES (DESIGNATED TOWER AND ASSOCIATED TOWER SITE)**

**1. General**

1.1 This **Section IV(a) of Part B** sets out the charges and the charging principles which would be applicable to Infrastructure Sharing related to Designated Tower and Associated Tower Site.

**2. Charges and Charging Principles**

2.1 Rental and Other Charges by the Access Provider

- (a) Infrastructure Sharing supplied by the Access Provider shall be subject to the rental charges and/or utility charges listed in **Appendix 1(a)** to this **Section IV(a) of Part B**.
- (b) Rental charges for a particular Designated Tower or Associated Tower Site shall be fixed for the contract period. In the event that the Access Seeker wishes to renew the contract, the Access Provider reserves the right to revise the rental charges for the subsequent contract period by giving three (3) months' prior written notice of such change in the rental charges to the Access Seeker.
- (c) In the event that there is an increase in the utility tariff / rates after the Effective Date of this Agreement, the Access Provider reserves the right to revise the utility charges by giving three (3) months written notice to the Access Seeker reflecting the actual increase in the utility tariff/rates. For the avoidance of doubt, the revised utility charges shall also be applicable to any contract for the Designated Tower or Associated Tower Sites that exist or is still subsisting at the time of the revision of the utility charges. The revised utility charges shall take effect at the expiry of the three (3) months written notice.

2.2 Mode of Payment

2.2.1 The Access Seeker shall pay to the Access Provider the recurring charges rental stated in **Condition 2.1** above ("**Rental**") for physically sharing the infrastructure at the Access Provider's Designated Tower or Associated Tower Sites as follows:

- (a) For the first year, the first year's Rental charges shall be paid in advance on the Commencement Date; and
- (b) For subsequent years, a quarterly advance shall be paid to the Access Provider.

**2.2.2** The Access Seeker shall pay to the Access Provider the one-time charges stated in **Condition 2.1** above within thirty (30) days from the date of receipt of the invoice.

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2.2.3 The demand or acceptance of Rental and any other payment by the Access Provider after default or breach by the Access Seeker does not prejudice the exercise by the Access Provider of the powers conferred upon the Access Provider in this Agreement and/or under law nor does it constitute an election by the Access Provider to exercise or not to exercise any of the rights, powers or privileges under this Agreement and/or under law.

2.2.5 For the purpose of clarification, all utility charges shall be paid quarterly in advance.

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**Terms and Conditions for Regulated Services and/or Facilities****Part B– Section IV****APPENDIX 1(a) TO SECTION IV(a)****CHARGES FOR INFRASTRUCTURE SHARING SERVICES  
(DESIGNATED TOWER AND ASSOCIATED TOWER SITE)**

- 1.1 Infrastructure Sharing for Designated Tower and Associated Tower Site shall, only to the extent necessary, be subject to the Charges listed in tables below. For the purposes of clarification, all other Infrastructure Sharing Services not listed in tables below shall be mutually negotiated.

**Table A: One-Time Charges**

<b>Type of Charges</b>	<b>Location Category</b>	<b>Charge (RM)</b>
<b>Site Survey</b>	<b>Peninsular</b>	<b>RM 1,000</b>
	<b>Island</b>	<b>RM 1,500</b>
	<b>Sabah Zone A</b>	<b>RM 2,000</b>
	<b>Sabah Zone B</b>	<b>RM 2,500</b>
	<b>Sabah Zone C</b>	<b>RM 3,000</b>
	<b>Sabah Zone D</b>	<b>RM 3,500</b>
<b>Site Preparation Work</b>	<b>Applicable to all location</b>	<b>To be undertaken by Access Seeker</b>
<b>Site Supervision Work</b>	<b>Peninsular</b>	<b>RM 1,000</b>
	<b>Island</b>	<b>RM 1,500</b>
	<b>Sabah Zone A</b>	<b>RM 2,000</b>
	<b>Sabah Zone B</b>	<b>RM 2,500</b>
	<b>Sabah Zone C</b>	<b>RM 3,000</b>
	<b>Sabah Zone D</b>	<b>RM 3,500</b>

Note : The Access Charges for site survey are applicable to the Access Seeker in the event the site survey is conducted by the Access Provider.

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1.2 Site Survey

1.2.1 Site survey is to be done for each site requested by Access Seeker for the purpose of determining the suitability of the site upon Access Provider’s confirmation of space availability. Access Seeker’s personnel and/or appointed contractor is to perform the survey together with Access Provider at a mutually agreed date and time. The Parties shall assign personnel who are knowledgeable of the site facilities and plan.

1.2.2 The same site survey charge will apply for each visit requested by Access Seeker if more than one visit is required before determination of suitability. For the avoidance of doubt, save and except the charges stipulated in this **Appendix 1(a)**, Access Provider shall not impose any other further charges including but not limited to costs and expenses for transportation and lodging, out of pocket expenses or any third party expenses on the Access Seeker in respect of this joint site survey

1.2.3 Site Survey is to be performed and completed during office hours only between 9:30 a.m. to 5:30 p.m. However for location where access is difficult, the charge imposed already takes into consideration the necessary travel time and overnight stay.

1.2.4 All costs incurred by Access Seeker’s personnel and/or contractor in performing the site survey are to be borne by the Access Seeker.

1.3 Site Preparation Work

1.3.1 The site preparation to be performed by the Access Provider or the Access Seeker shall be done in accordance to the agreed technical specification document generated based on the site survey unless otherwise agreed in writing by both Parties and at the charges quoted by the Access Provider.

1.3.2 The Access Provider's site preparation work in general includes the activities listed below (exact specification and quantity required may differ from site to site):

- (a) Civil and structural works which include preparation of concrete plinth, TNB meter plinth and meter panel and the sub-main AC cable ducting from the cabin or outdoor unit to the TNB meter pane.
- (b) Mechanical and electrical works which include horizontal and vertical cable ladder, microwave and antenna bracket and boom and earthing system.
- (c) Dedicated room, split air conditioning and fire suppression for indoor configuration.
- (d) Conducting a joint testing and commissioning of the site.
- (e) Preliminaries work and site monitoring.
- (f) Physical access for the Access Seeker for its installation, commissioning and Integration activities.

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where Access Provider performs the site preparation, the items not mentioned under **Condition 1.3.2** above is to be supplied and installed by the Access Seeker.

**1.4 Recurring Charges**

- 1.4.1 Infrastructure Sharing for Designated Tower and Associated Tower Site shall be subject to the Charges listed in **Table B** below. For the purposes of clarification, all other Infrastructure Sharing Services not listed in **Table B** below shall be mutually negotiated.

**Table B: Indicative Recurring Charges**

<b>For Peninsular Malaysia Tower Height (Feet)</b>	<b>Peninsular Malaysia (RM) Per Month</b>	<b>Island / Hill Stations (RM) Per Month</b>
150 feet and below	5,770	6,555
200 feet and below	6,200	7,720
250 feet and below	6,700	8,213
300 feet and below	8,200	10,494

Hill Stations are those sites located on a hilly terrain or highland locations such as Cameron Highlands and Bukit Fraser.

**For Sabah**

<b>Tower Height (Feet)</b>	<b>Zone A (RM) Per Month</b>	<b>Zone B (RM) Per Month</b>	<b>Zone C (RM) Per Month</b>	<b>Zone D (RM) Per Month</b>
150 feet and below	5,584	5,287	5,500	5,720
200 feet and below	7,720	7,310	7,602	7,906
250 feet and below	8,213	7,775	8,087	8,410
300 feet and below	10,493	9,935	10,332	10,745

**1.4.2 Sabah Zoning Category**

<b>Location</b>	<b>Zone</b>
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Location	Zone
Kota Kinabalu, Papar, Labuan, Beaufort	A
1. Keningau , Kudat, Lahat Datu, Sandakan, Ranau 2. Residency of Pantai Barat, Sandakan, Kudat	B
1. Tawau, Semporna, Kunak 2. Residency of Sandakan	C
Others	D

Note: The rates are applicable to sites located within 25km radius of the city/towns mentioned.

## 1.4.3 Additional charges based on antenna and dish size:

Type of Charge	Category (Antenna and Dish Size - diameter)	Additional Charge (RM)
Dish Diameter	4 feet & below	No additional charge subject to the Section 1.6.2 below
	Above 4 feet	RM 700 per month per additional foot.
Antenna length	7 feet and below	No additional charge
	Above 7 feet	RM 700 per month per additional foot

**Note:**

Conversion rate: 1m = 3.25 feet

## 1.4.4 Space for cabin or supporting equipment is not included in the tower charges. Additional charge will be calculated based on size and type of space acquired. Access Seeker has the following options of space to choose from:

Location	Land (RM/sq ft/month)	Floor Space (RM/sq ft/month)
Urban	RM 8.00	RM 25.00
Rural	RM 7.50	RM 22.00
Remote & Island	RM 8.50	RM 23.00
Very Remote	RM 10.00	RM 26.00

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<b>Location</b>	<b>Land (RM/sq ft/month)</b>	<b>Floor Space (RM/sq ft/month)</b>
Urban, Rural, Remote & Island, Very Remote	RM 2.50	RM 2.50

1.4.5 The list of Hill Station may be obtained from the Access Provider upon written request.

1.5 Other Applicable Charges

1.5.1 Where the Access Seeker is sharing a third party tower located in the Access Provider's premise and the Access Provider is providing only the space required for the Access Seeker's cabin, outdoor or indoor BTS, then the following charges will apply:

<b>Location</b>	<b>Land (RM/sq ft/month)</b>	<b>Floor Space (RM/sq ft/month)</b>
Urban	RM 8.00	RM 25.00
Rural	RM 7.50	RM 22.00
Remote & Island	RM 8.50	RM 23.00
Very Remote	RM 10.00	RM 26.00

Additional Charges for Hill Station

<b>Location</b>	<b>Land (RM/sq ft/month)</b>	<b>Floor Space (RM/sq ft/month)</b>
Urban, Rural, Remote & Island, Very Remote	RM 2.50	RM 2.50

1.5 **Mobilisation Work**

1.5.1 Mobilisation works shall be performed by Access Seeker and shall be done in accordance with the agreed technical specification document (“**Technical Proposal**”) generated by Access Seeker and approved by Access Provider prior to such mobilisation. The Technical Proposal to be utilised shall be in a format as agreed to by both Parties.

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**1.6 Tower Charges**

1.6.1 Tower charges, as referred to **Condition 1.4** above, are inclusive of the following services:

- (a) Site maintenance and housekeeping;
- (b) Tower maintenance;
- (c) Physical access to site;
- (d) Site security such as guards for manned station and fencing and pad lock for unmanned station;
- (e) Basic Utilities such general area lighting and water;
- (f) Engineering services such as maintenance of power distribution board, generator set, lift, air conditioning, etc.;
- (g) Routine Maintenance of hill roads (for towers located on hill stations); and
- (h) Other costs such as tower permit and quit rent.

1.6.2 The Rental is inclusive of maximum of three (3) antennas and one (1) dish, and for each additional antenna or dish installed, additional charge of Ringgit Malaysia Five Hundred (RM500.00) per month will be charged provided that further additional charges as prescribed in **Condition 1.4.3** shall be payable in respect of the dimensions of the dish and/or antenna specified therein.

**1.7 Utilities (Power)**

1.7.1 The Access Seeker shall be responsible for providing its own electricity supply. Such power supply shall be obtained from Tenaga Nasional Berhad (“TNB”) or any available power utility companies.

1.7.2 In the absence of TNB or a power utility company within the Site, Access Seeker may provide its own generator set. Utilisation of land space for this purpose shall be subject to the following charges and conditions:

<b>Rental per month (RM)</b>	<b>Maximum Land Utilisation</b>
500	40 square feet

Payment terms shall be as set out in **Condition 2.2** of **Part B** above.

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- 1.7.3 Access Seeker shall pay and discharge all charges for the supply and utilisation of electricity by Access Seeker. Utilisation shall be as indicated by separate meters on the Infrastructure. Access Seeker shall also at their own expense apply to the relevant authorities for any upgrading of power supply.
- 1.7.4 Access Seeker may for a period of 6 months from the Commencement Date share the power supply with Access Provider from the same meter at the following charges:

Power Source Type	Rate (RM)
Electricity without genset backup	600.00 per month

Upon expiry of the foregoing six (6) months period, the Access Seeker must have either secured its own power supply from TNB or other power utilities companies or obtain, install, operate and maintain its own genset. Notwithstanding the foregoing, in the event that the Access Seeker is unable to secure its own power supply from TNB or other power utility companies, the Access Seeker shall be entitled to discuss with the Access Provider on a mutually agreed extended period of time for the sharing of the Access Provider's power supply and the incremental rate for the charges for the power supply SUBJECT ALWAYS to the Access Seeker being able to provide to the Access Provider documentary evidence of rejection or delay of approval by TNB or other power utility companies of the Access Seeker's application for installation of a separate and distinct power supply.

2. UrbanArea

Urban area is defined as major towns and cities in Malaysia within the administration of the city or local town council. Please see **Table C** below for a list of the urban areas.

**Table C: List of Urban Areas for Infrastructure Sharing**

STATE	URBAN AREA
Wilayah Persekutuan	Kuala Lumpur, Putrajaya
Perlis	Kangar
Kedah	Alor Setar, Kulim, Sungai Petani
Pulau Pinang	Pulau Pinang, Seberang Perai
Perak	Ipoh, Manjung, Taiping, Teluk Intan

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Selangor	Shah Alam, Ampang Jaya, Petaling Jaya, Klang, Kajang, Selayang, Subang Jaya
Negeri Sembilan	Seremban, Port Dickson, Nilai
Melaka	Bandar Melaka, Alor Gajah
Johor	Johor Bahru, Muar, Batu Pahat, Kluang
Pahang	Kuantan, Temerloh
Terengganu	Kuala Terengganu, Kemaman
Kelantan	Kota Bahru
Sabah	Kota Kinabalu, Tawau, Sandakan

3. Rural Area

Rural area is defined as towns under the administration of the local district council and the surrounding area within 30 km radius from the general post office located in the specified rural area. Please see **Table D** below for a list of the rural areas.

**Table D: List of Rural Areas for Infrastructure Sharing**

STATE	RURAL AREA
Kedah	Baling, Bandar Baharu, Kubang Pasu, Padang Terap, Pendang, Sik, Yan, Kulim Hi-Tech
Perak	Gerik, Kerian, Kinta, Kuala Kangsar, Lenggong, Pengkalan Hulu, Perak Tengah, Selama, Tanjung , Malim, Tapah
Selangor	Hilu Selangor, Kuala Langat, Kuala Selangor, Sabak Bernam, Sepang
Negeri Sembilan	Jelevu, Jempol, Kuala Pilah, Rembau, Tampin
Melaka	Jasin
Johor	Kota Tinggi, Kulai, Labis, Mersing, Pontian, Segamat, Simpang Renggam, Tangkak, Yong Peng, Pasir

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	Gudang, Johor Tenggara
Pahang	Bentong, Bera, Cameron Highlands, Jerantut, Lipis, Maran, Pekan, Raub, Rompin
Terengganu	Besut, Dungun, Hulu Terengganu, Marang, Setiu
Kelantan	Bachok, Gua Musang, Jeli, Kuala Krai, Machang, Pasir Mas, Pasir Puteh, Tanah Merah, Tumpat,
Sabah	Beaufort, Beluran, Keningau, Kinabatangan, Kota Belud, Kota Marudu, Kuala Penyu, Kunak, Lahad Datu, Nabawan, Papar, Penampang, Ranau, Semporna, Sipitang, Tambunan, Tenom, Tuaran

4. Remote Area and Island

Remote Area is as all area that is between -30 km to 60 km radius from the Rural Area as listed in **Table D** above. Island is as an area that is separated from the peninsular mainland and Borneo mainland where transportation to and from the area will be by water (ferry or boat).

5. Very Remote Area

Very Remote Area is as all area that is either more than -60 km radius from the Rural Area as listed in **Table D** above or the area is difficult to access, not connected by paved roads and requires an overnight stay and/or travel by flight from the nearest airport.

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**PART B**

**CHARGES AND CHARGING PRINCIPLES**

**SECTION IV (b) – INFRASTRUCTURE SHARING SERVICES (IN-BUILDING COMMON ANTENNA SYSTEM AND CENTRAL EQUIPMENT ROOM)**

**1. General**

1.1 This **Section IV(b) of Part B** sets out the charges and the charging principles which would be applicable to Infrastructure Sharing relating to in-building Common Antenna System (“CAS”) and Central Equipment Room (“CER”).

**2. Charges and Charging Principles**

2.1 Rental and Other Charges by the Access Provider :

- (a) Infrastructure Sharing supplied by the Access Provider shall be subject to the rental charges listed in the relevant portions of **Appendix 1(b)** to this **Section IV(b) of Part B**.
- (b) Rental charges for a particular CAS or CER shall be fixed for the contract period. However, the Access Provider reserves the right to revise the rental charges for the subsequent contract period, where the Access Seeker wishes to renew the contract.
- (c) The rental charges and/or utility charges listed in the relevant portions of **Appendix 1(b) to this Section IV(b) of Part B** shall only be valid until 31 December, 2010. The Access Provider reserves the right to revise the rental charges and/or utility charges from 01 January 2011 onwards and shall notify the Access Seeker of the same in writing.

2.2 Mode of Payment

2.2.1 The Access Seeker shall pay to the Access Provider the recurring charges rental stated in **Condition 2.1** above (“Rental”) for physically sharing the infrastructure at the Access Provider’s CAS and CER as follows:

- (a) for the first year, the first year’s Rental charges shall be paid in advance on the Start Date; and
- (b) for the subsequent years, a quarterly advance Rental charges shall be paid to the Access Provider.

**2.2.2** The Access Seeker shall pay to the Access Provider the one-time charges stated in **Condition 2.1** above within thirty (30) days from the date of receipt of the invoice.

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- 2.2.3 The demand or acceptance of Rental and any other payment by the Access Provider after default or breach by the Access Seeker does not prejudice the exercise by the Access Provider of the powers conferred upon the Access Provider in this Agreement and/or under law nor does it constitute an election by the Access Provider to exercise or not to exercise any of the rights, powers or privileges under this Agreement and/or under law.

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**Terms and Conditions for Regulated Services and/or Facilities****Part B – Section IV****APPENDIX 1(a) TO SECTION IV(a)****CHARGES FOR INFRASTRUCTURE SHARING SERVICES****(CAS AND CER)**

- 1.1 Infrastructure Sharing for CAS and CER shall, only to the extent necessary, be subject to the Charges listed in **Table A2** below.

**Table A2: One-Time Charges**

<b>Type of Charges</b>	<b>Location Category</b>	<b>Charge (RM)</b>
Site Survey	Peninsular Malaysia	RM2,000 per site
Site Survey	Sabah	RM 3,500 per site
Site Preparation Work	All location	To be determined on case by case basis
Site Supervision Work	Peninsular Malaysia	RM 3,500 per site
Site Supervision Work	Sabah	RM 5,000 per site

**1.2 Site Survey**

- 1.2.1 Site survey is to be done for each site requested by Access Seeker for the purpose of determining the suitability of the site upon Access Provider' confirmation of space availability. Access Seeker' personnel and/or appointed contractor is to perform the survey together with Access Provider at a mutually agreed date and time. The Parties shall assign personnel who are knowledgeable of the site facilities and plan.
- 1.2.2 The same site survey charge will apply for each visit requested by Access Seeker if more than one visit is required before determination of suitability.
- 1.2.3 Site survey is to be performed and completed during hours allowed for by the building management where CAS resides.
- 1.2.4 All costs incurred by Access Seeker' personnel and/or appointed contract in performing the site survey is to be borne by Access Seeker.

**1.3 Recurring Charges**

- 1.3.1 Infrastructure Sharing with Access Provider for CAS and CER shall be subject to the Charges listed in **Table B2** below. For purpose of clarification, all other Infrastructure Sharing services not listed in **Table B2** below shall be mutually negotiated.

**Terms and Conditions for Regulated Services and/or Facilities****Part B– Section IV****Table B2: Indicative Recurring Charges**

<b>Item</b>	<b>Rate Formula</b>	<b>Rate (RM)</b>
a) Access to CAS	Per Antenna	35
b) Maintenance of CAS	Per month	1,250
c) Access to CER	Per Month	100
d) Site Rental	Per Month	Equally shared between the Parties

**1.4 Mobilisation Work**

Mobilisation works shall be performed by Access Seeker and shall be carried out in accordance with the agreed technical specification document (“Technical Proposal”) generated by Access Seeker and approved by Access Provider prior to such mobilization. The Technical Proposal to be utilized shall be in a format as agreed to by both Parties.

**1.5 CAS and CER Charges**

1.5.1 CAS Charges are inclusive of the following :

- (a) capital expenditure including preliminaries, design, materials, workmanship and transportation for the CAS;
- (b) operating expenditure including maintenance and housekeeping;
- (c) physical access to CAS;
- (d) existing site security measures (on an ‘as is where is’ basis, at time of approval of the Technical Proposal).

1.5.2 CER Charges are inclusive of the following :

- (a) CER maintenance and housekeeping;
- (b) physical access to CER;
- (c) existing CER security measures (on an ‘as is where is’ basis, at time of approval of the Technical Proposal).

CER charges are not applicable if the Access Seeker has its own room or the equipment is installed in an open area.

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- 1.5.3 At any time after approval of the Technical Proposal, additional safety and security measures may be discussed and agreed between the Parties. In such cases, the Parties shall agree to share the additional charges on an equal basis.

**1.6 Access**

Access Seeker including its employees, agents and servants shall have access to the Site on similar time/day as allowed to the Access Provider by the building management where the CAS resides for purpose of routine maintenance, installation of additional Equipment, upgrading or replacement of aged Equipment, Equipment restoration, routine test or any other work that is deemed necessary by the Access Seeker. Procedures for access including for emergency cases shall be mutually agreed between all the relevant parties.

**1.7 Utilities (Power)**

- 1.7.1 Access Seeker shall be responsible for providing its own electricity supply. Such power supply shall be obtained from Tenaga Nasional Berhad (“TNB”) or any available power utility companies.
- 1.7.2 In the absence of TNB or a power utility company within the Site, Access Seeker may provide its generator set. Utilisation of land space for this purpose shall be subject to a rental of RM12.50 per sq ft per month. Payment terms shall be as set out in **Condition 2.2.1 of Section IV of Part B** above.
- 1.7.3 Access Seeker shall pay and discharge all charges for the supply and utilization of electricity by Access Seeker. Utilisation shall be as indicated by separate meters on the infrastructure. Access Seeker shall also at their own expense apply to the relevant authorities for any upgrading of power supply.

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**Part B– Section V**

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**PART B**

**CHARGES AND CHARGING PRINCIPLES**

**SECTION V – NETWORK CO-LOCATION SERVICE**

**1. General**

1.1 This **Section V of Part B** sets out the charges and the charging principles which would be applicable to Physical Co-Location unless otherwise expressly stated.

**2. Charges and Charging Principles**

2.1 Rental and Other Charges by the Access Provider

(a) Network Co-Location Service supplied by the Access Provider shall be subject to the Charges listed in **Appendix 1 to this Section V**. Where a Network Co-Location Service is commissioned in a particular year (e.g. 2018) and continues through to the following calendar year (e.g. 2019), the Charges set out in **Appendix I to Section V** for that particular contract period, shall be apportioned and calculated based on the stipulated Charges applicable to the relevant calendar year or part thereof..

(b) In the event that there is an increase in the utility tariff / rates after the Effective Date of this Agreement, the Access Provider reserves the right to revise the utility charges by giving three (3) months written notice to the Access Seeker reflecting the actual increase in the utility tariff/rates. For the avoidance of doubt, the revised utility charges shall also be applicable to any contract for the Designated Site that exist or is still subsisting at the time of the revision of the utility charges. The revised utility charges shall take effect at the expiry of the three (3) months written notice.

2.2 Mode of Payment

**2.2.1** The Access Seeker shall pay to the Access Provider the recurring charges stated in **Condition 2.1** above for Physical Co-Location at the Access Provider's Designated Site as follows:

(a) For the first year, the first year's charges shall be paid in advance on the Commencement Date; and

(b) For subsequent years, a quarterly advance shall be paid to the Access Provider.

2.2.2 The Access Seeker shall pay to the Access Provider for the one-time charges stated in **Condition 2.1** above within thirty (30) days from the date of receipt of the invoice.

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- 2.2.3 The demand or acceptance of any payment by the Access Provider after default or breach by the Access Seeker does not prejudice the exercise by the Access Provider of the powers conferred upon the Access Provider under this Agreement and/or under law nor does it constitute an election by the Access Provider to exercise or not to exercise any of the rights, powers or privileges under this Agreement and/or under law.
- 2.2.4 All utility charges shall be paid quarterly in advance.

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**Terms and Conditions for Regulated Services and/or Facilities****Part B– Section V****APPENDIX 1 TO SECTION V****CHARGES FOR NETWORK CO-LOCATION SERVICE**

- 1.1 Physical Co-Location Service supplied by the Access Provider, only to the extent necessary, will be subject to the Physical Co- Location Service Charges in accordance with this **Appendix 1 to Section V**. For the purposes of clarification, all other Physical Co-Location Service charges not mentioned in **Appendix 1 to Section V** are negotiated charges.

**Table A: One-Time Charges**

Type of Charges	Location Category	Charge (RM)
Site Survey	Applicable to all location	As per quotation
Site Preparation Work	Applicable to all location	As per quotation
Relocation & Termination	Applicable to all location	As per quotation

- 1.2 The charges and terms and conditions for site survey and site preparation for Infrastructure Sharing (**Condition 1.2 to 1.3 of Appendix I to Section V of Part B**) shall also apply to site survey and site preparation for Physical Co-Location Service.
- 2.1 The prices for Network Co-Location Service shall be applied for Physical Co-Location for space, environmental services (heat, light, ventilation and air-conditioning), security and maintenance at switching sites, and exchange buildings.

**Table B: Recurring Charges**

Type of Charge	Ringgit Malaysia per square meter per year
Physical Co-Location: Space (including services)	233.00

For the avoidance of doubt, the charges shall apply for all types of location category of the Access Provider's network premises as described in **Condition 1.1**.

- 2.2 The following rate is applicable if Access Seeker requires all access routes into the Access Provider's building.

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<b>Type of Charge</b>	<b>Category</b>	<b>Additional Charge (RM) (per month)</b>
Access Route	Applicable to all locations	2,000.00

**2.3** Floor space charges are inclusive of the following services:

- (a) Site maintenance and housekeeping
- (b) Physical access
- (c) Site Security
- (d) Utilities (lighting & water)
- (e) Engineering services such as maintenance of power distribution board, generator set, lift, air conditioning, fire suppression system, etc.
- (f) Routine maintenance of hill road (for hill station only)

**2.4** Where the Access Seeker is also sharing power supply with the Access Provider from the same meter the following charges will apply.

<b>POWER SOURCE TYPE</b>	<b>RATE RM (per kW/h)</b>
Electricity with one (1) genset backup	0.70
Electricity with two (2) genset backup (for Hill Station only)	0.85
Electricity without genset backup	0.55

**Note:**

The electricity charges stipulated in the Table above shall be inclusive of maintenance services of the Access Provider's electrical system.

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**Special Terms and Conditions**

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Nil