



ITMAX SYSTEM BERHAD

REFERENCE ACCESS OFFER

**In respect of
Telecommunications Infrastructure**

[Version 4.0 as at 24 September 2024]

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Introduction

Section 1 – Background information

- (a) ITMAX System Berhad [Registration no.: 200101008580 (544336-M)] is a company duly incorporated under the laws of Malaysia and having its business address at No. 30-G & 30-3, Jalan Radin Bagus 3, Sri Petaling 57000 Kuala Lumpur ("**Access Provider**").
- (b) The Access Provider is a licensed network facilities and services provider under the Communications and Multimedia Act 1998 ("**Act**") which owns and operates telecommunications towers and monopoles, providing the Access Services (as defined herein) which falls within the definition of "infrastructure sharing" under the Access List (as defined herein).
- (c) This Reference Access Offer ("**RAO**") sets out the terms and conditions subject to which the Access Services provided by Access Provider to Access Seeker (as defined herein). This RAO is prepared pursuant to the following determinations issued by the Malaysian Communications and Multimedia Commission ("**Commission**"):
 - (i) Commission Determination on the Mandatory Standard on Access (Determination No.1 of 2022) ("**MSA**"), and
 - (ii) Commission Determination on the Mandatory Standard on Access Pricing (Determination No.1 of 2023) ("**MSAP**").
- (d) This RAO shall be effective from the date of its publication.

Definitions and Interpretations

Section 2 – Definitions

The meanings of the terms used in this RAO are set out below.

Access Agreement	means an agreement entered into between Operators whereby the Access Provider provides Access Services to the Access Seeker in accordance with the terms contained in such agreement.
Access List	means the Commission Determination on Access List, Determination No. 6 of 2021 which contains the list of facilities and services determined by the Commission under Chapter 3 of Part VI of the Act.
Access Provider	means: <ul style="list-style-type: none">(a) network facilities provider who owns or provides facilities listed in the Access List; or(b) network service provider who provides services listed in the Access List; and(c) who is a licensee as defined in the Act.
Access Request	means a request for access made by the Access Seeker in the form set out in schedule A of this RAO.

Access Seeker	means 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 the Access Services.
Access Service Provider	means the Operator to whose Network, a line is directly connected and over which the Access Services are supplied.
Access Services	means the provision of physical access, which refers to the provision of space (including rooftop space) at specified network facilities to enable the Access Seeker to install and maintain its own equipment.
Associated Tower Sites	means land owned, leased or tenanted by an Operator surrounding or on which the tower is situated, including necessary right-of-way and permission to dig;
Act	means the Communications and Multimedia Act 1998 [Act 588].
Billing Period	means the period over which the supply of Access Services is measured for the purposes of billing, which shall be no more than one month and in accordance with the relevant calendar month, unless otherwise agreed between the parties.
Billing Cycle	means the regular periodic basis on which the Access Provider shall issue Invoices for the supply of Access Services during each Billing Period, as specified in section 36 of this RAO.
Billing Dispute	has the meaning given to it in the Dispute Resolution Procedures set out in schedule E of this RAO.
Business Day	means a day other than the followings days: <ul style="list-style-type: none"> (a) Saturday and Sunday; (b) in states where Friday is observed as the weekly holiday, a Thursday and Friday; or (c) a day which is lawfully observed as a national public holiday throughout Malaysia.
Confidentiality Agreement	means a confidential agreement entered into between Operators in the form set out in schedule D of this RAO.
Confidential Information	has the meaning given to it in section 1 of the Confidential Agreement set out in schedule D of this RAO.
Content Obligations	means those obligations set out in sections 25 to 34 (inclusive) of this RAO.
Customer	means in relation to an Operator, a person having a contractual relationship with that Operator for the provision of communications by means of that Operator's facilities and/or services.
Disclosure	means those obligations set out in sections 9 to 12 (inclusive) of this

Obligations Disclosing Party	RAO. means the party disclosing the Confidential Information.
Dispute Resolution Procedures	means the procedures set out in schedule E of this RAO.
Equipment	means the Access Seeker's equipment (whether hardware or software), or device within the Site which may include radio-frequency antenna, microwave antenna, remote radio, active antenna, cabinet, cabin and generator sets.
Force Majeure	has the meaning given to it in section 46(a) of this RAO.
Forecast	means a forecast made by the Access Seeker referred to in section 25(a) of this RAO.
Forecast Information	has the meaning given to it in section 25(d) of this RAO.
Forecast Request	means a request by the Access Provider for Forecast Information from the Access Seeker.
High Priority Areas	means each of the following locations, facilities or areas: <ul style="list-style-type: none"> (a) Federal and State Government administration centres; (b) transportation hubs, including MRT stations, airports, train stations; (c) transportation lines or routes, including railways and highways; (d) high economic impact areas, including industrial parks and economic corridors; (e) identified Government projects under RMK-12; (f) Jalinan Digital Negara (JENDELA) projects; (g) areas identified by the Commission or Government as "high priority" for 5G deployment; and (h) any other location, facility or area where the Access Provider has been granted the exclusive right to install, supply access to, or maintain, any facilities or services.
Infrastructure Sharing	means a facility and/or service which comprises the following: <ul style="list-style-type: none"> (a) 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 (b) provision of physical access to central equipment room.
Intellectual Property	has the meaning given to it in section 9 of the Confidential Agreement set out in schedule D of this RAO.
Invoice	means the invoice for amounts due in respect of the supply of the Access Services during the Billing Period.

Negotiation Obligations	means those obligations set out in sections 14 to 24 (inclusive) of this RAO.
Network	means network facilities and/or network services comprising a system, or series of systems within Malaysia, that carries or is capable of carrying communications by means of guided or unguided electromagnetic energy or both, and in relation to an Operator, means so much of the network as is owned or operated by the Operator.
Non-Binding Forecast Period	Means any period of time in which the Forecast is non-binding except to the extent a Forecast has been confirmed in accordance with section 25(h) of this RAO.
Notice of Acceptance	means the Access Provider's notice of acceptance of an Order provided to the Access Seeker.
Notice of Receipt	means the acknowledgment of receipt of the Order from the Access Seeker.
Operator	means: (a) a network facilities provider; (b) a network service provider; (c) an applications service provider; or (d) a content applications service provider, who is, an Access Provider or an Access Seeker.
Order	means the order which the Access Seeker must give to the Access Provider to obtain access to the Access Services as described in section 26(b).
Receiving Party	means the party receiving the Confidential Information.
Rejection Notice	means the notice of rejection made by the Access Provider in response to the Access Seeker's Forecast.
Service Qualifications	means a desk and/or field study that may be conducted in relation to the Access Services under section 27 of this RAO, and may include (where relevant) the testing of a line to ascertain whether it could be used in response to the Access Request and/or Order or proposed Order.
Service Specific Obligations	means the obligations which relate to specific type of Access Services set out in schedule F of this RAO which add to or vary the Content Obligations in respect of the Access Services.
Site	means any site, land or building owned, leased, tenanted or operated by the Access Provider for the purpose of providing the Access Services to the Access Seeker.
Specifications	means the standard technical specifications of the facilities to be

provided at each Site by the Access Provider as detailed in schedule B of this RAO.

Taxes	means and includes any present or future tax, withholding tax, charge, rate, duty or impost imposed by any government authority at any time, but does not include taxes on income or capital gains.
Telecommunication Structures	means the telecommunication structure belonging to and to be constructed by Access Provider on the Site.

Section 3 – Interpretations

In this RAO except where the contrary intention appears:

- (a) table of contents, headings, sub-headings and bold type are inserted merely for convenience of reference and do not affect the interpretation of this RAO;
- (b) words denoting one gender include all other genders and words denoting the singular include the plural and vice versa;
- (c) words denoting person include corporation, and vice versa;
- (d) words denoting person include the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (e) word or phrase is given a defined meaning in this RAO any other part of speech or other grammatical form in respect of such word or phrase has a corresponding meaning;
- (f) any reference to a sub-paragraph, paragraph, sub-section, section, attachment or schedule, is to the relevant sub-paragraph, paragraph, sub-section, section, attachment or schedule of, or to, this RAO;
- (g) any reference to a statutory provision includes any modification, consolidation or re-enactment thereof for the time being in force, and all statutory instruments or orders made pursuant thereto;
- (h) attachments to this RAO shall have effect and be construed as an integral part of this RAO;
- (i) any reference to time is a reference to Kuala Lumpur time;
- (j) use of the word "includes" or "including" means without limitation; and
- (k) unless stated otherwise, all amounts of currency are expressed in RM.

General principles

Section 4 – Non-discrimination

This RAO is consistent with section 149(2) of the Act, access to the Access Services provided by the Access Provider to the Access Seeker shall be of at least the same or more favourable technical standard and quality as the technical standard and quality provided for itself and provided on an equitable and a non-discriminatory basis. *4.1.5 of the MSA*

Section 5 – Non-standard performance

Nothing in this RAO shall limit the Access Seeker's ability to request access to the Access Services that is either superior or inferior (in terms of the technical standard and quality) to that which the Access Provider provides to itself. *4.2.2 of the MSA*

Section 6 – No exclusivity and no restriction on resale

- (a) The Access Provider must not, in relation to the supply of Access Services, include a term or condition in the Access Agreement preventing the Access Seeker from acquiring the same or any other Access Services from another Operator. *4.4.1 of the MSA*
- (b) The Access Provider must not, in relation to the supply of the Access Services, include a term or condition in the Access Agreement preventing the Access Seeker from re-supplying the Access Services to any person. *4.4.2 of the MSA*

Section 7 – Confidentiality

An Operator must protect from disclosure any Confidential Information provided by another Operator in the course of negotiating an Access Agreement and during the term of an Access Agreement in accordance with the Confidentiality Agreement in the form set out under schedule D of this RAO. *5.4.3 of the MSA*

Section 8 – Amendment

- (a) The Access Provider may from time to time amend this RAO with no less than 30 Business Days before the Access Provider proposes to effect the changes, provide a copy of the amended RAO showing the proposed changes to the existing RAO, to:
 - (i) all Access Seekers who are being provided with the Access Services under the existing RAO; and
 - (ii) all Access Seekers who have requested Access Services under the existing RAO within the period of 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.
- For clarification:
- (i) nothing in section 8 of this RAO prevents the Access Seeker from initiating a dispute in relation to an amendment to the RAO made by the Access Provider;
 - (ii) where the terms and conditions of the Access Agreement are not identical to those in the existing RAO, an amendment to the RAO will not alter the terms of that Access Agreement except as agreed

- between the Access Provider and Access Seeker; and
 - (iii) without prejudice to the Access Seeker's right to dispute an amendment to the RAO, where the terms and conditions of the Access Agreement are identical to those in the existing RAO, an amendment to the RAO will be deemed to alter the relevant terms and conditions of that Access Agreement upon expiry of the 30 Business Days period. However, if the Access Seeker disputes the amendment to the existing RAO within such 30 Business Days period, no amendment to the Access Agreement will be deemed to occur unless and until such dispute is resolved in favour of the Access Provider.
 - (b) Upon expiry of the 30 Business Days in section 8(a) of this RAO, the Access Provider will make available the amended RAO on its publicly accessible website without delay (including updating its date and version number, both on the cover and on each page of the document) and provide the updated RAO to the Commission before being made available to the public.

5.3.6 of the
MSA

Disclosure Obligations

Section 9 – Information disclosure

The Access Provider shall provide the following information to Access Seeker within 10 Business Days upon receipt of a written request from Access Seeker in relation to the Access Services (whether or not on the basis of a RAO):

5.3.7 of
the MSA

- (a) any supplementary details of the Access Services offered by the Access Provider not included in the RAO;
- (b) any supplementary charges to the Access Services not included in the RAO (e.g., discounts for inferior service levels or surcharges for enhanced service levels);
- (c) all supplementary technical information relating to the Access Services which may be the subject of the Access Request, which are not included in the RAO;
- (d) supplementary details of the Access Provider's operational processes and procedures not included in the RAO (e.g., regarding escorted access at sites deemed to be critical national information infrastructure or other secure sites);
- (e) supplementary details of the Access Provider's provisioning cycles not included in the RAO and any impact such cycles may have upon the Access Request by the Access Seeker (e.g., capacity constraints);
- (f) details of the Access Provider's alternative quality of service targets not included in the RAO and actual achievements of service targets in respect of the Access Services which may be the subject of the Access Request;
- (g) any security requirements, insurance requirements and creditworthiness information (including a credit assessment form, if available) required by the Access Provider under this RAO; and
- (h) the Access Provider's reasons for failing to supply any of the information referred above.

Prior to the provision of information under this section of the RAO, the Access Provider may request the Access Seeker to enter into a Confidentiality Agreement set out in schedule D of this RAO.

Section 10 – Creditworthiness information

- The Access Provider may request creditworthiness information from the Access Seeker:
- (a) if the Access Provider reasonably believes that the Access Seeker may not be able

5.3.11 of
the MSA

- to meet any liabilities that may arise under the Access Agreement;
- (b) if the creditworthiness information sought is limited to information which is publicly available (on this basis, the Access Provider may request the Access Seeker to warrant that such information is accurate); and
- (c) to the extent commensurate with a commercially reasonable estimate of the charges that will be incurred by the Access Seeker over the minimum period of access to the Access Services in the Access Agreement.

Section 11 – Security requirements

*5.3.9 of
the MSA*

- (a) The Access Provider shall not impose any security requirements on the Access Seeker unless the Access Provider determines, acting reasonably, that the Access Seeker presents a credit risk and that imposing the security requirement will materially reduce or remove that risk.
- (b) The Access Provider shall ensure that the amount and type of any security requirements to be imposed on the Access Seeker is only imposed in the Access Provider's security policy and is commensurate with:
 - (i) a commercially reasonable estimate of the charges that will be incurred by the Access Seeker for the Access Services with a minimum period of access, a maximum of 6 months for those Access Services; and for Access Services without a minimum period of access, a single Billing Period for those Access Services, in the Access Agreement;
 - (ii) the creditworthiness of the Access Seeker (including prior record of payment by the Access Seeker); and
 - (iii) security previously reasonably required by the Access Provider.
- (c) The Access Provider must not impose a security requirement on the Access Seeker which exceeds a commercially reasonable estimate of the charges that will be incurred by the Access Seeker over the minimum period of access to the Access Services provided by the Access Provider to the Access Seeker or is designed to, or has the effect of, denying or delaying the Access Seeker's access to the Access Services.

Section 12 – Insurance

- (a) The Access Provider shall ensure that any insurance that it requires the Access Seeker to have in place extends no further than the reasonable insurable interest that the circumstances require and shall not be permitted to require:
 - (i) insurance beyond that necessary for worker's compensation, social security, employer's liability insurance and insurance within statutory limits as required by the laws of Malaysia in respect of its employees employed in connection with the work covered by the Access Agreement that may be entered into; and
 - (ii) comprehensive general liability insurance in excess of RM20,000,000.00 for anyone claim or series of claims arising out of an accident or occurrence in connection with the Access Agreement that may be entered into; and
 - (iii) the Access Seeker to specifically list the Access Provider's name as the beneficiary.
- (b) The Access Provider shall maintain property insurance and comprehensive

*5.3.10 of
the MSA*

general liability insurance covering the Sites under this RAO with insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary for the business in which it is engaged in Malaysia.

Reporting obligations

Section 13 – Reporting to Commission

The Access Seeker understands and acknowledges that the Access Provider is obliged to provide information in respect of the Access Services and the Access Agreement to the Commission and the Access Seeker agrees to co-operate with and assist the Access Seeker in providing information requested by the Commission.

Negotiation Obligations

Section 14 – Request for information

The Access Provider shall, upon receipt of a written request from the Access Seeker, provide access on reasonable terms and conditions to the Access Services. The Access Provider may refuse such request if the supply of the Access Services or the terms and conditions requested by the Access Seeker are unreasonable based on the grounds set out in section 20 of this RAO.

*4.1.1 of
the MSA*

Section 15 – Request for negotiation

*5.4.1 of
the MSA*

- (a) The Access Seeker may, by way of a written request to the Access Provider to request to commence negotiation and the Access Provider may response as to whether it is willing to proceed with the negotiation.
- (b) If both parties agreed to proceed with the negotiation:
 - (i) both parties shall notify the Commission when the negotiations for the Access Agreement begin;
 - (ii) both parties shall use their best endeavours to conclude the Access Agreement within:
 - (A) where there is no Access Agreement in place between the Operators, 4 months; or
 - (B) where there is already a commercial agreement or an Access Agreement in place between the Operators, 3 months.
- (c) If the negotiation is not completed within the applicable timeframe specified under this RAO:
 - (i) both parties may jointly apply to the Commission for an extension of time to negotiate and if the extension of time is not granted by the Commission, there shall be deemed to be a dispute between the parties and the Dispute Resolution Procedures shall take effect; or
 - (ii) either party may initiate the Dispute Resolution Procedures; and if the Commission grants an extension of time, it may do so subject to such conditions as it specifies (such as an ongoing requirement to provide updates on negotiations at specified intervals and the right to reduce or extend any extension).

- (d) Any meeting or negotiation 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). *5.4.22 of the MSA*

Section 16 – Access Request

- (a) The Access Provider may require the Access Seeker to provide an Access Request if: *5.4.5 of the MSA*
- (i) there is no Access Agreement in force between the Access Provider and the Access Seeker governing the Access Services to which the Access Seeker seeks access; or
 - (ii) there is an existing Access Agreement but the current term of that Access Agreement will expire or terminate within the next 4 months or the requested Access Services are outside the scope of that Access Agreement.

The Access Provider shall develop a process for desk/ field studies and Service Qualifications that the Access Seeker may take up prior to entering into the Access Agreement.

- (b) The Access Request shall contain the following information and/or documents: *5.4.6 of the MSA*
- (i) the names and contact details of the Access Seeker;
 - (ii) the type of Access Services in respect of which is sought;
 - (iii) a list of the relevant license held by the Access Seeker;
 - (iv) whether the Access Seeker wishes to accept this RAO or to negotiate amendments to this RAO or to negotiate an Access Agreement on alternative terms;
 - (v) the information (if any) the Access Seeker reasonably requires the Access Provider to provide for the purposes of negotiations which may include information under section 9 of this RAO;
 - (vi) 2 copies of the duly executed Confidentiality Agreement;
 - (vii) preliminary information regarding the scale and scope of the Access Services that the Access Seeker expects to acquire from the Access Provider pursuant to the Access Request;
 - (viii) relevant technical information relating to the interface standards of the equipment of the Access Seeker;
 - (ix) 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 (if applicable);
 - (x) creditworthiness information as set out in section 10 of this RAO;
 - (xi) assessed security or confirmation of security offered to the Access Provider in line with section 11 of this RAO;
 - (xii) insurance information as required under section 12 of this RAO; and
 - (xiii) such other information as the Access Provider may reasonably require for the sole purpose of providing access to the requested Access Services.

- (c) If the Access Seeker wishes to obtain access to additional facilities and/or services that are not specified in the Access List, then the requirements under section 15 to section 24 of this RAO may apply to any request for access to such additional facilities and/or services to the extent agreed by the parties. *5.4.14 of the MSA*

Section 17 – Response to the Access Request

- (a) The Access Provider shall, within 10 Business Days upon receipt of the Access Request, respond to the Access Seeker in writing, acknowledging receipt of the Access Request and stating that: *5.4.7 of the MSA*
- (i) if the Access Seeker is willing to accept this RAO, the Access Provider shall within 10 Business Days of such response, provide one copy of the duly executed Confidentiality Agreement and 2 copies of the duly executed RAO to the Access Seeker;
 - (ii) if the Access Seeker is unwilling to accept this RAO, both parties may proceed to negotiate on the amendment to this RAO or Access Agreement at the absolute discretion of the Access Provider. If the Access Provider is willing to proceed with the negotiation, the Access Provider must set out in its response to the Access Seeker:
 - (A) a place, date and time not later than 15 Business Days from the date of the Access Provider's response for both parties' authorised representatives to be present on the initial meeting; and
 - (B) one copy of the duly executed Confidentiality Agreement.
 - (iii) the Access Provider refuses the Access Request in accordance with section 19 of this RAO; or
 - (iv) the Access Provider requires additional information to decide on the Access Request and once such information is received from the Access Seeker, the Access Provider shall reconsider the Access Request and respond to the Access Seeker in writing within 10 Business Days upon receipt of the requested information from the Access Seeker.
- The same must be provided to the Commission at the same time the Access Provider provides the response to the Access Seeker.
- (b) If the Access Provider responds that access will be provided in accordance with this RAO as described in section 17 (a)(i) above, the Access Provider must, within 10 Business Days of such response, provide 2 executed copies of the RAO to the Access Seeker and one copy of the Confidentiality Agreement returned by the Access Seeker that has also been properly executed by the Access Provider. *5.4.8 of the MSA*
- (c) If the Access Provider is willing to proceed with negotiation of the Access Request, the Access Provider must set out in its response to the Access Seeker: *5.4.9 of the MSA*
- (i) a place, date and time, not later than 15 Business Days from the date of the Access Provider's response, when the Access Provider's representative that is authorised to negotiate on an Access Agreement, will be available for an initial meeting with the Access Seeker's representative that is authorised to negotiate on the Access Agreement; and
 - (ii) one copy of the executed Confidentiality Agreement returned by the Access Seeker that has also been properly executed by the Access Provider.
- (d) If the Access Provider refuses the Access Request, it must notify the Commission within 5 Business Days of that refusal together with an *5.4.19 of the MSA*

explanation of its reason for refusal under section 20 of this RAO.

Section 18 – Initial meeting

Unless otherwise agreed between the Operators, each Operator shall ensure that its authorised representatives meet on the date specified pursuant to section 17(b) of this RAO and that such representatives: *5.4.13 of the MSA*

- (a) agree on a timetable for the negotiation, including milestone and date for subsequent meetings within the applicable timeframe for negotiation under section 15(c) of this RAO;
- (b) agree on negotiating procedures, including:
 - (i) calling and chairing meetings;
 - (ii) responsibility for keeping minutes of the meetings;
 - (iii) clearly defined pathways and timetable for escalation and resolution by each Operator of matters not agreed in the meetings;
 - (iv) procedures for consulting, and including in the negotiating process, relevant experts from each of the Operators; and
 - (v) procedures for preparing and exchanging position papers;
- (c) review the information requested and provided to date and identify information yet to be provided by each Operator; and
- (d) identify what technical investigations, if any, need to be made and by whom such investigations should be made.

Section 19 – Refusal of the Access Request

If the Access Provider decides to refuse the Access Request, the Access Provider must set out in its response: *5.4.10 of the MSA*

- (a) the grounds in section 20 of this RAO on which the Access Provider is relying;
- (b) sufficient particulars to enable the Access Seeker to make its own assessment about the applicability of the specified ground of refusal; and
- (c) a place, date and time, not later than 7 Business Days from the date of the Access Provider's response, for the purpose of discussing the refusal of the Access Request. At the 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 grounds in:
 - (i) section 20(b) of this RAO, the Access Provider must reconsider the Access Request by taking into account any supplementary information provided by the Access Seeker;
 - (ii) section 20(d) of this RAO, the Access Provider must identify when additional capacity or space is likely to be available; and
 - (iii) section 20(e) of this RAO, the Access Provider must identify the form of security requirement which would satisfy its concern that the Access Seeker may fail to make timely payment for the requested Access Services, its reasons for the security requirement and why it considers such concern cannot be addressed through a security requirement under section 11 of this RAO.

If, following the meeting required to be held pursuant to section 18 of this RAO, the parties failed to resolve any differences about the validity of the Access Request and the Access Seeker disagrees with the Access Provider's refusal of the Access Request, either party may request resolution of the dispute in accordance with the Dispute Resolution Procedures set out in schedule E of this RAO.

Section 20 – Grounds for refusal

Except where expressly permitted otherwise under the Act or this RAO, the Access Provider shall not, save for the following grounds, refuse an Access Request:

*5.4.11 of
the MSA*

- (a) the Access Provider does not currently supply, or provide access to, the relevant Access Services to itself or to any third parties (in which case it shall identify any alternative facilities and/or services which it does provide to itself or to any third parties, which may be a relevant substitute), except where the Access Seeker compensates the Access Provider for the original supply of access to the Access Services to the Access Seeker;
- (b) the Access Seeker has not provided all of the information required to be provided in accordance with the Access Request set out in schedule A of this RAO;
- (c) it is not technically feasible to provide the requested Access Services;
- (d) the Access Provider has insufficient capacity or space to provide the requested Access Services;
- (e) the Access Provider has reasonable grounds to believe that the Access Seeker may fail to make timely payment for the requested Access Services and such concern cannot be addressed through a security requirement stipulated under section 11 of this RAO;
- (f) there are reasonable grounds to believe that the Access Seeker would fail, to a material extent, to comply with the terms and conditions applicable to the supply of the Access Services; or
- (g) there are reasonable grounds for the Access Provider to refuse access in the national interest.

The Access Provider must, within 5 Business Days from the date of any refusal of the Access Request, notify the Commission in writing of such refusal together with an explanation of its reason for refusal.

Section 21 – Technical infeasibility

For the purposes of section 20(c) of this RAO, the Access Provider may refuse an Access Request on the ground of technical infeasibility if there are substantial technical or operational concerns preventing the fulfilment of the Access Request. Each of the following matters will be taken into account in determining whether access is technically feasible:

*5.4.17 of
the MSA*

- (a) economic, accounting, billing, space or site concern shall be disregarded except that space or site concern 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, on its own, mean that the access is not technically feasible;
- (c) the acceptance of the Access Request would have adverse impact on network reliability, the Access Provider must provide evidence that provision of the requested Access Services would result in specific and significant adverse impact on network reliability; and
- (d) the Access Provider must demonstrate that it has considered and found not to be technically feasible improvements that would allow the Access Provider to meet the Access Request (in whole, or in part, and including for an interim period until any primary difficulties can be resolved).

Section 22 – Capacity constraints

The Access Provider may refuse the Access Request on the ground that it has insufficient capacity or space under section 20(d) of this RAO provided that the Commission has been notified in writing that the requisite capacity is:

*5.4.18 of
the MSA*

- (a) already carrying traffic to full capacity or near full capacity; or
- (b) already reserved for future use by the Access Provider or another Access Seeker, where such future use shall commence not later than 6 months from the date of the Access Request. If the reserved capacity is not subsequently used by the reserving party within 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; and
- (c) the Access Provider is unable to expand capacity to meet the requirements in the Access Request.

Section 23 – Additional matters

The Access Provider shall not do, or threaten to do, anything that has the effect or likely effect of, any of the following:

*5.4.15 of
the MSA*

- (a) refuse to negotiate terms of access not related to price, for the reason that the rate, charge, charging principles or methodologies of access has not been agreed upon;
- (b) refuse to negotiate access to the Access Services because the Access Seeker has not agreed to acquire access to other facilities and/or services or because the Access Seeker has not agreed to acquire a particular configuration, option or feature of a requested Access Service;
- (c) require the 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 the Access Seeker to warrant that an Access Agreement complies with all applicable laws;
- (e) refuse to include in any Access Agreement a provision permitting variation of the Access 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 first obtaining any regulatory approval or consent;
- (g) intentionally mislead or coerce the Access Seeker into reaching an agreement, which would not otherwise have been reached if not for the misleading act or coercion;
- (h) intentionally obstruct or delay negotiations or any dispute resolution process;
- (i) fail to nominate representatives who have sufficient authority and with sufficient availability to progress negotiations in a timely and efficient manner;
- (j) fail to provide information that is necessary to conclude the Access Agreement including, without limitation:
 - (i) information about the Access Provider's Network that the Access Seeker reasonably requires in identifying the network elements or network components to which it requires access; and
 - (ii) information about the basis of the determination of rates, charges or fees.

Section 24 – Non-permitted information

Notwithstanding anything else in this RAO, the Access Provider shall not impose an

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obligation on the 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):

the MSA

- (a) the Access Seeker's proposed service launch date (though the Access Provider may request the Access Seeker to specify any ready-for-service dates which the Access Seeker requires from the Access Provider in respect of the requested Access Services);
- (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;
- (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 section 10 of this RAO;
- (g) details of any other supply arrangements or Access 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 Services; or
- (h) any other commercially sensitive information of the Access Seeker which is not strictly required by the Access Provider to supply the requested Access Services.

Content Obligations

Unless otherwise specifically provided in this RAO, the Content Obligations shall apply to all Access Services subject to the Service Specific Obligations set out in schedule F of this RAO.

Section 25 – Forecasting obligations

- (a) Prior to the Access Provider accepting Order from the Access Seeker, the Access Seeker must prepare Forecast in relation to the Access Services for a period determined by the Access Provider in good faith. *5.6.1 of the MSA*
- (b) If the Access Provider, acting reasonably will incur significant costs to ensure that access can be provided in accordance with a Forecast, the Access Provider may request the Access Seeker to confirm the relevant Forecast. Upon confirmation, the Forecast is deemed to be an Order for the purposes of this RAO. *5.6.3 of the MSA*
- (c) The Access Provider and the Access Seeker may agree to an alternative forecasting and ordering procedure other than that set out in section 25 of this RAO as part of an Access Agreement, or to dispense with such procedure altogether. If agreement is reached about such matters, the Access Provider and Access Seeker will be bound by the terms of that alternative procedure or mutual dispensation and section 25 of this RAO. *5.6.4 of the MSA*
- (d) The Forecast shall contain the following information: *5.6.6 of the MSA*
 - (i) the type of Access Services in respect of which Forecasts are required;
 - (ii) the total period of time covered by each Forecast, which period:
 - (A) 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
- (B) shall be the shorter of the period set out in the relevant Service Specific Obligations and the period of forecasting which the Access Provider provides to itself for network planning and provisioning purposes;
- (iii) 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 Service Specific Obligations and the intervals of time in which the Access Provider provides forecasting to itself;
- (iv) 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;
- (v) the frequency with which a Forecast must be updated or a further Forecast made in accordance with this RAO, which shall be the shorter of the period set out in the relevant Service Specific Obligations and the length of time after which the Access Provider provides itself with the updated or further Forecasts; and
- (vi) such other information that the Access Provider reasonably requires in order to provide access to the Access Services requested by the Access Seeker (which shall not include any information that the Access Provider does not provide to itself).
- (e) The Forecast shall be provided to the Access Provider not sooner than 4 weeks from the date the Access Seeker received the Forecast Request. *5.6.8 of the MSA*
- (f) Forecast Information provided by the Access Seeker shall be treated by the Access Provider as Confidential Information of the Access Seeker and shall only be used by those personnel of the Access Provider whose role is within either:
- (i) the Access Provider's wholesale; or
- (ii) that part of the network engineering group of the Access Provider responsible for access.
- For the purpose of responding to and planning for the Forecast and related Orders, 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.
- (g) The Access Provider may only distribute Forecast Information of an Access Seeker outside the groups of people referred to in section 25(f) of this RAO if:
- (i) the Forecast Information of the Access Seeker is aggregated with Forecasts provided by other Operators and the Access Provider's own requirements; and
- (ii) the Forecast Information or its use does not otherwise identify the Access Seeker, its services or its Customers in any manner. *5.6.10 of the MSA*
- (h) The Access Provider shall notify the Access Seeker within 5 Business Days upon receipt of the Forecast whether or not the Access Provider considers the Forecast to be in compliance with the Forecast Request and:
- (i) 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 require such information to be provided sooner than 4 weeks after such a notice; or
- (ii) 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.
- (i) The Access Provider must give notice of any acceptance or rejection ("**Rejection Notice**") of a Forecast to the Access Seeker within 15 Business Days of receipt of the relevant Forecast and such Rejection Notice (if any) must specify:
 - (i) the ground on which the Access Provider rejects the Forecast, 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 Forecast; and
 - (ii) an offer to meet within 5 Business Days of the Rejection Notice of the Forecast to discuss the reasons for rejection and alternative methods of compliance. The meeting shall take place between the Access Provider and Access Seeker if the offer is accepted by the Access Seeker.
 - (j) The Access Provider may reject a Forecast following provisional acceptance where the Access Provider reasonably believes that the Forecast is inaccurate or, there is insufficient capacity having regard to total current usage of the Access Services by the Access Provider and all Access Seekers.
 - (k) The Access Provider must allow the Access Seeker to reconsider its Forecast following a Rejection Notice and allow the Access Seeker, within 21 Business Days of receipt of a Rejection Notice, either:
 - (i) to confirm its rejected Forecast, and explain why the Access Seeker considers that the Access Provider is obliged to accept the Forecast under this RAO;
 - (ii) to submit a new Forecast which the Access Seeker regards as meeting the Access Provider's concerns.
 - (l) The Access Provider shall reconsider any re-submitted or amended Forecast provided pursuant section 25 (l) and sections 25(h) to 25(j) of this RAO shall re-apply.
 - (m) 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:
 - (i) the relevant portion of the Forecast that was not met by the Access Seeker does not relate to a Non-Binding Forecast Period;
 - (ii) such costs and expenses were reasonably and necessarily incurred by the Access Provider;
 - (iii) 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

- (iv) the Access Provider only recovers from the Access Seeker, 75% of such costs and expenses which could not be mitigated.

Section 26 – Ordering and provisioning obligations

- (a) All Orders for the Access Services must be delivered to the authorized personnel of the Access Provider by way of email or post as stated under section 48(b) of this RAO. All Orders made by the Access Seeker shall be processed with equivalent priority and on a “first come first serve” basis.
- (b) The Access Provider may require the Access Seeker to provide it with an Order which details the following information for the Access Services: *5.7.2 of the MSA*
 - (i) the Access Services to which access is requested;
 - (ii) requested date and time for delivery;
 - (iii) the location of the points of delivery;
 - (iv) 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; and
 - (v) such other information that the Access Provider reasonably requires in order for it to provide the Access Services, provided that such information shall not include any information:
 - (A) which the Access Provider does not require from itself for similar provisioning;
 - (B) identifies, or which enables the identification of a Customer or services of the Access Seeker; or
 - (C) is non-permitted information under section 24 of this RAO.
- (c) Information provided by the Access Seeker in relation to the Order shall be treated as Confidential Information and shall only be used by those persons within the Access Provider whose role is within the Access Provider’s wholesale or interconnection group and part of the network engineering group of the Access Provider responsible for interconnection or access for the purpose of responding to and provisioning for the Order. *5.7.3 of the MSA*
- (d) The Access Provider shall establish a single queue for all Orders for a given type of facility and/or service, whether those Orders are required for itself or any Access Seeker, and give the equivalent priority to the handling of all Orders in each queue. *5.7.4 of the MSA*
- (e) The Access Provider shall acknowledge receipt of an Order in writing (or any other material or electronic form as agreed by the parties), within the period specified in the Service Specific Obligations. The Access Provider shall include the following in the notice of receipt: *5.7.5 of the MSA*
 - (i) the time and date of receipt of the Order; *5.7.6 of the MSA*
 - (ii) a list of any additional information reasonably required by the Access Provider from the Access Seeker in respect of the Order;
 - (iii) whether the Access Provider needs to perform post-Order Service Qualification because information is not readily available to the Access Provider; and
 - (iv) the position of the Order in the Access Provider’s queue.

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| (f) | The Access Provider shall allow the Access Seeker a period of up to 10 Business Days after a request for additional information has been made in accordance with section 26(d)(ii) of this RAO to provide the Access Provider with such information. | 5.7.7 of the MSA |
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Section 27 – Acceptance obligations

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| (a) | <p>The Access Provider shall permit the Access Seeker to withdraw its Order 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:</p> <ul style="list-style-type: none"> (i) 10 Business Days after the Access Seeker receives the result of Service Qualification; and (ii) one Business Day before the Access Provider commences civil work to the Order and any civil work 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. | 5.7.10 of the MSA |
| (b) | The Access Provider must use its reasonable efforts to accept and fulfil Order from the Access Seeker for the Access Services which comply with a Forecast. | 5.7.11 of the MSA |
| (c) | <p>The Access Provider must notify the Access Seeker that an Order is accepted or rejected within:</p> <ul style="list-style-type: none"> (i) the specified timeframe set out in paragraph (d), schedule F of this RAO; or (ii) the timeframe within which it accepts or rejects equivalent Order for itself, whichever is shorter. <p>If the Access Provider notifies the Access Seeker that an Order is rejected, the Access Provider must advise the Access Seeker of the ground of rejection and whether the Access Provider would be able to accept the Order in a modified form.</p> | 5.7.12 and 6.8.4 of the MSA |
| (d) | <p>The Access Provider's Notice of Acceptance must contain the following information:</p> <ul style="list-style-type: none"> (i) the delivery date or activation date (as applicable), which must be the date requested by the Access Seeker, or, if that date cannot be met by the Access Provider, then no later than: <ul style="list-style-type: none"> (A) the indicative delivery timeframe or activation timeframe specified in the Service Specific Obligations; or (B) the period of time taken by the Access Provider to deliver, or activate, such Access Services for itself, whichever is shorter; (ii) the date when civil work (if any) is intended to commence; (iii) the charges applicable to fulfil the Order, including without limitation additional works such as internal wiring, right of way, land rental, local authority permits and third-party deposits; (iv) such information as is reasonably necessary for the Access Seeker to benefit from the Access Services; and (v) the validity period, which shall be a period that is not shorter than 3 | 5.7.13 of the MSA |

months commencing from the date of the Notice of Acceptance ("Validity Period").

- (e) The applicable delivery timeframe for an Order shall commence from the date the Access Seeker confirms the Order and in any other case, from the start of the Validity Period. 5.7.14 of the MSA
- (f)
 - (i) 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. 5.7.15 of the MSA
 - (ii) Where the Access Seeker's confirmation is required, the Access Provider shall permit the Access Seeker to provide its confirmation within the Validity Period and shall not fulfill 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.

Section 28 – Estimated charges

- If the Notice of Acceptance provided by the Access Provider contains estimate of charges (e.g., based on time and materials): 5.7.16 of the MSA
- (a) the Access Provider shall not exceed the estimate without providing the Access Seeker with a 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 fulfil the Order;
 - (b) the Access Provider shall permit the Access Seeker to withdraw the Order without penalty within 10 Business Days of the notice given by the Access Provider under section 28(a) above if the revised estimate in that notice exceeds the original estimate by more than 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 provided by the Access Seeker which are inaccurate or erroneous or not disclosed by the Access Seeker; or
 - (ii) 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 section 27(f)(v) or section 28(b) of this RAO, as applicable.

Section 29 – Rejection and delivery of Order

- (a) The Access Provider may reject an Order where: 5.7.17 of the MSA
 - (i) it is not technically feasible to provide Access Services requested by the Access Seeker;

- (ii) the Access Provider has insufficient capacity to provide the requested Access Services;
 - (iii) the Order is in excess of the agreed Forecast levels;
 - (iv) the Order or variation request duplicates an Order awaiting fulfilment;
 - (v) there are reasonable grounds to believe that the Access Seeker would fail to a material extent, to comply with the terms and conditions of the Access Agreement and such concern cannot be addressed to the Access Provider's satisfaction; or
 - (vi) there are reasonable grounds to believe that the Access Seeker would fail, in connection with the supply of the Access Services to protect the integrity of a 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.

- (b) The Access Provider's notice of rejection of an Order must set out the ground 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 offer to meet within 5 Business Days of the notice of rejection to discuss the reasons for rejection and alternative methods of compliance. *5.7.18 of the MSA*

- (c) Notwithstanding section 29(a)(ii) of this RAO, the Access Provider must use its reasonable efforts to provide sufficient capacity to accept and fulfil Order 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 Seeker 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 Seekers and itself. The Access Provider is not required to supply Access 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 Access Services provided to all Access Seekers and/or itself. *5.7.19 of the MSA*

- (d)
 - (i) The Access Provider shall deliver the Order by the delivery date or activation date (as applicable) as specified in the Notice of Acceptance or the extended delivery date (if any). *5.7.22 of the MSA*
 - (ii) 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 Access Services at the earlier delivery date.
 - (iii) Where there is delay in the delivery of an Order, and the delay is caused by either the Access Provider or by a third party, that is not acting under the Access Provider's direction or control:
 - (A) the Access Provider shall notify the Access Seeker of the delay together with the reasons for the delay, as soon as practicable after the Access Provider becomes aware of the possible delay;
 - (B) the Access Provider shall permit the Access Seeker to cancel the Order without penalty if the delay is longer than the equivalent time period for delivery of the Access Services; and

- (C) 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
- (iv) where the delay is caused by the Access Seeker:
 - (A) the Access Provider shall notify the Access Seeker of the delay as soon as practicable after the Access Provider becomes aware of it;
 - (B) both parties must work together to minimise the delay; and
 - (C) 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.

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 purpose of this section.

- (e) 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, the Access Provider 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. 5.7.23 of the MSA
- (f) Where there is delay in the delivery of an Order, and 5.7.24 of the MSA
 - (i) the delay is caused by either the Access Provider or by a third party, that is not acting under the Access Provider's direction or control:
 - (A) 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;
 - (B) the Access Provider shall permit the Access Seeker to cancel the Order without penalty if the delay is longer than the equivalent time period for delivery of the facility and/or service; and
 - (C) 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
 - (ii) where the delay is caused by the Access Seeker:
 - (A) 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;
 - (B) the Access Provider and Access Seeker must work together to minimise the delay; and
 - (C) 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.

Section 30 – Cancellation or variation of Order

- (a) The Access Provider shall allow the Access Seeker to cancel or vary the Order at any time subject to section 30 (b) of this RAO. 5.7.25 of the MSA
- (b) The Access Seeker is allowed at any time to cancel or vary the Order subject to the following: 5.7.26 of the MSA

- (i) the Access Provider may impose a charge for the cancellation or variation of the Order; and
- (ii) the charge which the Access Seeker is required to pay shall not exceed the lesser of the following amount:
 - (A) the sum of costs necessarily incurred by the Access Provider which is directly attributable to the cancellation or variation; or
 - (B) an amount equal to the sum of charges that would have been payable by the Access Seeker in the 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 endeavors to do so.

Section 31 – Testing, provisioning and queuing policy

- (a) The Access Provider: *5.7.27 of the MSA*
 - (i) shall co-operate with the Access Seeker in relation to the testing and provisioning of ordered Access Services, including but not limited to, by implementing a proof of concept if requested by the Access Seeker;
 - (ii) shall treat the Access Seeker's testing and provisioning on an equivalent basis to that which the Access Provider treats testing and provisioning for itself; and
 - (iii) may require reasonable co-operation by the Access Seeker in respect of such activities.
- (b) The Access Provider shall establish and maintain a queuing policy for each facility and/or service, which: *5.7.29 of the MSA*
 - (i) shall be non-discriminatory;
 - (ii) shall be applied to Orders of all Access Seekers and Orders for itself for the same or similar facilities and/ or services, and shall treat the Orders of Access Seekers on an equivalent basis to that which the Access Seekers or an equivalent basis to that which the Access Provider treats Orders for itself for the same or similar facilities and/or services and
 - (iii) shall seek to maximise the efficiency of its ordering and provisioning process.
- (c) The Access Provider shall promptly notify the Access Seeker at the time of providing an acknowledgment of receipt of the Order under section 26 (e) of this RAO, of their acceptance of, and position in, the Access Provider's queue. *5.7.30 of the MSA*

Section 32 – Operations and maintenance obligations

- (a) Each Operator shall be responsible for the operations and maintenance of its own facilities and services. *5.12.1 of the MSA*
- (b) Each Operator shall establish and maintain a fault reporting service that allows Customers who are directly connected to the Network of that Operator and to whom that Operator supplies Access Services (inter alia) to report faults relating to any Network and/or Access Services. *5.12.2 of the MSA*

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| (c) | An Operator shall: | 5.12.4 of
the MSA |
| | (i) perform fault reporting and identification on a non-discriminatory basis; and | |
| | (ii) treat the faults reported by another Operator on an equivalent basis as it treats the faults reported by itself. | |
| (d) | If a Customer reports a fault to an Operator: | 5.12.5 of
the MSA |
| | (i) when the Customer is directly connected to another Operator; or | |
| | (ii) which clearly relates to a Network and/or Access Services of another Operator, | |
| | the Operator which receives the report shall promptly inform the other Operator of the reported fault, or refer that Customer to the other Operator's fault reporting service. | |
| (e) | The Operator in whose Network the fault occurs is responsible for rectifying it and restoring services including for the purpose of restoring the supply of Access Services which are used in another Operator's Network. | 5.12.6 of
the MSA |
| (f) | If a major fault occurs which affects communication that crosses or would cross both Operators' Networks, initial responsibility for identifying the fault rests with the Operator who first becomes aware of the fault. | 5.12.7 of
the MSA |
| (g) | If an Operator identifies a fault occurring in its Network or with its network facilities which may have an adverse effect on another Operator's Network, network facilities, network services or equipment, the first-mentioned Operator must promptly inform the other Operator of: | 5.12.8 of
the MSA |
| | (i) the existence of the fault; | |
| | (ii) the actions being taken by the first-mentioned Operator to rectify the identified faults and restore the service; and | |
| | (iii) the outcome of those actions. | |
| (h) | Each Operator is responsible for establishing and maintaining a fault reporting service at its own cost irrespective of the location of the fault. | 5.12.9 of
the MSA |
| (i) | Each Operator shall give priority to faults in the following order: | 5.12.10 of
the MSA |
| | (i) the highest service loss impact in terms of the number of Customers affected; | |
| | (ii) those which have been reported on previous occasions and have re-occurred; and | |
| | (iii) all other faults. | |

- (j) Each Operator shall respond to and rectify faults following the table set out below: 5.12.12 of the MSA

Priority level	Fault (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 hour	Every one hour	4 hours
Level 2	(1) Minor switch outage (2) Minor routing issue (3) Minor signaling problems (4) Route blocking 10%-30% (5) Cross line and silent calls (6) Mobile number portability issues	Within 4 hours	Every 4 hours	24 hours
Level 3	(1) Faults affecting single or small number of Customers (2) Route blocking <10%	Within 24 hours	Every 24 hours	72 hours
Level 4	(1) Remote congestion (2) External Technical Irregularities (3) Other performance related issues	Within 48 hours	Every 48 hours	10 Business Days

Section 33 – Technical obligations

- (a) Operators 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 this RAO. 5.13.1 of the MSA
- (b) An Operator must take reasonable measures to ensure that interconnection and access do not cause physical or technical harm to the other Operator's Network, which measures shall be no less robust than the measures which the Operator takes in respect of new facilities or equipment incorporated into its own Network. 5.13.2 of the MSA
- (c) An Operator must take reasonable care of and comply with the Specifications as detailed in schedule B of this RAO.

Section 34 – Decommissioning obligations

- (a) (i) If the Access Provider is required to vacate a site which the Access Services relied on, the Access Provider must provide no less than 6 months' notice in writing to all relevant Access Seekers prior to the decommissioning of any Access Services which rely on the Access Provider's use of that site. *5.9.1 of the MSA*
- (ii) If the Access Provider is required to vacate a site as a result of a notice issued by the landlord or local authority, the Access Provider must provide all relevant Access Seekers with as much notice as possible in relation to the decommissioning of the site.
- (b) The Access Provider shall co-operate and negotiate with all relevant Access Seekers in relation to the timetable for decommissioning of the relevant site and/or Access Services. *5.9.2 of the MSA*
- (c) The Access Provider which notifies the Access Seeker of its intention to decommission any Access Services, shall provide to the Access Seeker access to alternative services on terms and conditions which are not disadvantageous to the Access Seeker, relative to the terms and conditions and recurring charge applicable in respect of the Access Services that are proposed to be decommissioned, for a period that is not less than 3 years from the date of decommissioning. *5.9.3 of the MSA*
- (d) Except where decommissioning is caused by Force Majeure, notice issued by the landlord or local authority, the Access Provider shall pay to the Access Seeker the reasonable cost necessarily incurred in moving and re-arranging the Access Seeker's Equipment to connect to the alternative services. *5.9.5 of the MSA*

Payment

Section 35 – Deposit

The Access Seeker is required to pay Access Provider, 2 months utility fee as the security deposit. The deposit will be refunded, free of interest, by the Access Provider within 2 months upon the expiration or termination of the Access Agreement.

Section 36 – Terms of payment

- (a) The Access Provider shall issue to the Access Seeker an Invoice (in writing or in electronic form) within one month of the end of each Billing Cycle for the amounts due in respect of the supply of Access Services during the relevant Billing Period.
- (b) The schedule of rates (inclusive of all Taxes) applicable to the Access Services are set out in schedule C of this RAO.
- (c) Unless otherwise agreed by the Access Provider and Access Seeker in the Access Agreement, all Invoices shall be stated in Ringgit Malaysia and payment shall be made by the Access Seeker in Ringgit Malaysia. *5.11.2 of the MSA*
- (d) The Access Provider shall provide, with each Invoice, such information as may *5.11.4 of*

- be reasonably necessary for the Access Seeker to verify rates and charges contained in the Invoice. *the MSA*
- (e) The Access Provider shall provide the Access Seeker, on written request, with an aggregated summary of billings for the Access Services provided to the Access Seeker, in monthly tranches. *5.11.6 of the MSA*
- (f) If the Operator discovers an error in the Invoice, the Operator must promptly notify the other Operator. The Operator which made the error must make necessary adjustments to correct that error within 1 month of notification. *5.11.7 of the MSA*
- (g) Upon receipt of the Invoice issued by the Access Provider to the Access Seeker, the Access Seeker shall make the relevant payment (by bank cheque or electronic funds transfer to the Access Provider's bank account) within 45 days, provided that the Access Seeker is permitted to withhold payment on disputed Invoice without accruing any interest.
- (h) Subject to section 36(i) of this RAO, the Access Provider shall allow the Access Seeker no less than 1 month from the date of receipt of an Invoice for the Access Seeker to make the payment. This subsection should not be construed as preventing the Access Provider from granting a discount to the Access Seeker as an incentive to make early payments. *5.11.8 of the MSA*
- (i) The Access Provider shall allow the Access Seeker to pay the Invoice by bank cheque or electronic funds transfer directly to an account nominated by the Access Provider. *5.11.9 of the MSA*
- (j) Unless otherwise agreed by the Access Provider and Access Seeker in the Access Agreement, the Access Provider may not set-off Invoices except where the Access Seeker is in liquidation or at least 3 Invoices have been issued and such Invoices have not been paid (excluding disputed amounts). *5.11.10 of the MSA*
- (k) The Access Provider shall allow the Access Seeker to withhold payment of any amount disputed in good faith by the Access Seeker if:
- (i) the Access Seeker notifies the Access Provider within 15 Business Days from the date of receipt of the disputed Invoice (unless otherwise agreed between the parties in the Access Agreement); and
 - (ii) the Access Seeker's notification specifies the information referred to in section 36(m) of this RAO.
- 5.11.11 of the MSA*
- (l) The Access Provider shall allow the Access Seeker to dispute any amount in an Invoice if in case of any other facilities and/or services, the Access Seeker notifies the Access Provider within 30 Business Days after the date of receipt of such Invoice, provided that the Access Seeker's notification specifies the information referred to in section 36(m) of this RAO. *5.11.12 of the MSA*
- (m) The Access Provider may require the Access Seeker to provide the following information when there is dispute in the Invoice: *5.11.13 of the MSA*
- (i) the reasons for which the Invoice is disputed;
 - (ii) the amount in dispute;

- (iii) details required to identify the relevant Invoice and charges in dispute including but not limited to the account number, the Invoice reference number, the Invoice date, the Invoice amount and billing verification information; and
 - (iv) evidence in the form of a report, indicating any relevant traffic data which is in dispute.
- (n) Any Billing Disputes between the Access Provider and the Access Seeker shall be subject to the Dispute Resolution Procedures set out in schedule E of this RAO. 5.11.14 of the MSA
- (o) Except for any amount in the Invoice being disputed by the Access Seeker in good faith, the Access Provider may charge interest on any amount outstanding from the Access Seeker from time to time, in respect of that overdue sum for the period beginning on its due date and ending on the date of the receipt of the overdue sum by the Access Provider. The interest shall be at the rate of 2% per annum above Malayan Banking Berhad's base rate, calculated daily from the due date until the date of actual payment. Payments which are overdue by more than 2 months will bear interest at the rate of 3% per annum above Malayan Banking Berhad's base rate, calculated from the due date until the date of receipt by the Access Provider of the full payment. For clarification, the Access Provider shall not charge interest on an amount which is disputed by the Access Seeker in good faith. 5.11.15 of the MSA
- (p) Unless otherwise agreed by the Access Provider and Access Seeker in the Access Agreement, the Access Provider may include omitted or miscalculated charges from an earlier Invoice in a later Invoice, or issue an Invoice for charges which have previously not been invoiced provided that the Access Provider is able to substantiate the charges to the Access Seeker and such inclusion, amendment or issuance is made within 3 months from the end of the Billing Cycle in which the Access Services were provided. 5.11.16 of the MSA
- (q) Where the Access Provider is unable to issue the Invoice within one month after the end of the Billing Cycle in accordance with this RAO, it may issue an Invoice to the Access Seeker for a provisional amount, based on the last Invoice ("**Provisional Invoice**"). In such circumstances, the Access Provider may invoice the Access Seeker for a provisional amount for a period of not more than 3 successive Billing Cycles, provided that the total provisional amount is no more than the average of the 3 most recent Invoices. Where there have not been 3 past Invoices for the relevant Access Services, the Access Provider may issue a Provisional Invoice up to the full value of the amount based on the most recent Invoice. 5.11.17 of the MSA
- (r) Where a Provisional Invoice is issued by the Access Provider, within the next 2 months or such other time period as may be agreed in the Access Agreement ("**Adjustment Period**"), the Access Provider must issue an Invoice for the actual amount due for access to the relevant Access Services. If that Invoice for the actual amount is not issued within the Adjustment Period, the Access Seeker shall treat the provisional amount as the actual amount. If the actual amount for a particular Billing Period is higher than the provisional amount for the Billing Period, then the Access Seeker will pay in full such difference (free 5.11.18 of the MSA

of interest) within one month from the receipt of the actual Invoice to the Access Provider. If the actual amount for a particular Billing Period is lower than the provisional amount for the Billing Period, then the Access Provider will reimburse in full such difference (free of interest) within one month from the receipt of the actual Invoice to the Access Seeker.

Section 37 – Rebate

- (a) If the Access Provider fails to meet the delivery date or any extended delivery date in accordance with section 29(d)(iii)(C) of this RAO, except where such failure has been caused solely by either the Access Seeker's delay or a delay by a third party that is not acting under the Access Provider's direction or control, the Access Provider shall, without limitation to any other rights the Access Seeker may have under the Content Obligations of this RAO or law, provide a rebate to the affected Access Seeker. The rebate shall be for an amount equivalent to the recurring charges payable for the Access Services for the delayed period. *5.7.33 of the MSA*
- (b) If the Access Provider alleges that a failure has been caused solely by the Access Seeker's delay or a delay by a third party not acting under the Access Provider's direction or control, the Access Provider shall have the burden of demonstrating such allegation and the Access Provider has done all things reasonably practicable to minimise or avoid such failure. *5.7.33 of the MSA*

Term, suspension and termination

Section 38 – Term

- (a) The Access Agreement entered into between the Access Provider and Access Seeker shall be valid for a term of no less than 5 years from the date of execution. *5.14.1 of the MSA*
- (b) Unless otherwise agreed by the Access Provider and the Access Seeker in the Access Agreement, and subject to the Access Provider not being able to provide access as a result of Force Majeure, the Access Provider shall only require the Access Seeker to acquire access to individual facilities and/or services under the Access Agreement for a minimum period as follows: *5.14.2 of the MSA*

Facilities and/or services	Minimum term
Network facilities access	3 years

Upon expiry of the minimum term, the Access Seeker can terminate the Access Agreement at any time without penalty for early termination, provided that the Access Seeker provides 3 months' notice to the Access Provider.

Section 39 – Suspension

- Subject to section 43 of this RAO, the Access Provider may suspend, whether in whole or in part, any Access Services, in the following circumstances: *5.14.5 of the MSA*
- (a) the Access Seeker's facilities and/ or Equipment materially and adversely affect the normal operation of the Access Provider's Network, or are a material threat

- to any person's safety;
- (b) the Access Seeker's facilities and/ or Equipment or the supply of services pose an imminent threat to life or property of the Access Provider, its employees or contractors;
- (c) the Access Seeker's facilities and/ or Equipment cause material, physical or technical harm to any facilities of the Access Provider or any other person;
- (d) where the Access Seeker has failed to pay Invoices in accordance with this RAO and has failed to rectify such non-compliance within 30 days of receiving notice from the Access Provider;
- (e) where the Access Seeker has failed to provide the new security amount as required under section 11 of this RAO;
- (f) where Force Majeure applies; or
- (g) the Access Seeker breaches any laws, regulations, rules or standards which has a material and adverse effect on the Access Provider or the provision by the Access Provider of the Access Services under the Access Agreement.

For the purposes of this section, the Access Provider must provide the Access Seeker a 5 Business Days' notice, including reasons, prior to suspending access to any Access Services. The Access Provider shall forward to the Commission a copy of the notice of suspension at the same time as providing the notice of suspension to the Access Seeker. For clarification, a notice to be given under this section is in addition to the notice required under section 43 of this RAO.

Section 40 – Termination

- (a) Subject to section 43 of this RAO, the Access Provider may, whether in whole or in part, terminate the Access Agreement by way of notice, in the following circumstances:
 - (i) the Access Seeker has materially breached this RAO or the Access Agreement and has failed to remedy its breach upon receipt of a 30 days' notice from the Access Provider requesting it to rectify such breach;
 - (ii) the Telecommunication Structure, Site or the Equipment is destroyed or damaged by fire or any other cause so as to be unfit for occupation or use without the fault or negligence of either party;
 - (iii) the requisite approvals for the installation of the Equipment or the continuous use of the Site or Telecommunications Structure cannot be obtained, has been revoked or are otherwise restricted in any way (whether temporarily or otherwise) either by law, order, ordinance or regulation applicable in Malaysia;
 - (iv) any buildings, structures or works of any nature or kind whatsoever are erected in the vicinity of the Site or Telecommunications Structure which screen, shield or interfere with the signals transmitted or received by the Equipment;
 - (v) the Access Seeker has become subject to a winding up order (whether compulsorily or voluntarily) or ceases to trade in the normal course of business or becomes insolvent or a receiving order is made against it or has entered into any agreement or composition with or assignment for the benefit of its creditors or the Access Seeker's assets are subject of any form of distress or execution or any analogous insolvency event related to the Access Seeker has occurred in any jurisdiction; or
 - (vi) a Force Majeure has continued for a period of more than 3 months.

*5.14.3 of
the MSA*

The Access Provider shall forward to the Commission a copy of the notice of termination at the same time as providing the notice of termination to the Access Seeker. For clarification, a notice to be given under this section is in addition to the notice required under section 43 of this RAO.

- (b) The Access Seeker may, whether in whole or in part, terminate the Access Agreement by way of notice, in the following circumstances: *5.14.3 of the MSA*
- (i) the Access Provider has materially breached this RAO or the Access Agreement and has failed to remedy its breach upon receipt of a 30 days' notice from the Access Seeker requesting it to rectify such breach;
 - (ii) the Telecommunication Structure, Site or the Equipment is destroyed or damaged by fire or any other cause so as to be unfit for occupation or use without the fault or negligence of either party;
 - (iii) the requisite approvals for the installation of the Equipment or the continuous use of the Site or Telecommunications Structure cannot be obtained, has been revoked or are otherwise restricted in any way (whether temporarily or otherwise) either by law, order, ordinance or regulation applicable in Malaysia;
 - (iv) any buildings, structures or works of any nature or kind whatsoever are erected in the vicinity of the Site or Telecommunications Structure which screen, shield or interfere with the signals transmitted or received by the Equipment;
 - (v) the Access Provider has become subject to a winding up order (whether compulsorily or voluntarily) or ceases to trade in the normal course of business or becomes insolvent or a receiving order is made against it or has entered into any agreement or composition with or assignment for the benefit of its creditors or the Access Provider's assets are subject of any form of distress or execution or any analogous insolvency event related to the Access Provider has occurred in any jurisdiction; or
 - (vi) a Force Majeure has continued for a period of more than 3 months.

Section 41 – Consequence of termination

- (a) The Access Provider shall not recover any additional charges, costs or expenses on termination or suspension of the Access Agreement or any Access Services provided, save for: *5.14.8 of the MSA*
- (i) the charges invoiced in arrears and have yet to be paid by the Access Seeker; or
 - (ii) charges arising during an applicable minimum contractual period provided that;
 - (A) such charges must be reduced to reflect any cost savings to the Access Provider from not having to supply the facilities and/or services to the extent that they have been terminated or suspended; and
 - (B) the Access Provider must use reasonable endeavours to mitigate its costs of termination or suspension and maximise cost savings under sub-paragraph (A) above.
- (b) The Access Provider shall refund to the Access Seeker all amounts paid in advance to the extent that the amount (or part of the amount calculated on a *5.14.9 of the MSA*

pro-rata basis) relate to the period after the date of effect of such termination.

- (c) The Access Provider shall within 2 months of termination of the Access Agreement, refund to the Access Seeker any deposit paid, provided all other amounts payable by the Access Seeker to the Access Provider have been paid and immediately unconditionally waive any rights under any guarantees provided by the Access Seeker except in respect of amounts payable by the Access Seeker to the Access Provider as at the date of termination.
- 5.14.10 of the MSA

Section 42 – Change in law

Where continued operation of this RAO or the Access Agreement will be unlawful (as a result of a legislative change), the Access Seeker and the Access Provider must meet within 5 Business Days of becoming aware of the relevant change in law to review whether the Access Services may be provided by the Access Provider on different terms and conditions (which are acceptable to the Access Seeker). If the parties failed to reach an agreement, either party may request resolution of the dispute in accordance with the Dispute Resolution Procedures.

5.14.4 of the MSA

Section 43 – Notice of termination

Prior to terminating, suspending, or seeking to materially vary the Access Agreement, the Access Provider must notify the Commission in writing on the proposed action and the rationale of doing so. The Commission may invite any affected Access Seeker to make submissions to the Commission regarding the proposed termination, suspension or material variation. The Access Provider:

5.14.6 of the MSA

- (a) shall only give effect to the proposed termination, suspension or material variation with the Commission's written consent and subject to any time delay or conditions which the Commission may specify (if any). The Commission will endeavour to respond to the Access Provider's notice within 10 Business Days or such other period that the Commission considers is reasonable;
- (b) must not give effect to the proposed termination, suspension or material variation unless the Access Provider has received written consent from the Commission; and
- (c) shall take all steps practicable to minimise disruptions and inconvenience to the Customers of the Access Seeker, including providing the Access Seeker with a reasonable period to make alternative arrangements prior to the suspension or termination of the Access Agreement.

Section 44 – Liability

Neither party shall be held liable to the other for any indirect or consequential losses or for loss of profit or revenue or other economic loss resulting from or in any way related to any and all liability or cause of action however alleged or arising.

Section 45 – Warranties and representations

- (a) Each party represents and warrants to other party that it has the full power and authority to execute this RAO and/or the Access Agreement and has taken all requisite approvals in connection with the execution and performance under this RAO and/or the Access Agreement.

- (b) Access Seeker warrants and represents that it has obtained all necessary licenses and approvals required by law and complied with all regulations and by-laws of any local authority or of any statutory authority for the installation, operation and maintenance of the Equipment.
- (c) Access Provider warrants and represents that it has obtained all necessary licenses and approvals required by law and complied with all regulations and by-laws of any local authority or of any statutory authority for the installation, operation and maintenance of the Telecommunication Structure at the Site.

Section 46 – Force Majeure

- (a) Force Majeure shall mean any event or circumstance which wholly or partly prevents or delays the performance of any obligation arising under this RAO or the Access Agreement, but only if and to the extent:
 - (i) such event is not within the reasonable control, directly or indirectly, of the party seeking to have its performance obligation excused thereby;
 - (ii) party seeking to have its performance obligation excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such party's ability to perform its obligations under this RAO or the Access Agreement and which by the exercise of due diligence such party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome; and
 - (iii) such event is not the direct or indirect result of the negligence or the failure of, or caused by, the party seeking to have its performance obligations excused thereby.
- (b) Events that could qualify as Force Majeure include, but are not limited to, the following:
 - (i) unusual flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, other natural disaster or unusual or extreme adverse weather-related events;
 - (ii) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockage, insurrection, revolution, expropriation or confiscation; and
 - (iii) any change in law that renders a party unable to perform its obligations under this RAO or the Access Agreement without being in violation of such law; provided, however, notwithstanding the foregoing, the following events shall not constitute a Force Majeure for purposes of this RAO or the Access Agreement:
 - (A) a party's failure to apply in a timely and complete manner for any necessary or required permits or approvals of any type;
 - (B) a strike, work stoppage or labour dispute limited only to a party or any other third party employed or contracting with such party; or
 - (C) any equipment failure except if such failure is caused solely by an event of Force Majeure above.
- (c) Neither party shall be liable to the other for any delay or damages or any failure

to perform its obligations under this RAO or the Access Agreement if, and to the extent that, it is caused by an event of Force Majeure.

- (d) Any delay or failure to perform obligations due to an event of Force Majeure shall not be deemed to be a breach under this RAO or the Access Agreement, provided, however, that the Party affected by such event of Force Majeure shall provide written notice thereof to the other party as soon as reasonably possible specifying all facts relating thereto, the anticipated consequences thereof, and any proposed actions to be taken in mitigation of adverse consequences.
- (e) Upon receipt of such notice, the parties shall enter into bona fide discussion to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable including terminating this RAO or the Access Agreement. Notwithstanding, if a party's performance in relation to this RAO or the Access Agreement is prevented or hindered due to an event of Force Majeure for a consecutive period in excess of 30 days, then the other party not suffering from such event of Force Majeure shall be entitled to terminate this RAO or the Access Agreement upon giving notice in writing to the other party.
- (f) Provided that the party suffering from an event of Force Majeure complies with the above subsections, then such party shall not be liable for any loss suffered by the other party arising out of the prevention, hindrance or delay in such performance to the extent that is caused by an event of Force Majeure.
- (g) Notwithstanding the above, an event of Force Majeure shall not excuse either party from the performance of obligations under this RAO or the Access Agreement not affected by the event of Force Majeure.

Section 47 – Mutual compensation

The Operator must establish mutually acceptable compensation arrangements with each other Operator, including bill-and-keep arrangements.

*5.16.2 of
the MSA*

Section 48 – Equal representative

The Operator must appoint an equal number of representatives to an Interconnect Steering Group (and such other working groups as may be agreed upon) to manage the smooth and timely implementation of the terms and conditions of the Access Agreement or Dispute Resolution Procedures, as applicable.

*5.16.3 of
the MSA*

Section 49 – Complete charges

The Access Provider shall specify all charges in the Access Agreement and shall not attempt to recover any other costs, expenses or charges which are not specified in the Access Agreement except where such work is to be done on a time and materials basis in which case the Access Provider shall do such work in accordance with a quotation agreed with the Access Seeker as set out in this RAO.

*5.16.5 of
the MSA*

Section 50 – Intellectual Property

Each Operator shall license to the other Operator under the Access Agreement on a royalty-free basis, all Intellectual Property rights necessary for the ongoing operation of the Access Agreement and the inter-operability of the Operators' Networks, subject to any relevant third-party licences. The term of the licence must be consistent with the term of the relevant Access Agreement.

*5.16.6 of
the MSA*

Section 51 – Security review

The Operator shall only vary the amount and type of any security requirements imposed on another Operator:

*5.16.7 of
the MSA*

- (a) a maximum of once in any 12-month period;
- (b) if there is a material increase in the credit risk to the Operator due to changes in either or both of the circumstances under section 11 of this RAO; and
- (c) if the Operator determines, acting reasonably, that the variation will materially reduce or remove the increased credit risk.

If the amount contained in the Invoices are disputed in good faith, this will not constitute a material increase in the credit risk to the Operator for the purposes of section 51(b) above.

Section 52 – Additional security

For the purposes of section 52 of this RAO, the Operator may only request additional or substitute security from another Operator, in a manner consistent with Disclosure Obligations provided under this RAO, if the other Operator was making a new Access Request under the same.

*5.16.8 of
the MSA*

Section 53 – Review

The Operator shall specify in the Access Agreement prepared by it that such Access Agreement shall be reviewed:

*5.16.10 of
the MSA*

- (a) if the Minister issues a direction or determination relating to its subject matter;
- (b) if the Commission issues a direction or determination relating to its subject matter;
- (c) if the Act or this Standard is amended in relation to its subject matter;
- (d) by agreement of each of the parties; or
- (e) if a condition of the Operator's licence is amended or deleted or a new condition is imposed in relation to its subject matter.

Section 54 – Cost and expenses

The Operator shall bear its own costs and expenses in relation to the preparation, negotiation and execution of an Access Agreement to which they are parties.

*5.16.11 of
the MSA*

Section 55 – Applicable laws

The Operator shall include a provision in all Access Agreements prepared by it which provides that the Access Agreement will be governed by the laws of Malaysia and that Operators will comply with all applicable directions issued by the Malaysian regulatory authorities.

*5.16.12 of
the MSA*

Section 56 – Miscellaneous

- (a) Each party will bear its own costs and expenses incurred in the preparation, execution and implementation of the Access Agreement (including solicitors' cost on a solicitor and client basis).
- (b)
 - (i) Any notice, request, consent or other communication required or permitted hereunder shall be given:
 - (A) in writing; and
 - (B) at the address of the addressee, or sent by ordinary post, registered post or licensed courier to the address of the addressee which is set out below or if the addressee notifies another address, then to that address.
 - (ii) The address of the Access Provider is:
ITMAX System Berhad
No. 30-G & 30-3
Jalan Radin Bagus 3
Sri Petaling, 57000 Kuala Lumpur
Attention: Mr. Then Chee Guey, Project Director
 - (iii) Any notice, request, consent or other communication is, in the absence of contrary evidence, deemed to be received:
 - (A) in the case of A.R registered post, on the third Business Day after posting;
 - (B) in the case of an email, upon transmission of the email provided there is no notification of error or failure in transmission is received by the sender, if sent before and
 - (C) in the case of a communication left at the address of the addressee or licensed courier, at the time the communication was so left.
 - (iv) Notwithstanding anything to the contrary, notification by way of email shall not be applicable to or valid with respect to any legal notices, claims, demands, suits, actions and/or proceedings.
- (c) This RAO (including the documents referred to herein) constitutes the entire agreement between the Access Provider and the Access Seeker relating to the subject matter hereof, and unless expressly provided otherwise, supersedes any prior understandings or agreements between the parties, whether written or oral, to the extent related in any way to the subject matter hereof.
- (d) The Access Seeker may assign its rights and novate its obligations to: -
 - (i) a related corporation as defined in the Companies Act 2016; or
 - (ii) a third person as part of a restructuring of the Access Seeker's business;or
 - (iii) its financiers as security for any credit facilities granted to the Access Seeker;without the prior written consent of the Access Provider. The Access Seeker will notify the Access Provider if it makes such an assignment. The Access Provider shall do all that is reasonably necessary as requested by the Access Seeker to effect such assignment.

- (e) If any provision of this RAO or the Access Agreement or part thereof is rendered void, illegal, invalid, prohibited or unenforceable by any legislation or law to which it is subject to, it shall be rendered void, illegal, invalid, prohibited or unenforceable to that extent and it shall in no way affect or prejudice the validity and enforceability of the remainder of such provision or the other provisions of this RAO or the Access Agreement. The parties will use their respective best endeavours to negotiate and agree a substitute provision which is valid and enforceable and achieves to the greatest extent possible the economic, legal and commercial objectives of such void, illegal, invalid, prohibited or unenforceable provision, term, condition, covenant or undertaking.
- (f) If any provision of this RAO or the Access Agreement or part thereof is deemed to be in conflict with any applicable law, such provision shall be deemed to be modified or altered to be consistent with the law thereto.
- (g) The provisions of this RAO will not be construed or taken to constitute:
 - (i) a partnership between parties;
 - (ii) any party to be the agent of the other party; or
 - (iii) an authority to a party to represent or bind or pledge the credit of the other party in any way.
- (h) Time wherever mentioned will be of the essence of this RAO.
- (i) This RAO or the Access Agreement shall be governed by and construed in accordance with the laws of Malaysia and the parties hereby submit to the exclusive jurisdiction of the Malaysian court.

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Schedule A – Access Request

ACCESS REQUEST FORM

ITMAX SYSTEM BERHAD
[COMPANY NO.: 200101008580 (544336-M)]

VERSION 1.0_AS AT 30 NOVEMBER 2023



Date:	Reference No.:
(A) ACCESS SEEKER INFORMATION	
Company Name	
Company Registration No.	
Address	
Contact Details	Office No.: Facsimile No.: E-mail:
List of licences held by the company in accordance to the Communications and Multimedia Act 1998	

(B) AUTHORISED REPRESENTATIVE INFORMATION	
Name	
NRIC No.	
Designation	
Contact Details	Mobile No.: Office No.: E-mail:

(C) SCOPE OF SERVICES	
Type of Services	
Site's ID/ LRD	
Site Name	
Site Address	
Latitude/ Longitude (decimal)	
Configuration	
Telecommunication Structure	

List of Equipment	
-------------------	--

Signed <i>for and on behalf of</i> [Company name]: Name: _____ NRIC no.: _____ Designation: _____ Date: _____	Acknowledged receipt <i>for and on behalf of</i> ITMAX System Berhad: Date: _____
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Please complete the Access Request form and email to itmaxsales@itmax.com.my. Alternatively, the completed form can be posted to the Access Provider at the business address of No. 30-G & 30-3 Jalan Radin Bagus 3, Sri Petaling, 57000 Kuala Lumpur, marked to the attention of Mr. Then Chee Guey, Project Director.

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Schedule B – Specifications of the Site

Item	Specifications
1	Self-supporting structure: <ul style="list-style-type: none"> • Vacant Land (VL): Tower/ Monopole/ Lamp Pole/ Rapole/ etc
2	Booms and brackets for Radio Frequency (RF) antennas, microwave antennas, AAU, RRU
3	Booms and brackets for RF antennas, microwave antennas, AAU, RRU for VL Sites
4	400mm horizontal cable ladder; from outdoor (OD) cabinet to the boom structures or tower vertical cable gantry
5	400mm horizontal cable ladder; from cabin to the to the boom structures or tower vertical cable gantry
6	Normal structural foundation with or without piling, based on soil investigation report and PE design (New Land Site Build)
7	Platform or concrete plinth for cabin, PDU, generator (if any), OD cabinet, RRU if RRU located on ground or near OD cabinet
8	Site compound area finishes in premix or concrete platform
9	Civil works and drainage system inside compound and along the access road
10	Fencing and entrance gate with padlock. 1 set of site key to be provided to Access Seeker
11	kWH meter box and panel with separate meter c/w underground cabling to OD cabinet
12	AC main distribution board systems or PDU with 60A breaker and auto-reset for Access Seeker
13	Lightning and surge protection system including busbars
14	Basic grounding and earthing system for structure (all joints cad-welded) including busbars i.e., Ohm Reading $\leq 5\text{ohm}$
15	Basic grounding and earthing system surrounding the concrete plinth (all joints cad-welded) including busbars i.e., Ohm Reading $\leq 5\text{ohm}$
16	Aviation light system (to use approved high intensity LED c/w dry contact output) for structure heights applicable under the requirement of the Civil Aviation Authority of Malaysia

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Schedule C – Schedule of rates

	RM per month		
Telecommunication structure height	Single Operator	2 sharing Operators	3 sharing Operators
24m	3,500	2,500	-
30m	5,000	-	2,700
45m	5,300	3,500	2,800

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Schedule D – Confidentiality Agreement

[to issue under the letterhead of the Access Provider]

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (“Agreement”) is made as of the date of the last signature affixed hereto, by and between (i) ITMAX System Berhad [Registration no.: 200101008580 (544336-M)], a company duly incorporated and existing under the laws of Malaysia and having its business address at No. 30-G & 30-3, Jalan Radin Bagus 3, Sri Petaling 57000 Kuala Lumpur (“**ITMAX**”); and (ii) [Name of the Access Seeker] [Registration number of the Access Seeker], a company duly incorporated and existing under the laws of Malaysia and having its registered address at [Registered address of the Access Seeker] (hereinafter referred to as the “**the Company**”). ITMAX and the Company may be referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

WHEREAS, the Parties intend to explore potential business relationship and business opportunities between themselves or involving any holding, related or subsidiary companies of ITMAX (as defined in the Companies Act 2016) in respect of [to insert the nature of the project and/or services]; and

WHEREAS, a Party (“**Disclosing Party**”) may provide or disclose confidential and proprietary information to another Party (“**Receiving Party**”) during the discussion or negotiation in establishing the potential business relationship.

NOW, THEREFORE, the Parties agree as follows:

1. **Confidential Information.** For the purposes of this Agreement, the term “**Confidential Information**” means and includes: (a) all information, know-how, ideas, concepts, technology, manufacturing processes, industrial, marketing, software, hardware, trade secret, inventions (whether patentable or not) and commercial knowledge of a confidential nature relating to or developed in connection with or in support of the business of the Disclosing Party concerning the business and operations of Disclosing Party (including but not limited to any business, commercial, legal, technical, marketing, financial or other information, whether oral or in electronic or written form) provided by Disclosing Party or its Representatives (as defined below) to Receiving Party or its Representatives whether or not identified as confidential information; (b) notes, analyses, compilations, studies or other documents prepared by, for or on behalf of Receiving Party or its Representatives that contain, reflect, are based upon or are otherwise directly related to such information; and (c) personal data defined under the Personal Data Protection Act 2010. With respect to a particular Party, the term “**Representatives**” means and includes such Party’s respective directors, officers, members, managers, employees, representatives (including, without limitation, financial advisors, legal counsel, consultants and accountants) and agents.

2. **Interpretations.** (a) capitalised words used but not defined in this Agreement shall have the meaning given to them in the RAO published by ITMAX on its website; (b) use of the word “includes” or “including” means without limitation; (c) words denoting one gender include all other genders and words denoting the singular include the plural and vice versa; and (d) headings, sub-headings and bold type are inserted merely for convenience of reference and do not affect the interpretation of this Agreement.

3. Exceptions. Notwithstanding anything otherwise contained herein, Confidential Information shall not include information that (a) is at the time of such disclosure or thereafter becomes publicly available or generally known, other than as a result of a breach of this Agreement by the Receiving Party or any of its Representatives, (b) is already known to Receiving Party or its Representatives or within its possession at the time of such information's disclosure by Disclosing Party, provided that such information was not from a third party that was bound by a confidentiality obligation to Disclosing Party or any of its Representatives, (c) becomes available to Receiving Party or its Representatives from a third party that is not known by Receiving Party to be in breach of a confidentiality obligation owed to Disclosing Party or any of its Representatives, (d) can be shown by Receiving Party to have been independently developed by it or its Representatives without use or reliance on the Confidential Information, (e) is approved for public disclosure in writing by Disclosing Party or (f) is required by law or the business rules of any stock exchange to be disclosed provided that a prompt notice has been given to the Disclosing Party of the particulars of the required disclosure.

4. Restrictions on Use and Dissemination of Confidential Information. Receiving Party and its Representatives agrees not to use the Confidential Information for any purposes other than to carry out discussion concerning any business relationship between the Parties. Except to the extent required by law, regulation or rule (including of any governmental body, national stock exchange or other regulatory authority) but subject to section 7 below, or as otherwise provided herein, Receiving Party or its Representatives shall not, without the prior written consent of the Disclosing Party, disclose any Confidential Information to any person or entity and will protect the confidentiality of such Confidential Information using the same degree of care as Receiving Party uses with its own confidential information (but no less than a reasonable standard of care) and shall be responsible for any breach of confidentiality obligations of this Agreement by its Representatives.

5. Confidentiality Obligations. Each Party acknowledge and undertake that it will (a) maintain all Confidential Information in strict confidence, (b) not disclose, divulge, advertise, reproduce or supply any Confidential Information to third parties or their respective Representatives except employees and/or agents who are required to have the information to carry out discussion on a need to know basis, and (c) not through failure to exercise all due care and diligence, cause or permit any unauthorised disclosure of any Confidential Information.

6. Ownership and Nature of Confidential Information. All Confidential Information shall be and remain the property of Disclosing Party, and, other than the right to use the Confidential Information in accordance with the express terms of this Agreement, no right or license is granted to Receiving Party or its Representatives with respect to any Confidential Information.

7. Return or Destruction of Confidential Information. Upon the written request by Disclosing Party, Receiving Party agrees to, as far as reasonably practicable, at its option, either return to Disclosing Party or destroy all Confidential Information in its possession, including all copies of the same, except for any such Confidential Information that exists only as part of regularly generated electronic backup data, the destruction of which is not reasonably practicable; *provided, however*, that Receiving Party and its Representatives may retain one copy of such material to the extent necessary to comply with applicable law, regulation, guidelines or bona fide document retention policies. Any electronic backup data and other copy of Confidential Information retained by Receiving Party pursuant to the preceding sentence shall remain subject to all restrictions and obligations contained in this Agreement. Upon written request by Disclosing Party, the fact of any such destruction shall be certified in writing by Receiving Party to Disclosing Party.

8. Required Disclosure. If Receiving Party or any of its Representatives is required by law, regulation or rule (including of any governmental body, national stock exchange or other

regulatory authority) to disclose any Confidential Information, (a) Receiving Party shall promptly notify (other than where prohibited by applicable law or where such disclosure is required as a result of an examination by a regulatory or governmental agency that is required to keep such information confidential) Disclosing Party of such requirement so that Disclosing Party may seek an appropriate protective order or other relief or waive compliance with the provisions of this Agreement and (b) in the absence of a timely protective order or waiver of compliance, Receiving Party or its Representative may disclose such Confidential Information, but only to the extent of that portion required to be disclosed under applicable law.

9. Intellectual Property. “**Intellectual Property**” means and includes all rights conferred under statute, common law and equity in and in relation to trademarks, trade names, logos and get up, inventions, patents, designs, copyright, circuit layouts, Confidential Information, know-how and trade secrets and all rights and interests in them or licences to use any of them. Ownership of all Intellectual Property supplied by the Disclosing Party to the Receiving Party in connection with, are related to, or are based upon the Disclosing Party’s Equipment shall remain the sole and exclusive property of the Disclosing Party.

10. Nature of Agreement. The Parties acknowledge and agree that unless and until a final, written definitive agreement between the Parties has been executed and delivered, no Party is under a commitment to enter into any agreement, discussions or negotiations with the other Party or to conclude or further pursue or proceed with any type of business relationship by virtue of this Agreement or any disclosure of Confidential Information, and no Party will be under any legal obligation of any kind whatsoever, except for the matters specifically agreed to herein. Nothing in this Agreement nor any disclosure of Confidential Information hereunder creates any agency, joint venture or partnership relation between the Parties or prohibits or restricts the right of any Party to enter into any business relationship with a third party or use in its services and products any ideas, concepts, methods, expressions, know-how or techniques related to the scope of the other Parties’ services or products that are not unique to or forming part of the such Parties’ Confidential Information.

11. Remedies. Each Party acknowledges that remedies at law may be inadequate to protect Disclosing Party against any breach of this Agreement by Receiving Party, and, without prejudice to any other rights and remedies otherwise available to Disclosing Party, agrees that Disclosing Party may seek injunctive relief. Notwithstanding the foregoing, the Receiving Party shall be responsible and fully liable for any breach of this Agreement by any of its Representatives. The Disclosing Party shall not be liable for any direct, indirect or consequential loss suffered by the Receiving Party or its Representatives as a result of relying on any of the Confidential Information.

12. Each Party shall indemnify and hold the other Party harmless from and against any claim or proceeding (and any costs, expenses or other liabilities arising there from) brought by any third party as a result of any breach of this Agreement by the first-mentioned Party.

13. Term. The validity of this Agreement is contingent on the RAO or the Access Agreement. As such, this Agreement shall be in full force and effect until the expiry or termination of the RAO or the Access Agreement (whichever is later). The Parties acknowledge that the obligations set out in this Agreement shall survive the expiry or termination (whether in whole or in part) of this Agreement.

14. No Waiver. No failure or delay by any Party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise or waiver thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege whatsoever hereunder.

15. Amendment. Neither this section nor any other provision in this Agreement can be waived or amended except by written consent of the Parties, which consent shall specifically refer to this section (or such other provision) and explicitly make such waiver or amendment.

16. Assignment. This Agreement may not be assigned by any Party without the prior written consent of the other Party. This Agreement will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

17. Costs and Expenses. Each Party agrees that it shall be solely responsible for all costs and expenses incurred by such Party or its Representatives in connection with this Agreement.

18. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall to the extent permitted by applicable law, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

19. Entire Agreement. This Agreement contains the entire understanding and agreement between the Parties with respect to the matters set forth herein and supersedes any and all prior agreements and understandings, whether written or oral, relating thereto. No Party will have any obligation or liability, express or implied by law, with respect to trade secrets or proprietary information of the other Parties except as set forth in this Agreement.

20. Notice. All notices, requests, demands, declarations and other communications required hereunder or given pursuant hereto shall be in writing and shall deemed duly given (a) if given by facsimile, when transmitted and receipt has been confirmed, (b) if given by courier or overnight delivery, when delivered by such courier or overnight delivery carrier or (c) if personally delivered, when so delivered in person, addressed as follows:

(i) If to ITMAX:

Address:
[**]

Attention: [**]

Telephone: [**]

Facsimile: [**]

(ii) If to Company:

Address:
[**]

Attention: [**]

Telephone: [**]

Facsimile: [**]

or at such other address as either Party may from time to time designate for itself by written notice to the other Party.

21. Third Party Rights. A person who is not a party to this Agreement has no rights to enforce or to enjoy any of the benefits of any term of this Agreement.

22. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of Malaysia. The Parties agree that all actions and proceedings arising out of this Agreement shall subject to the exclusive jurisdiction of the courts of Malaysia.

23. Counterparts; Signatures. This Agreement may be executed in three or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. It will not be necessary in making proof of this Agreement or the terms of this Agreement to produce or account for more than one such counterparts. Each Party agrees that it will be bound by its own facsimile or scanned signature and that it accepts the facsimile or scanned signature of the other Party to this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized representatives of the Parties as of the date affixed hereto.

Signed <i>for and on behalf of</i> ITMAX SYSTEM BERHAD in the presence of:	
_____ Witness Name: NRIC no.: Date: Signed <i>for and on behalf of</i> [Company name] in the presence of:	_____ Director(s)/ Authorised Officer(s) Name: NRIC no.: Date:
_____ Witness Name: NRIC no.: Date:	_____ Director(s)/ Authorised Officer(s) Name: NRIC no.: Date:

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Schedule E – Dispute Resolution Procedures

Section 1 – Definitions		
The meanings of the terms used in schedule E of this RAO are set out below.		
Billing Dispute	means the dispute of an Invoice issued by one party to the other party, which is made in good faith	
Billing Dispute Notice	means the written notification made by one party to the other party in relation to a Billing Dispute in accordance with section 5(d) of schedule E of this RAO	
Billing Dispute Notification Period	means the period after the date of receipt of an Invoice during which a Billing Dispute may be raised in relation to that Invoice	
Billing Representative	means a representative of the party appointed in accordance with the billing procedures set out in section 5(o) of schedule E of this RAO	
Billing System	means a system to issue Invoices relating to charges payable by each party under the Access Agreement	
Dispute	means any dispute which may arise between an Access Seeker and an Access Provider in relation to or in connection with the supply of Facilities and/or Services to which this Standard applies	
Notice	means the notice issued of intention to form the Interconnect Steering Group, as specified in section 3(a) of schedule E of this RAO	
Technical Expert	has the meaning given to it in section 4(c) of schedule E of this RAO	

Section 2 – General		
(a)	The Access Provider and the Access Seeker shall adopt and comply with the Dispute Resolution Procedures set out herein in relation to any dispute which may arise in relation to or in connection with the supply of the Access Services.	2.1 of Annexure A of the MSA
(b)	<p>The following dispute resolution mechanisms are governed by this section:</p> <ul style="list-style-type: none"> (i) interconnect steering group; and (ii) subject to specific resolution of disputes, being: <ul style="list-style-type: none"> (A) technical disputes (which must follow the procedure set out in section 4 of this schedule if they cannot be resolved through the application of the general dispute resolution provisions in sections 2 and 3 of this schedule); or (B) Billing Disputes, which must follow the procedures set out in section 5 of this schedule; or (C) any other types of disputes, which, if cannot be resolved through the application of the general dispute resolution provisions in sections 2 	2.2 of Annexure A of the MSA

	and 3 of this schedule, must be referred to the Commission for resolution.	
(c)	<p>A Dispute shall first be attempted to be resolved by negotiation between parties. If the parties failed to reach an agreement, parties shall always be entitled to seek resolution of the Dispute by the Commission in accordance with section 151 of the Act, and the Commission will decide the dispute if it is satisfied that:</p> <ul style="list-style-type: none"> (i) the parties will not reach agreement, or will not reach agreement in a reasonable time; (ii) the notification of the Dispute is not trivial, frivolous or vexatious; and (iii) the resolution of the Dispute would promote the objects in the Act. <p>The Access Provider shall not prevent the Access Seeker from notifying a Dispute to the Commission in accordance with the Act.</p>	2.3 of Annexure A of the MSA
(d)	An Operator may not commence court proceedings relating to a Dispute which is the subject of these Dispute Resolution Procedures until it has complied with each applicable process in these Dispute Resolution Procedures, other than an application for urgent interlocutory relief. Nothing in this subsection shall be construed as ousting the jurisdiction of any court.	3.1 of Annexure A of the MSA
(e)	Both parties to a Dispute shall ensure that their representatives acting in relation to a Dispute are of sufficient seniority and have authority to settle a Dispute on their behalf. At the commencement of the Dispute Resolution Procedures, 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 term of reference for which authority was given to the representative, a party may require that those matters be referred to more senior officers of that party who have authority to settle those matters.	3.2 of Annexure A of the MSA
(f)	Both parties shall continue to fulfill their respective obligations set out in the Access Agreement during any dispute resolution process including the Dispute Resolution Procedures.	3.3 of Annexure A of the MSA
(g)	Subject to paragraph (h) of this section, the parties to a Dispute shall exchange information of a type described in this RAO during the course of, and to facilitate, resolution of the Dispute.	3.4 of Annexure A of the MSA
(h)	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 in relevant confidentiality provisions contained in the Confidentiality Agreement. Either party must not use information obtained for any purpose other than to resolve the Dispute.	3.5 of Annexure A of the MSA
(i)	A party must not use information obtained under paragraph (g) of this section or described in paragraph (h) above for any purpose other than to resolve the Dispute.	3.6 of Annexure A of the MSA

(j)	Subject to Chapter 7 of Part V of the Act, an arbitrator of a Dispute (including a Technical Expert or the Commission, in accordance with this schedule) 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.	3.7 of Annexure A of the MSA
(k)	The costs of the arbitration are to be shared equally between the parties, unless the arbitrator has decided not to determine the Dispute in accordance with section 2(g) above, then the party that initiated the Dispute must pay the other party's costs.	3.8 of Annexure A of the MSA
Section 3 – Interconnect Steering Group		
(a)	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 10 Business Days, an Interconnect Steering Group (" ISG ") and outline the details of the Dispute.	4.1 of Annexure A of the MSA
(b)	The ISG shall comprise of representatives appointed by each party, 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.	4.2 of Annexure A of the MSA
(c)	Both parties shall provide for: <ul style="list-style-type: none"> (i) subject areas to be dealt with by the ISG; (ii) equal representation by the Access Seeker and the Access Provider; (iii) chairmanship and administrative functions of the working group to be shared equally; and (iv) formal notification procedures to the ISG. 	4.3 of Annexure A of the MSA
(d)	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 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.	4.4 of Annexure A of the MSA
(e)	In the event that: <ul style="list-style-type: none"> (i) the parties cannot resolve the Dispute between themselves within the specified time or any agreed extension of time; (ii) the ISG fails to meet or has not been formed within 10 Business Days upon receipt of the Notice by the Receiving Party; either party may notify the other party that it wishes to refer the issue to the extent the issues in dispute are technical in nature, to a Technical Expert or to the Commission for final arbitration.	4.5 and 4.6 of Annexure A of the MSA
Section 4 – Use of a Technical Expert		
(a)	A Dispute will only be referred to a Technical Expert if the provisions of section 4 of this schedule E have been complied with.	5.1 of Annexure A of the MSA

(b)	Once a Dispute is referred to a Technical Expert, it may not be referred back to ISG.	5.2 of Annexure A of the MSA
(c)	The person to whom a technical dispute may be referred under this section: (i) will be an expert appointed by agreement of the parties or, if the parties cannot agree, by the Commission; (ii) will have the appropriate qualifications and experience to arbitrate the dispute, including knowledge of the communications industry; (iii) need not be a Malaysian citizen or resident; and (iv) will not be an officer, director, or employee of a communications company or otherwise have a potential for conflict of interest, ("Technical Expert").	5.3 of Annexure A of the MSA
(d)	If the parties failed to appoint a Technical Expert within 10 Business Days of the need to refer a Dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.	5.4 of Annexure A of the MSA
(e)	The following dispute resolution procedures will apply to the Technical Expert: (i) the parties will present written submissions to the Technical Expert and each other within 15 Business Days from the date of appointment of the Technical Expert; and (ii) each party may respond to the other party's submission in writing within 15 Business Days from the date of the other party's submission. No further submission in reply shall be made except with the Technical Expert's approval.	5.5 of Annexure A of the MSA
(f)	At the request of either party and subject to the parties agreeing, or the Technical Expert deciding within 5 Business Days of the last written submission, that the arbitration by the Technical Expert should be by documents only, a Technical Expert hearing will be held within 15 Business Days from the date of the last written submission.	5.6 of Annexure A of the MSA
(g)	If a Technical Expert hearing is held, each party will be given the opportunity to make oral submission in addition to the written submissions submitted by the respective party. This process will be conducted in private.	5.7 of Annexure A of the MSA
(h)	The procedure for hearing technical disputes will be determined by the Technical Expert (including number and duration of oral submissions by each party) but in any case, the Technical Expert's hearing will last no longer than 3 Business Days.	5.8 of Annexure A of the MSA
(i)	The Technical Expert is not empowered to appoint any other experts.	5.9 of Annexure A of the MSA
(j)	The Technical Expert will deliver his or her award within 15 Business Days of the hearing or of the last written submission where the arbitration is conducted by	5.10 of Annexure A of the

	documents only.	MSA
(k)	Every Dispute referred to a Technical Expert will be considered separately to ensure the time limits for each Dispute are complied with.	5.11 of Annexure A of the MSA
(l)	The decision of the Technical Expert will be binding on the parties (in the absence of manifest error of fact or law).	5.12 of Annexure A of the MSA
(m)	For 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.	5.13 of Annexure A of the MSA
Section 5 – Billing dispute resolution		
(a)	A party (" Invoicing Party ") shall provide to the other party (" Invoiced Party ") an Invoice in writing, or in such electronic form as may be agreed from time to time, for amounts due in respect of the supply of Access Services during such Billing Cycle.	6.1 of Annexure A of the MSA
(b)	The Invoicing Party shall allow the Invoiced Party to dispute an Invoice prepared by the Invoicing Party if the Invoiced Party notifies the Invoicing Party within 30 Business Days after the date of receipt of such Invoice, provided that the Invoiced Party's Billing Dispute Notice specifies the information in accordance with section 5(d) of schedule E of this RAO.	6.2 of Annexure A of the MSA
(c)	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: (i) the Invoicing Party's Billing System is, or has been, defective or inaccurate in respect of the recording of the calls or capacity which are the subject of the Dispute; (ii) there is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Invoiced Party's Billing System; (iii) there is, or has been, a fraud perpetrated by the Invoicing Party; or (iv) the Invoicing Party has made some other error in respect of the recording of the calls or capacity or calculation of the charges which are the subject of the Billing Dispute.	6.3 of Annexure A of the MSA
(d)	A Billing Dispute Notice given under this section must specify: (i) the reasons for which the Invoice is disputed; (ii) the amount in dispute; (iii) details required to identify the relevant Invoice and charges in dispute including: (A) the account number; (B) the Invoice reference number; (C) the Invoice date; (D) the Invoice amount; and (E) billing verification information; and	6.4 of Annexure A of the MSA

	(iv) evidence in the form of a report, indicating the relevant traffic data which is in dispute.	
(e)	The Invoiced Party may withhold payment of the disputed amount in good faith in accordance with section 37(g) of this RAO. If the Billing Dispute is resolved against the Invoiced Party, that Invoiced Party shall be required to pay interest at the rate specified in section 37(k) of this RAO on the amount payable from the due date of the disputed invoice until the date of payment.	6.5 of Annexure A of the MSA
(f)	Where the Invoiced Party has paid an amount and subsequently notifies the Invoicing Party of a Billing Dispute in relation to that amount within the Billing Dispute Notification Period, the Invoicing Party is not obliged to refund any or all of that 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 section 37(k) of this RAO. 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.	6.6 of Annexure A of the MSA
(g)	The parties agree to use their reasonable endeavours to promptly resolve any Billing Dispute.	6.7 of Annexure A of the MSA
(h)	If the parties are unable to resolve any Billing Dispute within one month (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 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.	6.8 of Annexure A of the MSA
(i)	To the extent that a Billing Dispute notified under this section 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 Billing Dispute with that international correspondent. As a general rule, the period of suspension will not exceed 4 months. However, the parties recognised that certain 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.	6.9 of Annexure A of the MSA
(j)	Once the negotiation period under section 5(h) of schedule E of this RAO (including any extension agreed between parties) and any suspension period under section 5(i) of schedule E of this RAO have expired, the Billing Dispute may be referred by the Invoiced Party to the procedure described in section 5(k) below (" Billing Dispute Escalation Procedure ").	6.10 of Annexure A of the MSA
(k)	The Invoiced Party may refer a Billing Dispute to the Billing Dispute Escalation Procedure set out herein by notifying the Invoicing Party's Billing Representative. Both parties shall then appoint a designated representative who has authority to settle the Billing Dispute, and who is at a higher level of management than the person with direct responsibility for administration of this RAO. The designated	6.11 of Annexure A of the MSA

	representatives shall meet as often as they reasonably deem necessary to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute within 60 Business Days of the Billing Dispute Notice. All reasonable requests for relevant information made by one party to the other party shall be honored.	
(l)	Once any Billing Dispute has been resolved to the parties' satisfaction, any sum to be paid or repaid shall be paid by the relevant party within 10 Business Days from the date of resolution of the Billing Dispute.	6.12 of Annexure A of the MSA
(m)	It shall be the good faith intention of the parties to use the Billing Dispute Resolution Procedures set out in this section of the RAO to solve all Billing Disputes. However, nothing in this schedule 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.	6.13 of Annexure A of the MSA
(n)	Either party may request a joint investigation of Invoice discrepancies after that party has conducted a 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: (i) the scope of the joint investigation; (ii) how the joint investigation will be conducted; and (iii) the date by which the joint investigation must be concluded.	6.14 of Annexure A of the MSA
(o)	Enquiries relating to billing, collecting and settlement arrangements or in relation to Network and operational issues may be directed to the Billing Representatives nominated by each party.	6.15 of Annexure A of the MSA
(p)	Either party may at any time nominate another Billing Representative, provided that 10 Business Days prior notification of such appointment is given.	6.16 of Annexure A of the MSA
(q)	If the Billing Dispute Escalation Procedure has been exhausted, either party may refer the Billing Dispute to the Commission for resolution under Chapter 7 of Part V of the Act.	6.17 of Annexure A of the MSA

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Schedule F – Service Specific Obligations

General		
(a)	This schedule applies when Access Services has been requested or is to be provided.	6.8.1 of the MSA
(b)	<p>Forecast: For the purposes of section 25 of this RAO, the Access Provider shall request Forecast where:</p> <ul style="list-style-type: none"> (i) the maximum period of time covered by Forecast regarding the Access Services is one year; (ii) the minimum interval or unit of time to be used in Forecast regarding the Access Services is one year; and (iii) the maximum frequency to update or to make further Forecast regarding the Access Services is once a year. 	6.8.2 of the MSA
(c)	Acknowledgement of receipt: For the purposes of section 26(d) of this RAO, the Access Provider shall acknowledge receipt of each Order within 2 Business Days.	6.8.3 of the MSA
(d)	Time for acceptance or rejection: Subject to any shorter timeframe required under section 27(c) of this RAO, the Access Provider must notify the Access Seeker that an Order is accepted or rejected within 10 Business Days after 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.	6.8.4 of the MSA
(e)	<p>Indicative delivery timeframe: For the purposes of section 27(d) of this RAO, the indicative delivery timeframe for Access Services is:</p> <ul style="list-style-type: none"> (i) for ground-based towers and new sites, 90 Business Days; (ii) for fixed telecommunications poles, 10 Business Days; and (iii) for all other structures (including street furniture), 40 Business Days. For clarification, the indicative delivery timeframe in this section commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with section 27(e) of this RAO. The Access Provider shall provide progress updates of the site delivery to the Access Seeker on monthly basis. 	6.8.5 of the MSA
(f)	Billing Cycle: For the purposes of section 36 of this RAO, between the Operators, the Billing Cycle for Access Services will be one year in advance for the first year and monthly (or such other mutually agreed period) in advance for subsequent years.	6.8.6 of the MSA
(g)	Physical access: Where required to fulfil an Order for Access Services 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 Equipment located at such network facilities, at equivalent times and in accordance with equivalent processes and procedures as are applicable to itself.	6.8.7 of the MSA

(h)	<p>Nominated personnel: The employees and/or contractors nominated by the Access Seeker under subsections (g), (i) and (j) of this schedule F will be reasonable, having regard to:</p> <ul style="list-style-type: none"> (i) the position of each person and the number of persons nominated; and (ii) 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. 	6.8.8 of the MSA
(i)	<p>Escorts: 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 into the Access Provider's property if the Access Provider requires an escort for its own employees 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:</p> <ul style="list-style-type: none"> (i) bear the costs of such escort service; (ii) subject to subsection (i)(iv) of this schedule F, provide immediate physical access to the Access Seeker for emergency maintenance requests, 24 hours a day, 7 days a week; (iii) subject to subsection (i)(iv) of this schedule F, provide physical access at the time requested by the Access Seeker for planned maintenance requests on the shorter of: <ul style="list-style-type: none"> (A) 2 Business Days' notice for manned sites and 5 Business Days' notice for unmanned sites; and (B) the period of notice which it requires from itself when providing itself with physical access for planned maintenance; (iv) for both planned and emergency maintenance requests at unmanned sites only, have its escort arrive within the shorter of: <ul style="list-style-type: none"> (A) 30 minutes of time required by the Access Seeker pursuant to subsections (i)(ii) or (i)(iii) of this schedule F (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 (B) the period of time it requires for its escorts to arrive for planned and emergency maintenance at unmanned sites. 	6.8.9 of the MSA
(j)	<p>Absence of escort: For the purposes of subsection (g) of this schedule F, if an escort does not arrive at the Access Provider's property within the specified timeframe, the Access Seeker's nominated employees and/or contractors may proceed to enter the Access Provider's property without an escort.</p>	6.8.10 of the MSA
(k)	<p>Site register: The Access Seeker must establish and maintain a register of all persons who visit the Access Provider's property on the Access Seeker's behalf, which must be made available for inspection by the Access Provider, upon request.</p>	6.8.11 of the MSA
(l)	<p>Utilities and ancillary services: The 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 enable the Access Seeker to benefit from such access to the same extent that the Access Provider provides to itself, including but not limited to:</p>	6.8.12 of the MSA

	<ul style="list-style-type: none"> (i) access to roads; (ii) access to land; (iii) power, including the provision of back-up power, subject to mutual agreement between the Access Seeker and the Access Provider; (iv) environmental services (including but not limited to heat, light, ventilation and air-conditioning, fire protection); (v) security, taking care to ensure that its agents, representatives or subcontractors do not damage any equipment, and keeping the location secure and protected from vandalism or theft; and (vi) site maintenance. 	
(m)	Cost: The utility and ancillary costs in respect of the network facilities provided by the Access Provider to the Access Seeker as contemplated in the above subsection (l) shall be apportioned (in accordance with fair and equitable principles) and mutually agreed between the Access Provider and all Access Seekers at the relevant location.	6.8.13 of the MSA
(n)	<p>Reporting: As required under the reporting obligations set out in this RAO, the Access Provider shall notify the Commission in writing of any specified network facilities (as that term is used in the description of the Access Services) that support, or have the capability to support, the installation of mobile network equipment along, or in close proximity to:</p> <ul style="list-style-type: none"> (i) a street; (ii) a road; (iii) a path; (iv) a railway corridor; (v) a park; or (vi) such other outdoor area that may be accessed by members of the public, including but not limited to billboards, public transit shelters, poles, traffic light poles, bridges, and road gantries. 	6.8.15 of the MSA
(o)	<p>Maintenance and rectification: The Access Provider shall:</p> <ul style="list-style-type: none"> (i) ensure that it maintains in reasonable working condition all fixed telecommunications poles which comprise specified network facilities subject to the subsection (ii) below; and (ii) on notice by the Access Seeker, or upon otherwise becoming aware, that any fixed telecommunications pole does not comply with the above subsection (i), perform within 40 Business Days such activities as required to rectify such non-compliance. 	6.8.16 of the MSA

(p)	Service assurance targets for infrastructure target:				6.8.17 of the MSA
	Severity	Level 1	Level 2	Level 3	
	Service definition	Hub sites (a site with more than 5 child sites)	End sites (site that is not a hub site)	No service affecting fault	
	Fault type (including but not limited)	<ul style="list-style-type: none">• Outage caused by fault of AC power supply system owned by Access Provider• Outage caused by power issue at landlord/ building• Outage caused by CME issues• Outage due to flooding	<ul style="list-style-type: none">• Outage caused by fault of AC power supply system owned by Access Provider• Outage caused by power issue at landlord/ building• Outage caused by CME issues• Outage due to flooding	Issues related to power system asset belonging to Access Provider, landlord/ building site access or CME issues	
	Response time	One hour	One hour	One hour	
	Progress update frequency	Every one hour	Every 2 hours	Every 24 hours	
	Temporary restoration time	4 hours	4 hours	24 hours	
	Rectification time	48 hours	7 Business Days	14 Business Days	
Incident report (RCA) issuance	48 hours	5 Business Days	N/A		
<p>(i) All faults reported shall be ascribed with a severity level set out above and parties shall cooperate with one another to achieve Rectification Time based on the severity of the fault reported.</p> <p>(ii) "Progress Update Frequency" refers to the frequency at which the Access Seeker may call the Access Provider for restoring the fault to obtain a verbal or written progress update.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>					
(q)	Rebates: If the Access Provider is unable to provide the Access Services due to negligence on its part (e.g., poorly designed structure or platform that does not function properly, the Access Provider failed to pay rental to its landlord on time, the Access Provider failed to provide site access), without limiting the Access Provider's obligation to provide any applicable rebates under section 38 of this RAO.				6.8.18 of the MSA

	affected Access Seekers are entitled to a rebate for not meeting the service assurance target under subsection (q) above, which shall at a minimum reflect the rental amount paid or to be paid by the Access Seeker to the Access Provider for the period of site downtime.	
(r)	Grounds for refusal: In addition to the grounds for refusal in section 20 of this RAO, the Access Provider may, based on reasonable safety and security reasons, refuse an Order to fixed telecommunication poles being utilised for critical government services, including in connection with government agencies, the military or the police.	6.8.19 of the MSA
(s)	<p>Capacity Allocation Policy: 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:</p> <ul style="list-style-type: none"> (i) the Access Provider has already taken steps to optimise space by using the current available technology, including removing any unused cables; (ii) the Access Provider shall determine the available space only after considering: <ul style="list-style-type: none"> (A) the requirements for Infrastructure Sharing services for the Access Provider's then existing maintenance purpose; (B) the reservation of the Infrastructure Sharing service for future use by the Access Provider or another Access Seeker, applicable on an equivalent basis for 6 months, upon receipt of an Order; and (C) the structural integrity of the infrastructure to safely accommodate additional capacity; and (iii) the allocation of available space shall be: <ul style="list-style-type: none"> (A) on a first-come, first-served basis; (B) applicable to reserved capacity that is not used by either the Access Provider or the Access Seeker within 7 months from the date of the Order; and (C) to the extent possible, based on efficient allocation principles to minimise space wastage. 	6.8.20 of the MSA

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