

TELEKOM MALAYSIA BERHAD'S ACCESS REFERENCE DOCUMENT

A. INTRODUCTION

A.1 Legislative Background

A.1.1 Following the issuance of the Ministerial Direction to Determine a Mandatory Standard on Access, Direction No.2 of 2003, the Malaysian Communications and Multimedia Commission issued the Commission Determination on the Mandatory Standard on Access Determination No.2 of 2005 as amended by the Variation to the Commission Determination on the Mandatory Standard on Access (Determination No. 2 of 2009 ("MSA Determination")) which came into effect on 2nd February 2009.

A.1.2 Pursuant to section 5.3.2 of the MSA Determination, Telekom Malaysia Berhad ("TM") is pleased to prepare and maintain an Access Reference Document ("TM's ARD") in relation to network facilities or network services on the Access List Determination which TM provides to itself or third parties and which:

- (a) contains terms and conditions which are consistent with the rights and obligations set out in the MSA Determination; and
- (b) does not include terms and conditions which are inconsistent with the rights and obligations set out in the MSA Determination.

A.2 Standard Access Obligations

TM's ARD is consistent with:

- (a) the standard access obligations stipulated under Section 4.1.1 of the MSA Determination and section 149 of the Communications and Multimedia Act 1998; and
- (b) the principles of non-discrimination stipulated under Sections 4.1.5 and 4.1.6 of the MSA Determination

B. OVERVIEW OF TM'S ARD

B.1 Scope of TM's ARD

The terms and conditions of TM's ARD are only applicable to the network facilities or network services included in the Access List Determination.

B.2 Facilities and Services provided under TM's ARD

TM's ARD contains terms and conditions for the following facilities and services:

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

- (e) Interconnect Link Service;
- (f) Domestic Network Transmission Service;
- (g) Equal Access (PSTN) Service;
- (h) Internet Access Call Origination Service;
- (i) Special Services;
- (j) Infrastructure Sharing;
- (k) Domestic Connectivity to International Services;
- (l) Network Co-location Service;
- (m) Bitstream Services;
- (n) Broadcasting Transmission Service;
- (o) DSL Resale Service;
- (p) Private Circuit Completion Service;
- (q) Wholesale Line Rental Service;
- (r) Wholesale Local Leased Circuit Service;
- (s) Transmission Service; and
- (t) Access to Network Elements.

B.3 Structure of TM's ARD

B.3.1 TM's ARD comprises:

- (a) the Main Body; and
- (b) Schedules.

B.3.2 Main Body of TM's ARD

The Main Body of TM's ARD is set out as follows:

- (a) Chapter 1 which sets out the introduction, background and scope of TM's ARD;
- (b) Chapter 2 which sets out the interpretation and definition of the terms used in TM's ARD;
- (c) Chapter 3 which sets out the principles of access and interconnection;
- (d) Chapter 4 which sets out the access request procedures;
- (e) Chapter 5 which sets out the obligations in relation to provision of information;

- (f) Chapter 6 which sets out the principles relating to billing and settlement;
- (g) Chapter 7 which sets out the principles relating to the provision and use of Facilities and Services;
- (h) Chapter 8 which sets out the dispute resolution process;
- (i) Chapter 9 which sets out the contact details of TM;
- (j) Annexure 1 which sets out the list of network facilities and network services provided under TM's ARD; and
- (k) Annexure 2 which sets out the processing fees.

B.3.3 Schedules

There are three Schedules to TM's ARD:

- (a) Schedule A which sets out the service description for each of the network facilities and network services provided;
- (b) Schedule B which sets out the charges and charging principles for each of the network facilities and network services provided; and
- (c) Schedule C which sets out the technical and operational matters for all of the network facilities and network services provided.

Schedules A and B are set out as follows:

- (a) Part I - Fixed Network Origination and Termination Service;
- (b) Part II - Mobile Network Origination and Termination Service;
- (c) Part III - Interconnect Link Service;
- (d) Part IV – Domestic Network Transmission Service;
- (e) Part V - Equal Access (PSTN) Service;
- (f) Part VI - Internet Access Call Origination Service;
- (g) Part VII - Special Services;
- (h) Part VIII – Infrastructure Sharing;
- (i) Part IX – Domestic Connectivity to International Services;
- (j) Part X – Network Co-location Service;
- (k) Part XI – Bitstream Services;
- (l) Part XII – Broadcasting Transmission Service;
- (m) Part XIII – DSL Resale Service.

- (n) Part XIV – Private Circuit Completion Service
- (o) Part XV – Wholesale Line Rental Service;
- (p) Part XVI – Wholesale Local Leased Circuit Service;
- (q) Part XVII - Transmission Service; and
- (r) Part XVIII – Access to Network Elements.

Schedule C is set out as follows:

- (a) Part I - Manuals;
- (b) Part II - Forecasting;
- (c) Part III - Ordering and provisioning;
- (d) Part IV - Network conditioning;
- (e) Part V - Point of interface and decommissioning;
- (f) Part VI - Network change;
- (g) Part VII - Network facilities access and co-location;
- (h) Part VIII - Operations and maintenance;
- (i) Part IX- Churn obligations; and
- (j) Part X - Other technical matters.

C. AVAILABILITY OF TM'S ARD

An Access Seeker who is interested in entering into an Access Agreement with TM pursuant to TM's ARD may request for a full copy of TM's ARD. A copy of TM's ARD will be made available to the interested party upon signing of a Confidentiality Agreement with TM.

D. FURTHER INFORMATION

For further information, please contact:

Position: General Manager, Malaysia Carrier Services

Address: Level 7, TM Annex 1, Jalan Pantai Baharu, 50672 Kuala Lumpur

Facsimile: 03 7957 3111

Email Address: ard_tm@tm.com.my

TELEKOM MALAYSIA BERHAD



ACCESS REFERENCE DOCUMENT (ARD)

VERSION 1.0

DATED: 2nd June 2009

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CHAPTER 1 – INTRODUCTION, BACKGROUND AND SCOPE

1.1 Preliminary

1.1.1 This Access Reference Document is made by Telekom Malaysia Berhad (Company No: 128740-P), (“**TM**”) a company incorporated under the laws of Malaysia and having its registered office at Level 51, Menara TM, Jalan Pantai Baharu, 50672 Kuala Lumpur on 3rd May 2009 pursuant to section 5.3.2 of the Commission Determination on the Mandatory Standard on Access Determination No.2 of 2005 as amended by the Variation to the Commission Determination on the Mandatory Standard on Access (Determination No. 2 of 2009) (“**MSA Determination**”).

1.1.2 This Access Reference Document is hereby referred to as TM's ARD.

1.1.3 TM's ARD is structured as follows:

- (a) Main Text of which there are:
 - (i) Chapters (e.g. Chapter 1);
 - (ii) Sections (e.g. Section 1.1 being the first section of Chapter 1); and
 - (iii) Annexure to the Main Text (e.g. Annexure 1 of the Main Text); and
- (b) Schedules of which there are:
 - (i) Parts (e.g. Part I of Schedule A);
 - (ii) Paragraphs (e.g. Paragraph 1.1 of Part I of Schedule A);
 - (iii) Appendix to a Schedule (e.g. Appendix 1 to Part I of Schedule A); and
 - (iv) Item (e.g. Item 1 of Appendix 1 to Part I of Schedule A).

1.2 Legislative Background

1.2.1 Following the issuance of the Ministerial Direction to Determine a Mandatory Standard on Access, Direction No.2 of 2003 and in exercise of the powers conferred by sections 55, 56, 104(2) and 106 of the Act, the Commission issued the MSA Determination.

1.2.2 MSA Determination Obligations

1.2.2.1 The MSA Determination deals with access to network facilities and network services listed in the Access List Determination and sets out the obligations that apply to Operators concerning various access issues which include:

- (a) Disclosure obligations;
- (b) Negotiation obligations; and
- (c) Content obligations.

1.2.2.2 Disclosure obligations are as set out in Section 5.3 of the MSA Determination.

1.2.2.3 Negotiation obligations are as set out in Section 5.4 of the MSA Determination.

1.2.2.4 Content obligations are as set out in Sections 5.5 to 5.19 of the MSA Determination.

1.2.3 Disclosure Obligations

Pursuant to the Disclosure Obligations in Section 5.3 of the MSA Determination, TM is required to:

- (a) prepare and maintain an access reference document;
- (b) make the access reference document available;
- (c) follow prescribed procedures after acceptance of the access reference document; and
- (d) follow prescribed procedures for any amendment of the access reference document.

1.2.4 The role of Standard Access Obligations

1.2.4.1 Pursuant to sections 55 and 145 of the Act, the Commission may determine the list of facilities and services which may be listed in the access list. Pursuant to section 149 of the Act, an access provider is required to comply with the standard access obligations in providing the facilities and services that are listed in the Access List Determination.

1.2.4.2 The standard access obligations facilitate the request of access to the facilities and services listed in the Access List Determination by access seekers in order that access providers can provide network facilities, network services, and other facilities and/or services which facilitate the provision of network services or applications services, including content applications services.

1.2.4.3 Section 149 of the Act specifies the terms and conditions upon which the access provider must comply with the standard access obligations. Section 149(2) provides that the access provided by the access provider shall be:

- (a) of at least the same or more favourable technical standard and quality as the technical standard and quality on the access provider's network facilities or network services; and
- (b) on an equitable and non-discriminatory basis.

1.2.5 Paraphrasing of Legislation

The paraphrasing of any statutory provisions in TM's ARD does not amount to any party agreeing to waive any of their rights under the paraphrased provisions and those statutory provisions continue to apply in full.

1.3 **Scope of TM's ARD**

1.3.1 TM is a licensed (individual and class) network facilities, network services and applications services provider under the Act. Pursuant to these licences, TM may offer network facilities, network services and applications services in Malaysia.

- 1.3.2 Pursuant to Section 5.3.2 of the MSA Determination, TM is obliged to prepare and maintain an access reference document in relation to network facilities or network services listed in the Access List Determination which TM provides to itself or third parties.
- 1.3.3 TM's ARD:
- (a) contains terms and conditions which are consistent with the rights and obligations set out in the MSA Determination; and
 - (b) does not include terms and conditions which are inconsistent with the rights and obligations set out in the MSA Determination.
- 1.3.4 Where relevant, the rights and obligations set out in the MSA Determination shall be applicable to TM's ARD.
- 1.3.5 TM considers TM's ARD to be consistent with:
- (a) the standard access obligations stipulated under Section 4.1.1 of the MSA Determination and section 149 of the Act; and
 - (b) the principles of non-discrimination stipulated under Sections 4.1.5 and 4.1.6 of the MSA Determination.
- 1.3.6 For the purposes of clarification, the terms and conditions of TM's ARD is only applicable to the Facilities and/or Services as defined. If the Access Seeker requests network facilities and/or network services outside TM's ARD, the terms and conditions for the provision of such network facilities and/or network services shall remain outside the scope of TM's ARD.
- 1.3.7 If an Access Seeker requests TM to provide it with Facilities and/or Services other than on the terms and conditions contained in TM's ARD, TM and the Access Seeker will:
- (a) negotiate in good faith in relation to such terms and conditions; and
 - (b) enter into and conduct negotiations in a timely manner.

1.4 Additional Services

- 1.4.1 In addition, the Operators are free to consider TM's ARD when negotiating the terms and conditions for the supply of other network facilities or network services that are not listed in the Access List Determination.

1.5 Effective Date of TM's ARD

1.5.1 Commencement and Duration of TM's ARD

- 1.5.1.1 TM's ARD comes into force and takes effect immediately from the date referred to in **Section 1.1.1** and continues until the earlier occurrence of any of the following:
- (a) the expiry of TM's ARD Term; or

- (b) a Review; or
- (c) the withdrawal of TM's ARD in accordance with the terms of TM's ARD.

1.5.1.2 TM's ARD has no effect on contractual arrangements for the supply of Facilities and Services by TM to an Access Seeker prior to the Commencement Date unless and until such contractual arrangement is subsequently renegotiated and agreed between the Operators.

1.5.2 Amendment to TM's ARD

1.5.2.1 TM shall, within ten (10) Business Days of making any amendment to TM's ARD, provide a copy of the amendments, or an amended copy of TM's ARD to:

- (a) the Access Seeker who is being provided with Facilities and/or Services; and
- (b) the Access Seeker who has requested TM's ARD within the period of ninety (90) days prior to the making of such amendments, unless the Access Seeker has already indicated that it does not wish to proceed with the Access Request.

1.5.3 Notice of Withdrawal, Replacement and Variation of TM's ARD

1.5.3.1 If the Commission revokes, varies or replaces the Access List Determination relating to the Facilities and/or Services pursuant to section 56 of the Act, TM may, by giving written notice to all Access Seekers to whom it is supplying Facilities and/or Services, withdraw or replace TM's ARD with effect from a date no earlier than the effective date of the Commission's revocation.

1.5.3.2 TM shall comply with Sections 6.4.2 and 6.4.3 of the MSA Determination where it withdraws or varies TM's ARD pursuant to **Section 1.5.3.1**.

1.5.3.3 In addition to **Section 1.5.3.2** above, TM may give the Access Seekers to whom it is supplying Facilities and/or Services a notice of a variation or replacement of TM's ARD to effect such variations that are necessary or appropriate in the event of:

- (a) the occurrence of a Legislative Event that materially affects the rights or obligations of TM under TM's ARD; or
- (b) the occurrence of a Regulatory Event that relates to TM; or
- (c) a review by the Commission of the MSA Determination pursuant to Section 6.5 of the MSA Determination.

1.5.3.4 Notwithstanding **Sections 1.5.3.1, 1.5.3.2 and 1.5.3.3** above, TM may subject to **Section 1.5.2** above, replace TM's ARD at any time.

1.5.4 Availability

1.5.4.1 Subject to **Section 1.5.4.2**, TM's ARD shall be made available to an Access Seeker:

- (a) on written request, at TM's principal place of business; and
- (b) on TM's website.

1.5.4.2 Prior to the provision of TM's ARD to the Access Seeker, the Access Seeker shall be required to enter into a Confidentiality Agreement with TM.

CHAPTER 2 - INTERPRETATION

2.1 The following words have these meanings in this TM's ARD unless the contrary intention appears:-

“Act” means the Communications and Multimedia Act 1998;

“Access Agreement Template” or **“AAT”** means a model access agreement entered into and made pursuant to an Access Request made in accordance with **Sections 4.1 to 4.8**;

“Access Agreement” means:

- (a) a Model Access Agreement; or
- (b) an agreement which is commercially negotiated between the Operators based on the AAT,

whereby TM provides requested Facilities and/or Services in accordance with the terms therein contained and registered with the Commission in accordance with Section 150 of the Act;

“Access List Determination” means the Commission Determination on Access List, Determination No. 1 of 2005 which came into operation on 1 July 2005 and as amended by the Variation to Commission Determination on Access List (Determination No.1 of 2005), Determination No.1 of 2009;

“Access to Network Elements” or **“ANE”** means Full Access Service, Bitstream Services, Sub Loop Service and Line Sharing Service, which are more particularly described in **Part XVIII of Schedule A**;

“ARD Term” means the period of three (3) years commencing from the date set out in **Section 1.1.1** or such other period as may be specified by TM from time to time;

“Access Request” means a request made by the Access Seeker to TM for access to Facilities or Services, and containing the information in **Section 4.1.3**;

“Access Seeker” means an Operator who:

- (a) is a network facilities provider, network services provider, applications service provider or content application service provider and who is a licensee as defined in the Act; and
- (b) makes a written request for access to Facilities and/or Services or is being provided with Facilities and/or Services;

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

- (a) a POI/POP and a Called Party/called number (including calls for Special Services); or
- (b) a Calling Party and a POI/POP; or
- (c) two POIs/POPs;

“**Associated tower sites**” is the space and land owned, leased or tenanted by TM surrounding or on which the tower or towers are located and where the Access Seeker may place its cabin or outdoor equipment including space required for cable gantry connecting to the tower and generator-set;

“**Bank Guarantee**” means an irrevocable guarantee, in a form acceptable to TM, executed in favour of TM by a licensed bank in Malaysia approved by TM pursuant to **Section 4.3** on behalf of the Access Seeker;

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

“**Billing Period**” means one (1) calendar month period over which the supply of Facilities and/or Services is measured for the purposes of billing, unless otherwise agreed between the Operators;

“**Bitstream Services**” shall have the meaning as defined in **Part XI** of **Schedule A**;

“**Broadcasting Transmission Service**” shall have the meaning as defined in **Part XII** of **Schedule A**;

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

“**Bypass Operation**” means operations that circumvent the Network of TM in the provision of Communication Services including but not limited to, voice services (including a reconstructable voice service as part of a data or mixed voice/data service) or Internet fax service, whether provided to Internet subscribers or to any other person or persons;

“**Call Communication**” means a Communication involving (in whole or in part) a Fixed Number, a Mobile Number or IP address for use in the operation of an Operator's Network and as allocated by the Commission in accordance with the respective Operator's Licence, and in accordance with the Act;

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

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

“**Chargeable SMS Communications**” shall refer only to Successful SMS Communications, save and except for Unchargeable SMS Communications;

“**Charges**” means the sums payable by the Access Seeker to TM for accessing and/or being provided the Facilities or Services;

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

“Closed Number Area” means a set of digit(s) beginning with the trunk prefix '0' which forms the first part of a national number, and which indicates the defined geographical area within Malaysia where the Customer's Fixed Number is located provided always that '09' in the states of Pahang, Terengganu and Kelantan will be treated as one closed number area, '082' to '086' in the state of Sarawak will be treated as one closed number area and '087' to '089' in the state of Sabah will be treated as one closed number area;

“Commencement Date” means the date on which the Operators enter into the Access Agreement or such other date as agreed between the Operators;

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

“Common Channel Signalling No. 7” or **“CCS7”** means the PSTN Fixed Network protocol for exchanging signalling messages to set-up telephone calls between Operators;

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

“Communication Attempt” means the activity associated with setting up a Communication which may or may not be successful including Network Chargeable Calls and Chargeable SMS Communications;

“Communication Information” means information in respect of Communications made during the Billing Period which may include but not be limited to:

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

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

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

“Communications Wire” means a copper or aluminium based wire forming part of a PSTN;

“Confidentiality Agreement” means a confidential agreement entered into between the Operators in accordance with Section 5.3.7 of the MSA Determination.

“Construction and Management Agreements” means the agreements entered into by the parties of a consortium in respect of the submarine cable systems;

“Creditworthiness Information” means the information required by TM to assess the creditworthiness of the Access Seeker which are more particularly described in **Section 4.2** of TM's ARD and such other information as may be required from time to time;

“Customer” means in relation to an Operator, an end-user having a contractual relationship with the Operator for the provision of Communications Services unless otherwise expressly provided in TM's ARD;

“Customer Access Module” means a device that provides a connection (including ring tone and ring current) to customer equipment. Examples include a customer line module of a local switch, remote terminals of a digital line carrier system, a digital subscriber line access multiplexer, a node in a fibre to the node network and an optical line termination equipment in a fibre to the premises network;

“DLS” means a digital local switch installed in TM or the Access Seeker's PSTN Fixed Network;

“DTS” means the digital trunk switch installed in TM or Access Seeker's PSTN Fixed Network;

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

“Direction” means any lawful direction made by the Commission pursuant to Chapter 1 of Part V of the Act;

“Domestic Connectivity to International Services” shall have the meaning as defined in **Part IX of Schedule A**;

“Domestic Network Transmission Service” is a service for the supply by TM to the Access Seeker of Domestic Network Transmission (other than Interconnect Link Service) where requested by the Access Seeker for operation and use as part of, in or in connection with the Access Seeker's Network, whereby Call Communications are carried between transmission points (not being Customer transmission points) via network interfaces at such transmission rate as may be agreed between the Operators on a permanent basis and which is more particularly described in **Part IV of Schedule A**;

"Double tandem origination charge" means the Access Charge payable to TM for the use of its PSTN Fixed Network where:-

- (a) the Calling Party is in a different Closed Number Area from the POI/POP at which the Call Communication is handed over to the Operator being provided Fixed Network Origination Service; or
- (b) in relation to the '09' Closed Number Area, the Calling Party is in a different state from the POI/POP at which the Call Communication is handed over to the Operator being provided Fixed Network Origination Service;

"Double tandem origination charge using Submarine Cable" means the Access Charge payable to TM for the use of its PSTN Fixed Network when the Calling Party is in a different Closed Number Area from the POI/POP at which the Call Communication is handed over to the Operator being provided Fixed Network Origination Service, and use is made of the submarine cable between East and West Malaysia at the cost of TM;

"Double tandem termination charge" means the Charge payable to TM for the use of its PSTN Fixed Network where:-

- (a) the Called Party is in a different Closed Number Area from the POI/POP at which the Call Communication is handed over to TM for call termination; or
- (b) in relation to the '09' Closed Number Area, the Called Party is in a different State from the POI/POP at which the Call Communication is handed over to TM for call termination;

"Double tandem termination charge using Submarine Cable" means the Charge payable to TM for the use of its PSTN Fixed Network when the Called Party is in a different Closed Number Area from the POI/POP at which the Call Communication is handed over to TM for call termination and use is made of the submarine cable between East and West Malaysia at the cost of TM;

"Due Date" means, in respect of an Invoice, thirty (30) days from the date of receipt of an Invoice;

"DSL Resale Service" means a Service for the provision of connectivity for the carriage of data communication (being in digital form and conforming to Internet Protocols) to customer equipment insofar as it relates to IP addresses directly or indirectly connected to TM's Network and which is more particularly described in **Part XIII of Schedule A**;

"E1" means a unit of 2Mbps of capacity;

"Effective Call" means a call in which the calling exchange line is in connection with the called exchange line and communication may proceed;

"Effective Date" means the date on which the relevant portions of the Access Agreement requiring registration is duly registered with the Commission under Section 150 of the Act in its entirety (and such registration is notified by the Commission in writing to either of the Operators);

“Effective International Call” means an outbound Effective Call made between two (2) exchange lines connected through switching centres in Malaysia with any switching centres outside Malaysia;

“Effective National Call” means an Effective Call between two (2) exchange lines connected through switching centres which are not within the same charge district and not in the charge district which are adjacent to each other;

“Equal Access (PSTN) Service” is an Access Service provided by means of a PSTN Fixed Network for the carriage of Call Communications over the voice bandwidth from the Customer's equipment to a POI whereby a Customer may select on a call-by-call basis the services of the Equal Access Operator;

“Equal Access Calls” means Effective National Calls or Effective International calls made using the Equal Access (PSTN) Service;

“Equal Access Operator” means the Access Seeker who, by means of the Equal Access (PSTN) Service provided by TM, provides Equal Access Calls to a Customer which is directly connected to TM's PSTN Fixed Network;

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

“Facilities” means network facilities and/or other facilities which facilitate the provision of network services or applications services including content applications services which are listed in the Access List Determination and offered in TM's ARD;

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

“Far end Handover” means:

- (a) in relation to calls terminating on the Fixed Network, the delivery of calls to a POI/POP within the same Closed Number Area where the call is to be terminated; and
- (b) in relation to calls terminating on the Mobile Network, the delivery of calls to a POI/POP which is in the Home Area of the called number and which is nearest to the location of the called number as requested by the Access Seeker or as mutually agreed between the Operators;

“Fast Track Access Agreement” or **“FTAA”** means a model access agreement entered into pursuant to a fast track application process made in accordance with **Section 4.9**;

“Fast Track Application Service” means a Facility or Service that is subjected to the fast track application process which is more particularly set out in **Section 4.9.1**;

“Fast Track Security Sum” means the security sum:

- (a) in the form of a Bank Guarantee, deposited with TM in accordance with **Section 4.9** and **Chapter 6** for the Fast Track Application Service; and

- (b) which amounts to Ringgit Malaysia Fifty Thousand (RM50,000) only for each Facility or Service for which access is sought unless otherwise provided in **Chapter 6**;

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

“Fixed Network Origination Service” means an Access Service for the carriage of Call Communications to a POI/POP from a Calling Party directly connected to TM's Fixed Network and which is more particularly described in **Part I of Schedule A**;

“Fixed Network SMS Termination Service” has the meaning ascribed in **Paragraph 3.1 of Part I of Schedule A**;

“Fixed Network Termination Service” means an Access Service for the carriage of Call Communications from a POI/POP to a Called Party directly connected to TM's Fixed Network and which is more particularly described in **Part I of Schedule A**;

“Fixed Number” means:

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

but does not include the Mobile Numbers of the respective Operator;

“Foreign Operator” means a telecommunications operator who is the holder of a valid licence for the provision of communication services in a foreign country;

“Freephone Number” means numbers currently denoted by the number range commencing with '1800' but also including such other number ranges agreed to or directed by the Commission where the Called Party is charged for the call;

“Freephone 1800 Services” means the service utilising Freephone Numbers;

“Full Access Service” has the meaning ascribed in **Part XVIII of Schedule A**;

“Full Span Interconnection” means the physical connection to establish a POI between TM and the Access Seeker's premises, where the link between TM and the Access Seeker's premises is provided and maintained by TM;

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

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

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

“Home Area” means the defined geographical area within Malaysia where the Customer’s Mobile Number is located according to the cellular mobile network operator’s respective numbering plan. For clarification purposes, such areas are the Central, Northern, Southern, Eastern, Sabah and Sarawak regions;

“HSBB Ministerial Direction” means the Ministerial Direction on High-Speed Broadband and Access List, Direction No.1 of 2008;

“HSBB Network” means the IP based network comprising access, domestic core, and international networks to be built by TM to provide bandwidth of at least 10 Mbps to end-users in the priority economic areas, and such other areas to which HSBB services are to be rolled out to in the future;

“HSBB Network Service” has the meaning ascribed in paragraph 25 of the Access List Determination;

“Infrastructure Sharing” shall have the meaning as defined in **Part VIII of Schedule A**;

“In-span interconnection” means the physical connection for a POI where the POI lies at some point along the physical cable linking the Operator’s Network;

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

“Insurance Information” means the insurance information required by TM pursuant to **Section 4.4**;

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

“Interconnect Chargeable Calls” includes Successful Calls and Network Chargeable Calls;

“Interconnect Chargeable Messages” includes Successful SMS Communications and Chargeable SMS Communications;

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

“Interconnect Link Service” has the meaning ascribed in **Part III of Schedule A**;

“Interconnect Support” means the maintenance and operation of Interconnect Link Service, Network Capacity and the equipment and facilities in TM’s Network (including, but not limited to, its Gateways) to support the provision of one or more Interconnection Services;

“Interconnect Traffic” means a Call Communication traffic between the directly connected Customer of the respective Operator’s Network;

“Interconnection” means interconnection of the Operators’ Networks for the purposes of TM providing Access Services to the Access Seeker in relation to a Call Communication via a POI/POP and using agreed interfaces and signalling systems;

“Interconnection Service” is the provision by an Operator of Interconnect Conditioning, Interconnect Link Service, Network Conditioning and Network Capacity to enable, or for use in the carriage of Interconnect Traffic to and from a POI/POP;

“Interconnect Steering Group” or **“ISG”** means the inter-operator relations group established by the Operators;

“Intermediate Point” means any technically feasible point between the network side of the Network Boundary and a POI;

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

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

“Internet” means the international network of digital networks utilising the TCP/IP suite of communications protocols of which an Operator’s Internet Access Services form part thereof;

“Internet Access Call Origination Service” means an Access Service for the carriage of Internet Call Communications to a POH from a Calling Party directly connected to TM’s Fixed Network where the Calling Party is within the local call charge area where the POH is located in order to access the Internet Access Services of the Access Seeker;

“Internet Access Services” means an applications service provided by an Operator whereby a person is able to access Internet services and applications in conjunction with a dial-up connection;

“Internet Call Communication” means a Call Communication made by an Operator’s Customers from the Operator’s Network to access the other Operator’s Internet Access Services;

“IP” or **“Internet Protocol”** means network-layer (Layer 2) protocol, as defined by the Internet Engineering Task Force, that contains addressing information and some control information that enables packets to be routed;

“Invoice” means the invoice for amounts due in respect of the supply of requested Facilities or Services during a Billing Period;

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

“Legislative Event” means:

- (a) the enactment, amendment, replacement or repeal of the Act;

- (b) the enactment, amendment, replacement or repeal of the rules promulgated pursuant to sections 104 and 105 of the Act in respect of mandatory standards;
- (c) the registration, determination, promulgation, issue, amendment or replacement of any industry code with which TM is required or obliged to comply; and/or
- (d) the making of a determination, direction or finding by the Commission, the Minister or a court of law that all or any part of TM's ARD contravenes any provision of any law, except to the extent that the making of such determination, direction or finding constitutes a Regulatory Event;

“Licence” means an individual licence granted by the Minister pursuant to the Act for Communications Services;

“Line Sharing Service” has the meaning ascribed in **Part XVIII of Schedule A**;

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

“Manuals” means the Technical and Implementation Manual, the Operations and Maintenance Manual and other manuals which the Operators establish pursuant to the Access Agreement;

“Media Gateway” means a translation unit installed in the Operators' IP Fixed Network including Session Initiation Protocol which provides an interface between the disparate network of the Operators e.g. interface between PSTN and IP Network;

“Message Communications” means communications that provide only text with or without associated images, audio clips and video clips. Examples of Message Communications include SMS and MMS;

“Minimum Value” for the purposes of calculating the Security Sum means the total estimated value of access to the requested Facilities and Services provided (based on the most recent amounts invoiced for those requested Facilities and Services) or new facilities and/or services to be provided by TM to the Access Seeker for a ninety (90) day period;

“Minister” means the Minister of Information, Communication and Culture or, if different, the Minister administering the Act;

“Mobile local termination charge” means the Charge payable to TM for the use of its Mobile Network for call termination from a POI/POP within the Called Party's Home Area;

“Mobile national termination charge” means the Charge payable to TM for the use of its Mobile Network for call termination from a POI/POP outside the Called Party's Home Area;

“Mobile national termination charge using Submarine Cable” means the Charge payable to TM for the use of its Mobile Network whereby the incoming Call Communication is handed over at the POI/POP outside the Called Party's Home

Area and use is made of the submarine cable between East and West Malaysia at the cost of TM;

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

“Mobile Network Origination Service” means an Access Service for the carriage of Call Communications to a POI/POP from a Calling Party directly connected to TM's Mobile Network and which is more particularly described in **Part II of Schedule A**;

“Mobile Network Termination Service” means an Access Service for the carriage of Call Communications from a POI/POP to a Called Party directly connected to TM's Mobile Network and which is more particularly described in **Part II of Schedule A**;

“Mobile Number” means a number(s) which has been allocated under the Number Plan to a mobile operator for the provision of a public cellular service;

“Model Access Agreement” means the:

- (a) Access Agreement Template or AAT; or
- (b) Fast Track Access Agreement or FTAA; and

which contains the terms and conditions based on TM's ARD;

“MMS” means multimedia messaging service conforming to the standards agreed in writing between the Operators;

“Multiple SMS Communications” refer to repetitive SMS Communications having the same content, which are sent due to the trial attempts set by the originating SMSC;

“MyIX” means the Malaysia Internet Exchange;

“Near end Handover” means:

- (a) in relation to calls originating from (in the case of Toll Free Services and Freephone 1800 Services) or terminating on the Fixed Network, the delivery of calls to a POI/POP within a Closed Number Area where the call originated; and
- (b) in relation to calls originating from (in the case of Toll Free Services and Freephone 1800 Services) or terminating on the Mobile Network, the delivery of calls to a POI/POP nearest to the location of the calling number as requested by the Access Seeker or as mutually agreed between the Operators;

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

“Network Boundary” has the meaning ascribed in Section 128 of the Act unless otherwise defined in TM's ARD;

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

“Network Chargeable Call” is a call which, for any reason whatsoever, fails whitelist screening and is terminated at RVA;

“Network Co-location Service” shall have the meaning as defined in **Part X of Schedule A**;

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

“Number Plan” means the number plan adopted by the Commission, or the numbering and electronic addressing plan, subsequently, developed, issued and amended by the Commission pursuant to Chapter 2 of Part VII of the Act for the administration, management and assignment of numbers (as defined in Section 6 of the Act), including, but not limited to PSTN numbers and short codes;

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

- (a) network information;
- (b) commissioning, de-commissioning and re-arrangement practices;
- (c) maintenance practices;
- (d) fault handling procedures;
- (e) complaint handling;
- (f) network monitoring;
- (g) network management;
- (h) access to POI/POP sites;
- (i) contact lists;
- (j) quality of service standards; and
- (k) such other matters as are agreed between the Operators from time to time and set out in the Operations and Maintenance Manual;

“Operator” means TM or the Access Seeker and **“Operators”** means TM and the Access Seeker collectively;

“POH” means the agreed point at which Internet Call Communications are being handed over from one Operator's Network to other Operator's Network. Examples of POH include:

- (a) a POI;

- (b) an agreed point of input to the Access Seeker's modem bank or router; and
- (c) at an agreed point of output from TM's modem bank or router;

“Point of Access” or **“POA”** means Connection Service from any technically feasible meeting point outside of the Cable Landing Station to the Submarine Cable System inclusive of Through-Connection;

“Point of Interconnection” or **“POI”** means a point at or between the DTS/MSG/Media Gateway/SBC which demarcates the Network of TM and the Network of the Access Seeker (collectively referred to as the **“interconnecting networks”**) and is a point at which a call Communication is transferred between the interconnecting networks. An example of a POI is MyIX;

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

“Port” means an interface located on TM's DSL equipment;

“Private Circuit Completion Service” means a Service, whereby TM provides a digital private leased circuit (of at least a bandwidth of 64 kbps) between a POI/POP and the premises (including but not limited to a building, factory or house) of the Customer of the Access Seeker. Such a service is routed on the circuit through the POI/POP which is being used to carry Interconnect Traffic between the Operators, without being switched by TM and which is more particularly described in **Part XIV of Schedule A**;

“Public Switched Telephone Network” or **“PSTN”** means a domestic public telecommunications network usually accessible by telephones, key telephone systems and private automatic branch exchanges, and the completion of circuits between the Calling Party and Called Party in such a network requires network signalling in the form of dial pulses or multi-frequency tones.

“QOS” means quality of service;

“QOS standards” means the QOS standards in respect of certain services set out in the appropriate Manual to the Access Agreement;

“Regulatory Event” means:

- (a) the declaration, modification, variation or revocation of the MSA Determination;
- (b) the giving of a lawful direction to TM by the Commission relating to TM's ARD; and/or
- (c) the giving of a lawful direction to TM by the Minister relating to TM's ARD;

“Review” means a review of the MSA Determination pursuant to Section 6.5 of the MSA Determination;

“Roaming Subscriber” means a person with a valid service subscription for international use with a cellular operator outside Malaysia and who seeks cellular

service within Malaysia pursuant to an international roaming agreement entered into between his home service provider and the Operator;

“**RM**” means Ringgit Malaysia which shall be the monetary currency used in TM's ARD unless otherwise provided;

“**RVA**” means the remote voice answering of the Operators, but shall not include the standard switch announcement of the Operators.

“**Satellite Earth Station**” means TM's satellite earth stations as set out in **Appendix A of Part IX of Schedule A**;

“**Security Sum**” means the security sum:

- (a) in the form of a Bank Guarantee, deposited with TM in accordance with **Section 4.3** and **Chapter 6** for the supply of Facilities or Services; and
- (b) which is equivalent to the Minimum Value unless otherwise provided in **Chapter 6**;

“**Services**” means network services and/or other services which facilitate the provision of network services or applications services, including content applications services which are listed in the Access List Determination and offered in TM's ARD;

“**Service Ordering Procedures**” means the procedures governing the forecasting, planning and ordering of relevant Facilities and Services as set out in the relevant Manuals;

“**Session Border Controller**” or “**SBC**” means a Voice over IP session aware device that controls real time interactive communication to a network at the borders of an IP network;

“**Session Initial Protocol**” or “**SIP**” means a signalling protocol, widely used for setting up multimedia communication sessions such as voice, data and video calls over the Internet. Other feasible application examples include video conferencing, streaming multimedia distribution, instant messaging, presence information and online games;

“**Single tandem origination charge**” means the Access Charge payable to TM for the use of its PSTN Network where:-

- (a) the Calling Party is within the same Closed Number Area as the POI/POP at which the Call Communication is handed over to the Operator providing Toll Free Services and/or Freephone Services and/or to the Operator being provided Fixed Network Origination Service; or
- (b) in relation to the '09' Closed Number Area, the Calling Party is within the same state as the POI/POP at which the Call Communication is handed over to the Operator providing Toll Free Services and/or Freephone Services and/or to the Operator being provided Fixed Network Origination Service;

“**Single tandem termination charge**” means the Charge payable to TM for the use of its PSTN Fixed Network where:-

- (a) the Called Party is within the same Closed Number Area as the POI/POP at which the Call Communication is handed over to TM for call termination; or
- (b) in relation to the '09' Closed Number Area, the Called Party is within the same State as the POI/POP at which the Call Communication is handed over to TM for call termination;

“**SMS**” means short messaging service conforming to the ETSI standards;

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

“**SMS Communication**” means a communication via SMS that comprises an SMS text message to or from either Operator involving either Operator's Number for use in the operation of each Operator's Network, in accordance with that Operator's respective Licences.

“**Special Services**” for the purposes of the TM's ARD shall mean Toll Free Services and Freephone 1800 Services;

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

“**Sub-loop Service**” has the meaning ascribed in **Part XVIII of Schedule A**;

“**Submarine Cable System**” means the applicable cable system as set out in **Appendix A of Part IX of Schedule A**;

“**Submarine Cable Landing Station**” means TM's submarine cable landing stations as set out in **Appendix A of Part IX of Schedule A**;

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

“**Successful SMS Communication**” occurs when the originating exchange sends the messages signal to the terminating exchange as follows:-

- (a) the SMS Communication is sent by the Calling Party and received by the Called Party;
- (b) the originating SMSC receives an acknowledgement signal from the terminating exchange; and
- (c) the Calling Party receives “Message Delivered” in its status report;

“**Sunset Date**” means 30 June 2010 or such other later date as declared by TM in writing;

“**TCP/IP**” means the suite of Transmission Control Protocol/Internet Protocols in general use in accordance with good practice;

“Technical and Implementation Manual” means the manual associated with **Schedule C** and which is part of the Access Agreement, in relation to the following:

- (a) principles for network configuration;
- (b) forecasting procedures;
- (c) ordering procedures;
- (d) provisioning procedures;
- (e) routing and numbering principles including Special Services;
- (f) signalling and Technical Specifications for the Interconnection of Fixed Numbers;
- (g) commissioning procedures;
- (h) call forwarding procedures;
- (i) POI/POP establishment procedures;
- (j) relocation and removal procedures for POI/POP equipment; and
- (k) such other matters as are agreed between the Operators from time to time and set out in the Technical and Implementation Manual.

“Technical Specifications” means any technical parameters, specifications and procedures applicable to Interconnection of the Operators' Networks and provision of Access Services documented in the Manuals to the Access Agreement;

“TM” means Telekom Malaysia Berhad;

“Telephone Area” means those areas stipulated in graphical and tabular form in the National Telephone Service Charging Arrangement (**“NATESCA”**);

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

“Through-Connection” means transmission services including the relevant equipment that are used for the purpose of connection through or between equipment at an exchange site;

“Toll Free Numbers” means numbers currently denoted by the number range commencing with ‘1300’ but also including such other number ranges agreed to or directed by the Commission, and Tenaga Nasional Berhad Information/Assistance line (denoted by the number ‘15454’), where the terminating party (the B party) is charged for the call save for the local call charge levied on the originating Fixed Number or the local retail rates of the mobile operator for directly dialled calls, levied on the originating Mobile Number;

“Toll Free Service” means the service utilising Toll Free Numbers;

“Transmission Service” has the meaning ascribed in **Part XVII of Schedule A**;

“TSolP Telephony Number” means the service number with the prefix “0154” (or such number as may be determined by the Commission) which is used for purposes of Telephony Service over IP;

“Unconditioned Communications Wire” means Communications Wire which is not conditioned for voice services only, for example by means of loading coils, taps, bridges or pair gain systems;

“Unchargeable SMS Communications” shall refer to all test SMS Communications before commissioning of an SMS POI, Unsuccessful SMS Communications, Multiple SMS Communications and incomplete SMS Communications;

“Unsuccessful SMS Communication” occurs when the terminating exchange does not send an acknowledgement signal to the originating exchange as follows:

- (a) the Called Party’s customer premise equipment (CPE) or mobile phone is not active or it turned off; or
- (b) the Called Party’s customer premise equipment or mobile phone is out of range; or
- (c) the SMS Communication becomes trashed when attempts to send the SMS Communication exceed the level set by the SMSC of the originating Network; or
- (d) the SMSC of the terminating Network fails to send the SMS to the Called Party for whatsoever reason;

“VOIP” means Voice Over Internet Protocol;

“Wholesale Line Rental Service” has the meaning ascribed in **Part XV of Schedule A**;

“Wholesale Local Leased Circuit Service” has the meaning ascribed in **Part XVI of Schedule A**;

2.2 In TM’s ARD except where the contrary intention appears;

- (a) the singular includes the plural and vice versa; and
- (b) a document includes all amendments or supplements to that document, or replacements or novations of it; and
- (c) a reference to a statute, ordinance, regulations, code or other law and other instruments under it, shall include any statute, ordinance, regulation, code and other law consolidating, amending, re-enacting or replacing of any of them from time to time relating thereto or in connection therewith; and
- (d) a reference to a person includes a firm, body corporate, unincorporated association or an authority; and

- (e) a reference to a person includes the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation), and assigns; and
- (f) if the day on which the payment of money falls due is not a Business Day, the due date shall be deemed to be the next Business Day and any reference to acts that have to be done or to be done by or on or before a particular day or Business Day means by or on or before the close of business at 5.00pm on that particular day or Business Day; and
- (g) a reference to a related body corporate of an Operator has the same meaning as in the Companies Act 1965; and
- (h) a reference to a third person is a reference to a person who is not a party to TM's ARD; and
- (i) in relation to an Access Service for the carriage of a call from a POI/POP to a called number, a reference to a direct dialled call includes a Call Communication where the called number is directly dialled:
 - (i) from the calling number; or
 - (ii) by the Access Seeker's operator (if any) or an Foreign Operator,but does not include a Call Communication for which the Access Service is provided with the assistance (call dialling, handling or completion) of TM's operator;
- (j) no rule of construction and/or interpretation applies to the disadvantage and/or detriment of the Operator having control and/or responsibility for the preparation of TM's ARD; and
- (k) headings are included for convenience and do not affect the interpretation of TM's ARD.

CHAPTER 3 – PRINCIPLES OF ACCESS AND INTERCONNECTION

3.1 Services

- 3.1.1 Subject to **Section 1.3.6**, TM's ARD applies only to the Facilities and/or Services.
- 3.1.2 The service description for each of the Facilities and Services are set out in **Schedule A**.
- 3.1.3 The charges and charging principles for each of Facilities and Services are set out in **Schedule B**.
- 3.1.4 The technical and operational matters for all of the Facilities and Services are set out in **Schedule C**.

3.2 Eligibility for Access to Services

- 3.2.1 TM may at its discretion and in a manner consistent with the Licence(s) granted (and the licence rights accorded therein) by the Minister to the Access Seeker, determine on a case by case basis whether to provide the Access Seeker with access to the Facilities and/or Services.
- 3.2.2 Consistent with Government policy and Determinations by the Commission (and its predecessor), an Access Seeker may only request for access to any or all of the Facilities and/or Services where the Access Seeker has been granted (i) an individual network facilities provider licence, (ii) an individual network services provider licence and/or (iii) an individual content applications services provider licence, unless otherwise agreed by TM, and such individual licences are not limited or restricted from those detailed in the *Communications and Multimedia (Licensing) Regulations 2000*, as amended in any way:
- (a) by reference to the type of network facilities, network services and/or content applications services that can be provided; and
 - (b) by geographical limitations to only a specific area and/or areas in Malaysia to which the Access Seeker can provide such network facilities, network services and/or content applications services.
- 3.2.3 An Access Seeker may not request for access to the Facilities and/or Services where the requested Facilities and/or Services are to be used in connection with an activity or activities in which the Access Seeker is not licensed to provide.
- 3.2.4 Consistent with Government policy and Determinations by the Commissions (and its predecessor), where TM provides the Access Seeker with access to the Facilities and/or Services pursuant to **Section 3.2.1**, the charges for the requested Facilities or Services shall be negotiated between the Operators subject to any mandatory standard on access pricing determined by the Commission.

3.3 Availability of Facilities and Services

- 3.3.1 Consistent with Government policy and the Access List Determination, TM:

- (a) shall be required to provide Private Circuit Completion Service, Domestic Network Transmission Service, Domestic Connectivity to International Service (in relation to Domestic Backhaul Transmission Service) and Broadcasting Transmission Service until the Sunset Date only. After the Sunset Date:
 - (i) the automatic transition of Private Circuit Completion Service to Wholesale Local Leased Circuit Services shall be in accordance with the provisions set out in **Part XVI of Schedule A**; and
 - (ii) the automatic transition of Domestic Network Transmission Service, Domestic Connectivity to International Service (in relation to Domestic Backhaul Transmission Service) and Broadcasting Transmission Service to Transmission Service shall be in accordance with the provisions set out in **Part IV, Part IX and Part XII of Schedule A**, respectively;
- (b) shall not be required to provide Full Access Service, Line Sharing Service and Sub-Loop Service where:
 - (i) such facilities and service are provided over the HSBB Network in accordance with the HSBB Ministerial Direction; or
 - (ii) the premises for which access has been requested will be served by a HSBB Network Service within three (3) years from the date of the request for the Services;
- (c) shall not be required to provide Bitstream Services and DSL Resale Service in premises to which HSBB Network is connected; and
- (d) shall not be required to provide any new Equal Access (PSTN) Service, Internet Access Call Origination Service and/or Network Signalling Service from 2 February 2009. Access Seekers who are currently provided with Equal Access (PSTN) Service and/or Internet Access Call Origination Service will continue to be provided with such service in accordance with **Part V and Part VI of Schedule A** respectively until such Services are terminated and/or discontinued in accordance with the Access Agreement.

3.4 Principles of Access and Interconnection

3.4.1 Subject to **Sections 3.2 and 3.3**, TM shall if requested to do so by an Access Seeker, supply a Facility and/or Service on reasonable terms and conditions.

3.4.2 In supplying a Facility and/or Service, TM must treat an Access Seeker on a non-discriminatory basis as required by the Standard Access Obligations in relation to the supply of a Service.

3.4.3 Principles of non-discrimination

3.4.3.1 The access provided by TM to the Access Seeker shall be consistent with:

- (a) section 149(2) of the Act; and
- (b) the principles set out in sections 4.1.5 and 4.1.6 of the MSA Determination.

3.4.4 Customer Principles

3.4.4.1 TM shall observe and comply with the customer relationship principles set out in section 4.3 of the MSA Determination.

CHAPTER 4 – ACCESS REQUEST PROCEDURES**4.1 Application for Access to Services**

4.1.1 Where an Access Seeker makes a request to TM to supply Facilities or Services, the Access Seeker shall serve an Access Request on TM.

4.1.2 The purpose of such Access Request is to provide TM with sufficient information to assess the Access Seeker's request for the supply of Facilities or Services under TM's ARD.

4.1.3 The Access Request must:

- (a) contain the name and contact details of the Access Seeker;
- (b) specify the Facilities or Services in respect of which access is sought;
- (c) indicate whether the Access Seeker wishes to accept TM's ARD or negotiate an Access Agreement;
- (d) contain the information (if any) as set out in Section 5.3.6 of the MSA Determination that the Access Seeker reasonably requires TM to provide for the purposes of the access negotiations;
- (e) contain two (2) copies of Confidentiality Agreement properly executed by the Access Seeker in the form prescribed by TM;
- (f) specify forecasts of the capacity which the Access Seeker reasonably requires, having regard to TM's disclosed provisioning cycle and forecasting procedures as described in **Schedule C**;
- (g) provide the relevant information relating to the Access Seeker's Network and the functionality of its Services, to the extent that the Access Seeker is aware that such information may affect TM's Network;
- (h) contain confirmation that the Access Seeker is not currently being supplied with the requested Facility or Service;
- (i) specify the type of communications licences held by the Access Seeker and a copy of the licence where a copy had not been previously provided;
- (j) contain Creditworthiness Information as set out in **Section 4.2**;
- (k) be accompanied by a Security Sum as set out in **Section 4.3**;
- (l) contain Insurance Information as set out in **Section 4.4**;
- (m) contain relevant technical information relating to the interface standards of the Access Seeker; and
- (n) contain such other information that TM may reasonably request.

4.2 Creditworthiness Information

- 4.2.1 The Creditworthiness Information that is required to accompany an Access Request include but shall not be limited to:
- (a) a letter, signed by the executive director of the Access Seeker, stating that the Access Seeker is not insolvent and is not under any external administration or under similar form of administration under any laws applicable to it in any jurisdiction;
 - (b) a copy of the Access Seeker's most recently published audited balance sheet and audited profit and loss statement; and
 - (c) such other information as may be reasonably requested by TM provided that such information are information which are publicly available
- 4.2.2 The Creditworthiness Information shall commensurate with an estimate of the value of the access to the Facilities or Services to be provided by TM to the Access Seeker over a ninety (90) day period.

4.3 Security Sum

- 4.3.1 An Access Request shall be accompanied by a Security Sum. The security to be given by the Access Seeker shall be in the form of a Bank Guarantee.
- 4.3.2 TM is not obliged to consider entering into an Access Agreement with the Access Seeker pursuant to TM's ARD until the Access Seeker has amongst other things, provided (at the Access Seeker's costs) to TM such Security Sum on terms and conditions reasonably acceptable to TM.

4.4 Insurance Information

- 4.4.1 Subject to Section 4.4.2, an Access Request shall be accompanied by the following insurances:
- (a) Worker's Compensation and/or Social Security Insurance and/or Employer's Liability Insurance and/or other insurance with statutory limits as required by the laws of Malaysia to provide for payment to its employees employed or in connection with the work covered by the Access Agreement that may be entered into and/or their dependants; and
 - (b) Comprehensive General Liability Insurance of an amount which is not in excess of Ringgit Malaysia Twenty Million (RM20,000,000) for any one claim or series of claims arising out of an accident or occurrence in connection with the Access Agreement that may be entered into resulting in bodily injury and/or personal injury including death and property damage of an Operator which shall arise out of or in consequence of any acts of omissions of the other Operator. Such policy shall include contractual liability.
- 4.4.2 For the purpose of clarification, the insurance provided by the Access Seeker pursuant to Section 4.4.1 shall commensurate with the reasonable sum which is to be agreed by TM.

4.5 Processing of Access Request

4.5.1 Acknowledgement of Receipt of Access Request

Subject to **Paragraph 4 of Part X of Schedule C**, TM shall within ten (10) Business Days of receipt of the Access Request inform the Access Seeker in writing that it has received the Access Request and:

- (a) Subject to **Section 4.5.3**, request additional information from the Access Seeker where there is a need for further information, prior to considering the Access Request; or
- (b) indicate whether it is willing to provide access to Facilities or Services in accordance with TM's ARD.

Subject to the additional information being received by TM within twenty (20) Business days from the date of request, TM shall reconsider the Access Request in accordance with this **Section 4.5.1** upon receipt of such additional information.

4.5.2 Non-refundable resource charge

4.5.2.1 In accordance with Section 5.7.28 of the MSA Determination, TM may charge an Access Seeker a one-off non-refundable resources charge (including processing fees and additional and non-routine processing fees) to be determined by reference to the costs incurred by TM for the allocation of manpower and other resources to enable the Access Seeker to test and provide new Facilities and Services for the purposes of interconnection.

4.5.2.2 The one-off non-refundable resource charge shall also be inclusive of a non-refundable processing fee for undertaking the necessary administrative work to process the Access Request as TM is required to allocate manpower and resources for the same. Such non-refundable processing fee is only applicable to requested Facilities and Services that can be offered and made available by TM. The non-refundable processing fees for the respective Facilities and Services are set out in **Annexure 2**. Processing Fees for Facilities and Services not currently specified in **Annexure 2** will be mutually agreed by the Operators from time to time. Notwithstanding the foregoing, in the event that additional and non-routine administrative work is required to process the Access Request where there is insufficient and/or erroneous information provided by the Access Seeker or where the Access Seeker varies or changes the information provided, TM shall be entitled to charge additional and non-routine processing fee for undertaking such additional and non-routine work as additional resources are required to do the same.

4.5.2.3 If the Access Seeker does not proceed with the Access Request accepted by TM, the processing fees will not be refunded to the Access Seeker. However, if the Access Seeker proceeds with the Access Request accepted by TM, processing fee only will be set-off against the Charges for the requested Facilities and Services after acceptance of the Access Request by TM.

4.5.3 Request for information

TM shall comply with Section 5.4.16 of the MSA Determination where it requests additional information from the Access Seeker pursuant to **Section 4.5.1(a)**.

4.6 Assessment of Access Request

4.6.1 Reasons for Refusal

Without limiting any other grounds that may be relied upon under the Act, TM may refuse to accept an Access Request for the supply of a Facility or Service and accordingly may refuse to supply that Facility or Service to the Access Seeker for any of the following reasons:

- (a) in TM's reasonable opinion, the Access Seeker's Access Request was not made in good faith and TM shall set out the basis on which the Access Request was not made in good faith;
- (b) in TM's reasonable opinion, the Access Request does not contain the information reasonably required by TM's ARD provided that TM has sought the information from the Access Seeker under **Section 4.5.1** of TM's ARD and has not received that information within twenty (20) Business Days of making such a request;
- (c) TM does not currently supply or provide access to the requested Facilities or Services to itself or to any third parties, except where the Access Seeker compensates TM for the supply of access to such Facilities or Services;
- (d) it is not technically feasible to provide access to the requested Facilities or Services;
- (e) TM has insufficient capacity or space to provide the requested Facilities or Services;
- (f) there are reasonable grounds in TM's opinion to believe that the Access Seeker would fail to make timely payment for the supply of the relevant Facility or Service;
- (g) there are reasonable grounds in TM's opinion 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 Facilities or Services;
- (h) in respect of request for access to Full Access Service, Line Sharing Service and Sub-Loop Service, TM provides evidence that the premises to which access has been requested will be served by a HSBB Network Service within three (3) years from the date of request;
- (i) there are reasonable grounds for TM to refuse access in the national interest;
or
- (j) the access is being sought to facilities and/or services which are not in the Access List Determination.

4.6.2 Determination of technical infeasibility

For the purpose of determining technical infeasibility in **Section 4.6.1(d)**, the Operators shall comply with Section 5.4.17 of the MSA Determination.

4.6.3 Determination of capacity constraints

For the purpose of determining capacity constraints in **Section 4.6.1(e)**, the Operators shall comply with Section 5.4.18 of the MSA Determination.

4.6.4 Assessment of the Access Seeker's ability to pay for supply of relevant Facilities or Services

Examples of reasonable grounds for TM's belief as mentioned in **Section 4.6.1(f)** include evidence that the Access Seeker is not in the reasonable opinion of TM creditworthy.

4.6.5 Assessment of the Access Seeker's ability to comply with terms and conditions applicable to the supply of relevant Facilities or Services

Examples of reasonable grounds for TM's belief as mentioned in **Section 4.6.1(g)** include repeated failures by the Access Seeker to comply with the terms and conditions on which the same or similar access to Facilities or Services have been provided (whether or not by TM).

4.6.6 Assessment of Creditworthiness

4.6.6.1 In determining the creditworthiness of the Access Seeker, TM may have regard to, but is not limited to the matters referred to in **Section 4.2**.

4.6.6.2 In determining the creditworthiness of the Access Seeker, TM shall not take into account amounts outstanding for Facilities or Services previously provided by TM to the Access Seeker where, in accordance with the terms and conditions governing the provision of such Facility or Service, the Access Seeker is not required to pay such amounts to TM to the extent that there is a *bona fide* dispute in relation to the amounts outstanding by the Access Seeker to TM and the Access Seeker is relying on such terms and conditions as basis for its non-payment.

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

4.7.1 Subject to **Paragraph 4 of Part X of Schedule C**, where TM rejects the Access Request, TM shall:

- (a) notify the Access Seeker in writing within ten (10) Business Days from receipt of the Access Request or additional information requested pursuant to **Section 4.5.1**, as the case may be;
- (b) provide reasons for rejection under **Section 4.6** to the Access Seeker;
- (c) provide the basis for TM's rejection of the Access Request; and
- (d) indicate a date and time, not later seven (7) Business Days from the date of the notice of rejection, at which representatives of TM will be available to meet with representatives of the Access Seeker to discuss the rejection of the Access Request. At this meeting, the Access Seeker may request TM to substantiate its reasons for refusal, and if access has been refused on the basis of the grounds in **Section 4.6.1(e)**, TM must identify when additional capacity is likely to be available.

4.7.2 Where the Operators are unable to resolve their differences following the meeting held pursuant to **Section 4.7.1(d)**, either Operator may request resolution of the dispute in accordance with **Chapter 8**.

4.8 Acceptance of Access Request

4.8.1 Subject to **Paragraph 4 of Part X of Schedule C**, where TM agrees to provide access to Facilities or Services to the Access Seeker in accordance with TM's ARD, TM shall within ten (10) Business Days of such respond under **Section 4.5.1(b)**, provide the Access Seeker with two copies of the executed Model Access Agreement, for execution by the Access Seeker.

4.8.2 Where the Access Seeker wish to negotiate an Access Agreement, the Operators shall comply with the requirements in Sections 5.4.2, 5.4.4, 5.4.9 and 5.4.15 of the MSA Determination in negotiating and concluding an Access Agreement.

4.8.3 TM will not be taken to have agreed to provide, and the Access Seeker will not be taken to have agreed to acquire the requested Facility or Service until:

- (a) a Security Sum has been provided in accordance with **Sections 4.1** and **4.3**; and
- (b) an Access Agreement has been executed between the Operators and the Access Agreement is registered with the Commission in accordance with section 150 of the Act.

4.9 Fast Track Application Process

4.9.1 (a) The fast track application process set out in this **Section 4.9** shall be applicable to the following Facilities and Services only:

- (i) Fixed Network Termination Service;
- (ii) Mobile Network Termination Service;
- (iii) Domestic Network Transmission Service;
- (iv) Private Circuit Completion Service; and
- (v) Interconnect Link Service.

(b) Where an Access Seeker requests for a Facility or Service that is not listed in **Section 4.9.1** above in addition to a Fast Track Application Service, the fast track application process shall not be applicable and the Access Seeker shall be required to put in an Access Request for the requested Facilities and Services in accordance with **Sections 4.1** to **4.8**.

4.9.2 An Access Seeker is only eligible for the fast track application process if it fulfils the following criteria:

- (a) the Access Seeker is duly licensed to provide the Facilities or Services for which access is sought;

- (b) the access requirements of the Access Seeker do not in TM's opinion, have a material impact on TM's current level of network resources; and
 - (c) the Access Seeker is willing to accept the terms and conditions for the requested Facilities or Services as stipulated in the Model Access Agreement without negotiation.
- 4.9.3 Subject to **Section 4.9.1**, where an Access Seeker who is eligible for the fast track application process wishes to utilise the fast track application process, the Access Seeker shall:
- (a) forward to TM a duly completed fast track application form which shall contain the following information:
 - (i) the name and contact details of the Access Seeker; and
 - (ii) the Facilities and Services in respect of which access is sought;
 - (b) deposit a Fast Track Security Sum;
 - (c) pay a non-refundable processing fee as set out in **Annexure 2** to TM for undertaking the necessary administrative work to process the fast track application; and
 - (d) lodge with TM two copies of the signed Model Access Agreement with suggested amendments to the technical matters (if any).
- 4.9.4 TM may reject the Access Seeker's fast track application for the reasons set out in **Sections 4.6.1(c), (f) and (g)**.
- 4.9.5 Where TM accepts the Access Seeker's fast track application, TM:
- (a) may impose a one-off resource charge for allocation of manpower and other resources in accordance with **Section 4.5.2**; and
 - (b) shall, subject to **Paragraph 4 of Part X of Schedule C**, within ten (10) Business Days of receipt of the fast track application, execute the Model Access Agreement.
- 4.9.6 TM will not be taken to have agreed to provide, and the Access Seeker will not be taken to have agreed to acquire the requested Facility or Service until:
- (a) a Fast Track Security Sum has been provided in accordance with **Sections 4.9.3**; and
 - (b) a Model Access Agreement has been executed between the Operators and the Model Access Agreement is registered with the Commission in accordance with section 150 of the Act.
- 4.9.7 If the Access Seeker wishes to obtain the Fast Track Application Services but is not agreeable to the terms and conditions of the Model Access Agreement, TM is not obliged to process the fast track application further and the Access Seeker shall be required to put in a new Access Request in accordance with **Sections 4.1 to 4.8**.

CHAPTER 5 - PROVISION OF INFORMATION

- 5.1 The obligations of each Operator to provide information to the other Operator are subject to the MSA Determination and the requirements of confidentiality imposed by TM's ARD.
- 5.2 An Operator must provide the other Operator on a timely basis with all agreed information reasonably required to determine rates and charges to be billed by each Operator to the other Operator or by each Operator to its Customers.
- 5.3 Each Operator will charge and bill its own Customers for Call Communication. The Operators will agree on the Communication Information which is to be exchanged for the purposes of charging and billing, and which shall be deemed to be included in the Manuals for the purposes of call and billing verification. For the purpose of inter-operator billing reconciliation, the Operators will provide CLI to each other subject to:
- (a) the ability of the relevant exchange to provide CLI; and
 - (b) CLI being forwarded to it from another network with which its Network is interconnected.
- 5.4 CLI and data relating to CLI will be kept confidential by the Operators. The Operators may use the CLI disclosed to it only for the following purposes:
- (a) prevention and investigation of fraud;
 - (b) display to Customers;
 - (c) emergency services;
 - (d) malicious call tracing; and
 - (e) inter-Operator and/or Customer billing,
- provided always that such use does not violate the law . The Operators will cooperate in the barring of CLI where required under law, Determination, Direction or as otherwise agreed.
- 5.5. To the extent permitted by Malaysian law and any relevant guidelines or customer service standards in force pursuant to the Operator's respective Licence conditions, the Operators will exchange information and otherwise cooperate in relation to the prevention and investigation of fraudulent use or misuse of the Operator's respective Communications Services and the theft of the Operator's provided terminal equipment
- 5.6 Information provided under TM's ARD may only be used for the purpose for which it was given. Personal information about a Customer's credit worthiness, credit standing, credit history or credit capacity may only be used for the purposes permitted by, and in compliance with, Malaysian law.
- 5.7 If the information is used by an Operator for any purpose other than the purpose for which it was given, the providing Operator may deny the recipient Operator further access to the information for the period during which the non-observance or non-conforming use continues on notice specifying the non-observance or non-conforming use. The Operators will cooperate to resolve the providing Operator's

reasonable concerns so that information exchange can be resumed as soon as possible.

- 5.8 The Operators acknowledge that when information (including for the purposes of this Chapter any updated information) required to be provided under this Chapter is held on a database, the Operator entitled to receive the information will not be entitled to obtain direct access to the database. The precise method by which information is to be made available will be determined by the ISG having regard to the reasonable cost, convenience and security concerns of the Operators.
- 5.9 (a) Subject to the Act and any subordinate legislation, nothing in TM's ARD may be construed as requiring an Operator at any time to disclose to the other Operator information which is at the date when TM's ARD comes into force, the subject of a confidentiality obligation owed to a third person unless the third person consents to such disclosure. Where the consent of a third person is required, the Operator holding the information must use its reasonable endeavours to obtain the consent of that third person.
- (b) After the Access Agreement comes into force an Operator must use its best endeavours not to enter into any contract which would prevent it from making information available to the other Operator unless the contract includes a term which permits the contracting Operator to make the information available if directed to do so by the Commission.
- 5.10 All communication information, call and such other relevant information in relation to Call Communication must be kept by both Operators for a period of two (2) years unless otherwise agreed in writing for the purposes of verification and audit.

CHAPTER 6 - BILLING AND SETTLEMENT

- 6.1 Where relevant, the billing and settlement obligations set out in Section 5.14 of the MSA Determination shall be applicable.
- 6.2 In respect of any Charges due from the Access Seeker, TM shall raise the Invoice for the amount due for the for the supply of the relevant Facilities or Services supplied by TM to the Access Seeker except for:
- (a) Charges incurred for agreed numbers used for testing purposes prior to the commissioning of the respective POI; and
 - (b) voice announcements at exchanges which are limited to:
 - (i) the number is not in service;
 - (ii) bulk change announcement;
 - (iii) subscriber set is not switched on/active;
 - (iv) subscriber set is out of range; or
 - (v) any other voice announcement at exchanges (which are not chargeable) to be mutually agreed in writing by the Operators.
- 6.3 Unless otherwise agreed in writing, TM shall invoice in writing or in electronic form as requested by the Access Seeker, on an Operator to Operator basis, within thirty (30) days from the end of the Billing Period for amounts due in respect of the supply of the relevant Facilities and/or Services during the Billing Period. TM shall provide with each Invoice, such information as may be reasonably necessary for the Access Seeker to verify the rates and charges specified in the Invoice. In addition, the Access Seeker may request, in writing, for the billing report to be provided by TM in an electronic format.
- 6.4 TM shall provide the Access Seeker at the Access Seeker's, written request, with an aggregated summary of billings for access to the relevant Facilities and/or Services provided to the Access Seeker in monthly tranches.
- 6.5 The Operators shall, from time to time, inform each other of the mailing address and the department to which the Invoice should be sent to and also their respective bank account details for the purposes of enabling the other Operator to make payment. All Invoices shall be delivered by hand or post (either registered mail or courier).
- 6.6 (a) TM is responsible for obtaining information upon which the invoice is based, and if TM does not normally collect that information and it is not reasonably practicable for TM to do so but the Access Seeker is able to collect the information, the Access Seeker may, upon written request, provide a summary of information which is reasonably necessary to allow TM to provide accurate and timely Invoice to the Access Seeker subject to such terms and conditions as may be determined by the Access Seeker, and if the Access Seeker provides such information, TM undertakes that it will only use that information to verify its own interconnect usage report.
- (b) If the Access Seeker provides such information, TM shall pay the Access Seeker a reasonable fee to be determined by the Access Seeker. In the event TM requires a more detailed interconnect report or information, TM may request the same from the Access Seeker and such details will be provided at a reasonable additional charge to be determined by the Access Seeker

provided always that it is reasonably practicable for the Access Seeker to do so.

- (c) For the purposes of preparing the summary of information, the 'A' and/or 'B' numbers shall be included and such 'A' and 'B' number shall be determined as follows:-

- (i) Direct Interconnection – Fixed Network (both PSTN and TSoIP) to PSTN Fixed Network

Physical location of 'B' number and handover POI

- (ii) Direct Interconnection – Fixed Network (both PSTN and TSoIP) to TSoIP Fixed Network

Allocated 'B' number and handover POI

- (iii) Direct Interconnection – Fixed Network (both PSTN and TSoIP) to Mobile Network

Region of the registered 'B' number and handover POI

- (iv) Direct Interconnection – Mobile Network to PSTN Fixed Network

Physical location of 'B' number and handover POI

- (v) Direct Interconnection – Mobile Network to TSoIP Fixed Network

Allocated 'B' number and handover POI

- (vi) Direct Interconnection – Mobile Network to Mobile Network

Region of the registered 'B' number and handover POI

- 6.7 (a) If TM is unable to submit an Invoice for actual charges for any Facilities and/or Services supplied in a Billing Period, then TM may issue to the Access Seeker an Invoice for a provisional amount ("**Provisional Amount**") based on the last Invoice provided that the amount of the Provisional Amount is no more than the average of the most recent three (3) Invoices. Where there have not been three (3) past Invoices for access to the relevant Facilities and Services, TM may issue a provisional Invoice up to the full value of the amount based on the most recent Invoice (save and except for the first month commencing from the Effective Date). The Access Seeker shall pay the Provisional Amount by the Due Date. The Provisional Amount will be adjusted in the next invoice or as soon as practicable but not later than sixty (60) days after the month in which the charges were incurred or such other time period as may be agreed in writing ("**Adjustment Period**"). If an adjustment is not made within the Adjustment Period, the Access Seeker shall treat the Provisional Amount as the actual invoice.

- (b) TM may Invoice the Access Seeker for the Provisional Amount for a period of not more than three (3) successive Billing Periods.

- 6.8 (a) 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 of interest) within thirty one (31) days from the receipt of the invoice to TM.

- (b) If the actual amount for a particular Billing Period is lower than the Provisional Amount for the same Billing Period, TM will reimburse in full such difference free of interest within thirty one (31) days from the receipt of the invoice to the Access Seeker. Such payment must be forwarded to the Access Seeker together with the relevant monthly statement of the actual interconnect usage.
- 6.9 Where appropriate, any taxes (including goods and service tax), duties or other imposts shall be added to all and any Charges under TM's ARD and be paid by the Operator responsible for making such payment.
- 6.10 (a) The Access Seeker must pay any amount due and owing to TM on the Due Date unless otherwise agreed in writing by both Operators.
- (b) The Access Seeker to whom any relevant Facilities and/or Services is provided must pay TM the Charges, and on the terms and conditions set out or referred to herein.
- 6.11 All payments must:
- (a) be paid by electronic transfer to TM or exceptionally, by cheque to the nominated account(s) of TM if agreed by TM; and
- (b) must be accompanied by such information as is reasonably required by TM to properly allocate payments received, failing which TM shall have the absolute discretion to allocate payments received to any amounts due and payable; and
- (c) unless otherwise agreed by the Operators, shall not be subject to any set-offs except where the Access Seeker is in liquidation or at least three (3) Invoices have been issued and such Invoices have not been paid (excluding disputed amounts which the Access Seeker is authorised to withhold in accordance with **Section 8.6.5**).
- 6.12 (a) Subject to **Section 6.12(b)**, all invoices shall be stated in Ringgit Malaysia and payment must be made in Ringgit Malaysia; and
- (b) For invoices stated in foreign currency or other agreed forms in respect of Charges incurred for the utilisation of a foreign network, payment for such invoices shall be made in the currency nominated unless otherwise agreed.
- 6.13 TM is entitled to the payment of interest without prejudice to any other rights of TM. Interest on due and unpaid amounts is payable (as well as before judgment and after judgement) at the rate of one percent (1%) per annum above Malayan Banking Berhad Base Lending Rate (BLR) calculated daily from the Due Date until the date of actual payment. Payments which are overdue by more than sixty (60) days will bear interest at the rate of two percent (2%) per annum above Malayan Banking Berhad BLR (as well before judgment and after judgement) calculated from the Due Date until the date of receipt by the Invoicing Operator of full payment. Further, the BLR rate to be used shall be the published rate prevailing on the date of payment.

- 6.14 Where interest in respect of any due and unpaid amount is due to TM under **Section 6.13**, TM may add the amount of such interest to its next invoice.
- 6.15 If TM discovers an error in an invoice given to the Access Seeker under this **Chapter 6**, it must notify the Access Seeker. TM must make the necessary adjustment to correct that error (including adjusting any interest erroneously charged) in its next Invoice.
- 6.16 TM may include omitted or miscalculated Charges from an Invoice at a later date provided TM is able to substantiate the Charges to the Access Seeker.
- 6.17 Notwithstanding anything to the contrary, TM shall be entitled to deduct or withhold such taxes, duties, levies or such other sums imposed by such governmental authorities ("**said taxes**") from any sum or sums due to the Access Seeker in the event TM is required by law to pay the said taxes for and on behalf of the Access Seeker.
- 6.18 The Access Seeker shall have deposited or procured the deposit of the Security Sum or Fast Track Security Sum as security for the performance of all the Access Seeker's obligations under the Access Agreement. For the purpose of clarification, the Security Sum or the Fast Track Security Sum does not relieve the Access Seeker from its obligations to pay amounts to TM as they become due and payable, nor does it constitute a waiver of TM's right to suspend, disconnect, or terminate the relevant Facilities and/or Services due to non-payment of any sums due or payable to TM.
- 6.19 (a) TM shall be entitled, from time to time, to revise the Security Sum and Fast Track Security Sum in any of the following event:-
- (i) where, in the reasonable opinion of TM, the amount of the Security Sum and Fast Track Security Sum is less than the Minimum Value calculated over a ninety (90) day period determined by TM;
 - (ii) where, in the opinion of TM, there is a material change in circumstances in relation to the Access Seeker's creditworthiness. In such cases, TM may request for additional security in addition to the Minimum value to sufficiently and reasonably mitigate its risk in providing the relevant Facilities and/or Services to the Access Seeker. For clarification, material change in circumstances includes, but is not limited to, failure to pay on the Due Date in respect of three (3) Invoices rendered in the preceding six (6) months, so long as those amounts have not been disputed in good faith; and/or
 - (iii) upon the provisioning of new or additional Facilities and/or Services to the Access Seeker, to ensure that the Security Sum or Fast Track Security Sum is equivalent to the Minimum Value after taking into consideration the estimated value of new or additional Facilities or Services provided or to be provided over a ninety (90) day period.
- (b) Where the Security Sum or Fast Track Security Sum is, at any time, less than the Minimum Value (including when a demand has been made by TM) calculated over a ninety (90) day period determined by TM, the Access Seeker shall within thirty (30) days from the written request of TM, deposit a new security equivalent to the Minimum Value.

- 6.20 (a) The Security Sum or Fast Track Security Sum deposited by the Access Seeker with TM, shall only be used for the purposes set out in **Section 6.18**. TM may at its discretion call upon or deduct the Security Sum or Fast Track Security Sum at any time after the Due Date for any Charges or upon breach of any of the Access Seeker's obligation. Such utilization or deduction of the Security Sum or Fast Track Security Sum shall not be construed as a set-off or counterclaim.
- (b) Without prejudice to TM's rights under the Access Agreement and/or under law, upon termination of the Access Agreement:
- (i) the Security Sum or Fast Track Security Sum deposited with TM or parts thereof together with the interest thereon, (if any) shall be returned and/or refunded to the Access Seeker within sixty (60) days from the date of termination provided that all other amounts payable by the Access Seeker to TM have been paid; and
 - (ii) subject to Section 6.20(b)(i), TM shall immediately in writing unconditionally waive its rights under any guarantee provided as Security Sum or Fast Track Security Sum in respect of future performance of the Access Agreement by the Access Seeker if any, since the Access Agreement has been terminated save and except that the Bank Guarantee remains in full force in respect of any antecedent breaches under the Access Agreement and in respect of any amounts payable by the Access Seeker to TM as at the date of termination.

6.21 **Billing Dispute Procedures**

6.21.1 Where there is a Billing Dispute, the Operators shall comply with the dispute resolution procedures in **Chapter 8**.

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

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

in an Invoice for a particular traffic month, a variance of up to one percent (1%) of the total Charges for Interconnect Traffic shall be acceptable and shall not be subject to a billing dispute provided that such discrepancy is not a result of an error in charging principles or applicable rates.

6.21.3 For the avoidance of doubt, the Access Seeker shall not use the dispute resolution procedure in **Chapter 8** to avoid or delay payment due to the Invoicing Operator where there is no genuine dispute.

CHAPTER 7: PROVISION OF FACILITIES AND SERVICES

- 7.1 The Access Seeker shall not use any Facilities and/or Services provided by TM or allow or permit any of its Customers to use the Access Seeker's Communications Service provided by means of TM's Facilities and/or Services other than in accordance with all applicable laws, including but not limited to, the terms of any licence applicable to the Access Seeker, data privacy laws, the laws of copyright and intellectual property rights.
- 7.2 Access to and/or use of TM's Facilities and/or Services may be restricted by TM where such access and/or use is in contravention of any applicable laws.
- 7.3 The Access Seeker acknowledges and agrees that:
- (a) TM has no control whatsoever over the accuracy, quality or integrity of the information, data or programs accessed or transmitted via its Network or for the loss of messages, information, data or images resulting from delays, non-deliveries, mis-deliveries or service interruptions; and
 - (b) TM does not accept any responsibility or liability of any illegal entry or access to or theft, destruction, alteration or tampering with the Access Seeker's or Access Seeker's data information or computer network by any means whatsoever including, without limitation, by "worms" or "viruses" or such other breach of the Access Seeker or Access Seeker's Customers computer security or privacy by any person, other than by TM or its employees.
- 7.4 TM has no control whatsoever over the information, images or other content transmitted through its Network. As such, TM shall not be responsible for the content of any Communications conveyed by making use of its Facilities and/or Services and the Access Seeker acknowledges and agrees that it shall be their responsibility to ensure that the content of any Communications conveyed by making use of the Facilities and/or Services complies with all applicable laws. The Access Seeker shall indemnify and hold TM safe and harmless from and against all costs, expenses and claims relating to any claims, proceedings, suits or actions brought against TM with respect to or in connection with the content of any Communications conveyed by making use of TM's Facilities and/or Services.
- 7.5 TM does not warrant that the Facilities and/or Services will meet the Access Seeker's requirements or the requirements of any third party or that the operation of the Facilities and/or Services will be uninterrupted or error-free or that any defects in the Facilities and/or Services can be rectified.
- 7.6 The Access Seeker shall only offer its services to its Customers under its own brand without any use of, or reference to TM's brands. The Access Seeker agrees not to offer any service under any brand, including any trademark, trade name or company name, of TM unless the use of the brand(s) of TM is explicitly provided for under TM's ARD and the Access Agreement.
- 7.7 ANE, DSL Resale Service and Wholesale Line Rental Service**
- 7.7.1 Without limitation to any obligations set out in TM's ARD and the Access Agreement, the Access Seeker shall use the ANE, DSL Resale Service and Wholesale Line Rental Service only for the provision of the Access Seeker's services to its

Customers, and shall not, nor permit or procure any third party to use, access the ANE, DSL Resale Service and Wholesale Line Rental Service directly or indirectly:

- (a) in any manner or for any purpose prohibited by any law or regulation;
- (b) in any manner which infringes or might infringe the rights of any person including, without limitation, copyrights, trademarks or other intellectual property or proprietary rights of confidentiality;
- (c) to abuse or improperly or illegally access TM's Network or any third party's network;
- (d) to engage Bypass Operations or refile;
- (e) to access, alter, destroy, steal, store, transmit and/or retransmit any information, data or software of any person by any illegal or fraudulent means or device or with malicious intent or to attempt or to procure or assist any third party to do so;
- (f) other than in accordance in any bandwidth limitations specified by TM;
- (g) other than in accordance with the acceptable usage policies as may be notified by TM from time to time;
- (h) other than in accordance with any instructions and/or notice given by TM and/or
- (i) in any way that in TM's reasonable opinion could affect the quality of any facilities and/or services provided by TM.

In this respect, the Access Seeker shall indemnify TM against any loss, damage, cost and expense suffered by TM arising from or as a result of the Access Seeker's breach of its obligations hereunder including any claims brought against TM by third party due to the Access Seeker's breach.

7.7.2 The Access Seeker shall be liable to TM for ensuring that any equipment connected to TM's Network by the Access Seeker's Customers complies with the requirements specified by TM and are type approved.

7.7.3 The Access Seeker shall include and maintain in its contracts with its Customers provisions that are no less onerous than those contained in this **Paragraph 7.7**.

CHAPTER 8: DISPUTE RESOLUTION PROCESS

8.1. Introduction

8.1.1 Subject to **Section 8.2.3**, the Operators shall adopt and comply with this dispute resolution procedure in relation to any dispute which may arise between the Operators in relation to or in connection with TM's supply of any Facilities and/or Services ("**Access Dispute**").

8.1.2 The following dispute resolution mechanisms are governed by this Chapter:

- (a) inter-party working groups;
- (b) Interconnect Steering Group; and
- (c) specific resolution of disputes, being:
 - (i) technical disputes (which must follow the procedures set out in **Section 8.5** if they cannot be resolved through the application of the general dispute resolution provisions in **Sections 8.3 and 8.4**);
 - (ii) Billing Disputes, which must follow the procedures set out in **Section 8.6**; or
 - (iii) any other types of disputes which, if cannot be resolved through the application of the general dispute resolution provisions in **Sections 8.2, 8.3 and 8.4**, must be referred to the Commission for resolution.

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

8.1.4 All disputes referred to the Commission pursuant to the Access Agreement shall be dealt with in accordance with the Act. Where the decision of the Commission is appealed in the Appeals Tribunal under the Act, the decision of the Appeals Tribunal shall be final and binding subject always to the right of judicial review contained in the Act. For the avoidance of doubt, the Commission will decide a dispute if it is satisfied that:

- (a) the Operators will not reach agreement, or will not reach agreement in a reasonable time;
- (b) the notification of the dispute is not trivial, frivolous or vexatious; and
- (c) the resolution of the dispute would promote the objects in the Act.

8.2 General

8.2.1 Until expiry of the dispute resolution procedures set out herein, an Operator may not commence court proceedings relating to that dispute other than for the purposes of seeking:

- (a) urgent interlocutory relief in respect of any matter;

- (b) relief in respect of the other Operator failing to comply with the dispute resolution process set out in this **Section 8**; and/or
- (c) relief in respect of a manifest error or mistake of law of the arbitrator (including the Technical Expert), established by the Operators pursuant to any dispute resolution procedures agreed in writing.

Nothing in this **Section 8.2.1** shall be construed as ousting the jurisdiction of any court.

- 8.2.2 An Operator shall ensure that its representatives acting in relation to a dispute are of sufficient seniority and have authority to settle an access dispute on behalf of the Operator. At the commencement of the dispute resolution procedure, each Operator must notify the other Operator 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 a representative, an Operator may require that those matters be referred to more senior officers of that Operator who have authority to settle those matters.
- 8.2.3 During a dispute and any dispute resolution process invoked in accordance with this **Chapter 8**, the Operators must continue to fulfill their obligations under the Access Agreement between themselves.
- 8.2.4 Subject to **Section 8.2.5**, the Operators shall exchange information of a type described in the Access Agreement during the course of, and to facilitate, resolution of such a dispute.
- 8.2.5 Confidential information of an Operator which is disclosed, and any other oral or written submissions made by an Operator or an Operator's representatives during the course of any dispute resolution process will be subject to the confidentiality restrictions contained in the Confidentiality Agreement and the Access Agreement.
- 8.2.6 An Operator must not use information obtained under **Section 8.2.4** or described in **Section 8.2.5** for any purpose other than to resolve the dispute.
- 8.2.7 Subject to Chapter 7 of Part V of the Act, an arbitrator of a dispute (including a Technical Expert (as hereinafter defined) or the Commission, in accordance with this **Chapter 8**) 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.
- 8.2.8 The costs of the arbitration are to be shared equally between the Operators, unless the arbitrator of the dispute has decided not to determine the dispute in accordance with **Section 8.2.7**. If an arbitrator decides not to determine the dispute, the Operator that initiated the dispute must pay the costs of the arbitration including the other Operator's costs thereto.

8.3 Inter- Party Working group

- 8.3.1 In the first instance, the Operator raising a dispute must inform the other Operator in writing and the Operators should attempt to resolve the Access Dispute between themselves in good faith.
- 8.3.2 The Operators shall establish a working group, or working groups, to fulfill the requirements set out in **Section 8.3.1**. The working group shall be comprised of representatives of the Operators, and be headed by a person who holds a position at least equivalent to the head of TM's wholesale or interconnection group.
- 8.3.3 TM shall provide for:
- (a) subject areas dealt with by each working group;
 - (b) equal representation by the Access Seeker and TM;
 - (c) chairmanship and administrative functions of the working group which is to be shared equally; and
 - (d) formal notification procedures to the working group.
- 8.3.4 The Operators shall use reasonable endeavours to attempt to settle an Access Dispute in the working group level for a period of no longer than forty five (45) days from the first meeting of the working group or such other period as the Operators may agree in writing subject always to the Operators right to obtain relief in court for the matters stated in **Section 8.2.1(a) to (c)**.

8.4 Interconnection Steering Group

- 8.4.1 In the event that the Operators cannot resolve the dispute between themselves within the time specified in **Section 8.3.4**, or after any agreed time extension has expired, either Operator may give ten (10) Business Days written notice ("**Notice Period**") to the other Operator stating its intention to escalate the issue and outlining the details of the issue. If the issue is not resolved prior to the expiry of the Notice Period, then either Operator may notify the other Operator ("**Receiving Operator**") that it wishes to refer the issue to the Interconnect Steering Group (**ISG**). In such an event, the Parties shall promptly form a committee comprising the ISG with an equal number of appropriate representatives from each Operator.
- 8.4.2 The ISG to which an issue has been raised will meet within ten (10) Business Days of the receipt by the Receiving Operator of a notice under **Section 8.4.1**. If the ISG fails to meet or has not been formed within ten (10) Business Days of the receipt by the Receiving Operator of a notice of escalation of the Dispute, either Operator may refer the dispute to a Technical Expert (in accordance with **Section 8.5**) or to the Commission for resolution in accordance with **Section 8.4.3(a) or (b)**, respectively.
- 8.4.3 If the ISG does not resolve the dispute within twenty (20) Business Days after it first meets to review that dispute under **Section 8.4.2**, either Operator may:
- (a) refer any technical dispute to a Technical Expert in accordance with **Section 8.5**; or

- (b) refer the dispute to the Commission for final resolution.

8.5 Use of a Technical Expert

- 8.5.1 A dispute will only be referred to a Technical Expert if the provisions in **Sections 8.3 and 8.4** have been complied with.
- 8.5.2 Once a dispute is referred to a Technical Expert, it may not be referred back to a Working Group or ISG.
- 8.5.3 The Technical Expert:
 - (a) will be an expert appointed by agreement of the Operators or, if the Operators cannot agree, by the Commission;
 - (b) will have the appropriate qualifications and experience to arbitrate the dispute, including knowledge of the communication industry;
 - (c) need not be a Malaysian citizen or resident; and
 - (d) will not be an officer, director, or employee of a communications company or otherwise have a potential for conflict or interest.
- 8.5.4 If the Operators fail to appoint a Technical Expert within ten (10) Business Days of the notice to refer a dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.
- 8.5.5 When relying on the services of a Technical Expert, the following procedures will apply to the dispute resolution procedure of the Technical Expert:
 - (a) the Operators will present written submission to the Technical Expert and each other within fifteen (15) Business Days of the appointment of the Technical Expert; and
 - (b) each Operator may respond to the other Operator's submission in writing within fifteen (15) Business Days from the date of the other Operator's submission.
- 8.5.6 A Technical Expert hearing will be within fifteen (15) Business Days of the last written submission unless:
 - (a) an Operator requests for and the other Operator agrees that the use of the Technical Expert be by documents only; or
 - (b) failing agreement of the Operators, the Technical Expert decides within five (5) Business Days of the last written submission that the use of the Technical Expert be by documents only.
- 8.5.7 Should a Technical Expert dispute resolution procedure be held, each Operator will have the opportunity of making an oral submission. This process will be conducted in private.

- 8.5.8 The procedure for hearing technical disputes will be determined by the Technical Expert (including number and duration of oral submissions by the Operators) but in any case, the Technical Expert's hearing will last no longer than three (3) Business Days.
- 8.5.9 The Technical Expert will not have the power to appoint any other experts.
- 8.5.10 The Technical Expert will deliver his award within fifteen (15) Business Days of the conclusion of the hearing or of the last written submission where the arbitration is by documents only. A failure to comply with the time frame in this **Section 8.5.10** does not invalidate the Technical Expert's award.
- 8.5.11 Every dispute referred to a Technical Expert will be considered separately so that time limits for each dispute are complied with.
- 8.5.12 The Technical Expert's decision will be final and binding on the Operators (in the absence of manifest error of fact or law).

8.6 Billing dispute resolution

- 8.6.1 TM shall allow the Access Seeker to dispute an Invoice prepared by TM if:
- (a) in the case of domestic Call Communication (including International Inbound Calls), the Access Seeker notifies TM in writing within forty-five (45) days from receipt of the invoice(s) (including any invoice to include late or omitted charges with respect to a Billing Period referred to in **Section 6.16**) when the Charges for a particular traffic month may be Invoiced; and
 - (b) in the case of any other Facilities and Services (other than those specified in **paragraphs (a)**), the Access Seeker notifies TM in writing within forty-five (45) days after the date of receipt of such Invoice.

If the Access Seeker fails to dispute an Invoice within the specified time period above, TM is deemed to have accepted the Invoice.

- 8.6.2 Unless otherwise agreed in writing, a Billing Dispute may only arise where the Access Seeker has reasonable grounds to believe that an error has arisen from one of the following circumstances:
- (a) TM's Billing System is, or has been, defective or inaccurate in respect of the recording of the calls which are the subject of the dispute;
 - (b) there is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Access Seeker's Billing System;
 - (c) there is, or has been, a fraud perpetrated by TM; or
 - (d) TM has made some other error in respect of the recording of the Call Communications and calculation of the Charges which are the subject of the Billing Dispute.

- 8.6.3 All Billing Dispute Notices given under this **Section 8.6** must specify;

- (a) the detailed reasons for which the Access Seeker disputes the Invoice;
- (b) the amount in dispute;
- (c) details required to identify the relevant Invoice and charges in dispute including:
 - (i) the account number;
 - (ii) the Invoice reference number;
 - (iii) the Invoice date;
 - (iv) the Invoice amount; and
 - (v) billing verification information; and
- (d) evidence in the form of the Access Seeker's outgoing report, indicating the relevant traffic data which is in dispute.

8.6.4 Subject to **Section 8.6.5**, an Operator is obliged to pay the amount stated in the Invoice by the Due Date even if it disputes the amount of the Invoice. If the amounts paid to date for the period pending settlement of the Dispute is higher than the amounts payable, then TM will pay in full such difference and interest, calculated in accordance with **Section 6.13**, within fourteen (14) days from the date of settlement of Dispute, as documented by the Operators. The interest shall be payable from the Due Date to the date of actual payment of the differential amount

8.6.5 Notwithstanding **Section 8.6.4**, if the Operators are not able to settle a Billing Dispute within the time periods specified in **Section 8.6.7**, an Operator may withhold payment of amounts disputed in good faith for all subsequent Invoices issued by TM. If the Dispute is resolved between the Operators in writing against the Access Seeker, then the Access Seeker shall pay interest (calculated in accordance with **Section 6.12**) on the outstanding amounts due to TM. The interest shall be payable within fourteen (14) days from the settlement of the Dispute, as documented by the Operators. Interest shall be calculated from the Due Date to the date of actual payment of the outstanding amount.

8.6.6 The Operators agree to use their reasonable endeavours to promptly resolve any Billing Dispute notified under this **Section 8.6**.

8.6.7 If the Operators are unable to resolve any Billing Dispute within ninety (90) calendar days (or such other period as the Operators may agree) from the date on which the Billing Dispute Notice is received, either Operator may seek the consent of the other Operator to extend the period for resolution of the Billing Dispute stating the exceptional reasons for such extension. The other Operator is, however, under no obligation to agree to such extension.

8.6.8 To the extent that a Billing Dispute notified under this **Section 8.6** involves a Billing Dispute with an international correspondent of TM, the dispute resolution procedures shall be suspended for a reasonable period of time pending resolution of the dispute with that international correspondent. As a general rule, the period of suspension will not exceed one hundred twenty days (120). However, the Operators recognize that some Billing Disputes with international correspondents may take longer to resolve,

in which case TM must promptly inform the Access Seeker of the likely period required for resolution.

- 8.6.9 Once the negotiation period under **Section 8.6.7** and any extension granted under **Section 8.6.8** has expired, the Billing Dispute may be referred by the Access Seeker to the procedure described in **Section 8.6.10** (“**Billing Dispute Escalation Procedure**”).
- 8.6.10 The Access Seeker may refer a Billing Dispute to the Billing Dispute Escalation Procedure under this **Section 8.6.10** by notifying TM’s Billing Representative. Each of the Operators shall then appoint a designated representative that has authority to settle the Billing Dispute, and that is at a higher level of management than the persons with direct responsibility for administration of the Access Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute. The specific format for such discussions will be left to the discretion of the designated representatives however all reasonable requests for relevant information made by one Operator to the other Operator shall be honored.
- 8.6.11 Although it is the good faith intention of the Operators to use the billing dispute resolution procedures to the fullest extent to try to solve Billing Disputes, nothing in the Access Agreement shall prevent either Operator 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.
- 8.6.12 An Operator may request a joint investigation of Invoice discrepancies after that Operator has conducted comprehensive internal investigation, including an examination of its own Billing System. Prior to commencement of the joint investigation, the Operators must agree the terms of the joint investigation, including:
- (a) the scope of the joint investigation;
 - (b) how the joint investigation will be conducted; and
 - (c) the date by which the joint investigation must be concluded.
- The joint investigation may include the generation of test Call Communications to the other Operator’s Network.
- 8.6.13 Enquiries relating to billing, collecting and settlement arrangements or in relation to Network and operation issues may be directed to the Billing Representatives nominated by each Operator. The Billing Representatives nominated by each Operator shall be their Billing Representative at the ISG meetings.
- 8.6.14 Either Operator may at any time nominate another Billing Representative, provided that ten (10) Business Days prior notification of such appointment is given.
- 8.6.15 If the Operators are unable to resolve any Billing Dispute after exhausting the Billing Dispute Escalation Procedure, either Operator may refer the Billing Dispute to the Commission for resolution under Chapter 7 of Part V of the CMA. For the purposes of clarification, the Billing Dispute procedure shall follow the procedure in this **Section 8.6** and does not involve the inter-party working group, Interconnect Steering Group and Technical Expert under **Sections 8.3, 8.4 and 8.5**.

CHAPTER 9: NOTICES

9.1 Any communications in respect of TM's ARD should be made in writing to:

Attention: General Manager, Malaysia Carrier Services

Address: Telekom Malaysia Berhad
Level 7, TM Annex 1
Jalan Pantai Baharu
50672 Kuala Lumpur

Facsimile: 03 7957 3111

Email: ard_tm@tm.com.my

ANNEXURE 1**LIST OF FACILITIES AND SERVICES**

Network Facilities / Network Services	Part in Schedules A and B
Fixed Network Origination Service	Part I
Fixed Network Termination Service	Part I
Mobile Network Origination Service	Part II
Mobile Network Termination Service	Part II
Interconnect Link Service	Part III
Domestic Network Transmission Service	Part IV
Equal Access (PSTN) Service– Call by Call Basis	Part V
Internet Access Call Origination Service	Part VI
Special Services	Part VII
Infrastructure Sharing	Part VIII
Domestic Connectivity to International Services	Part IX
Network Co-location Service	Part X
Bitstream Services	Part XI
Broadcasting Transmission Service	Part XII
DSL Resale Service	Part XIII
Private Circuit Completion Service	Part XIV
Wholesale Line Rental Service	Part XV
Wholesale Leased Circuit Service	Part XVI
Transmission Service	Part XVII
Access to Network Elements	Part XVIII

ANNEXURE 2**PART 1: PROCESSING FEE**

Type of Facilities or Services	Type of Access Request	Processing Fee
Fixed Network Origination Service	New service access establishment to TM's POI	RM600 per POI
Fixed Network Termination Service	New service access establishment to TM's POI	RM600 per POI
Mobile Network Origination Service	New service access establishment to TM's POI	RM600 per POI
Mobile Network Termination Service	New service access establishment to TM's POI	RM600 per POI
Interconnect Link Service	a) Establishment of New Bearer	RM600 per POI
	b) Circuit Migration Exercises	RM600 per POI
	c) Provisioning of Additional Circuits (Full Span)	RM250 per circuit
Domestic Network Transmission Service	a) Establishment of new route/bearer	RM 600 per circuit
	b) Circuit Migration Exercises	RM 600 per circuit
	c) Provisioning of Additional Circuits	RM 250 per circuit
Infrastructure Sharing	Request for site establishment	RM 300 per site
Domestic Connectivity to International Service	a) Establishment of new route/bearer	RM 600 per circuit
	b) Circuit Migration Exercises	RM 600 per circuit
	c) Provisioning of Additional Circuits	RM 250 per circuit
Network Co-location Service	Request for site establishment	RM 300 per site
Bitstream Services	Allocation of DSL port	RM 600 per DSLAM location
Broadcasting Transmission Service	a) Establishment of new bearer/Circuit	RM 600 per circuit
	b) Request for infrastructure sharing	RM 300 per site
	c) Request for Network Co-location Service	RM 300 per site
DSL Resale Service	Allocation of DSL port	RM 600 per DSLAM location
Wholesale Line Rental Service	Request for Wholesale Line Rental Service	RM 600 per request
Private Circuit Completion Service	a) Establishment of New Bearer	RM 600 per POI

Type of Facilities or Services	Type of Access Request	Processing Fee
	b) Circuit Migration Exercises	RM 600 per circuit
	c) Provisioning of Additional Circuits	RM 250 per circuit
Wholesale Local Leased Circuit Service	a) Establishment of New Bearer	RM 600 per POI
	b) Circuit Migration Exercises	RM 600 per circuit
	c) Provisioning of Additional Circuits	RM 250 per circuit
Transmission Services	a) Establishment of new route/bearer	RM 600 per circuit
	b) Circuit Migration Exercises	RM 600 per circuit
	c) Provisioning of Additional Circuits	RM 250 per circuit
Full Access Service	Request for Full Access Service	RM 600 per request
Line Sharing	Request for Line Sharing	RM 600 per request
Sub Loop	Request for Sub Loop	RM 600 per request

PART II: PROCESSING FEE FOR FAST TRACK ACCESS REQUEST

Type of Facilities or Services	Type of Access Request	Fast Track Processing Fee
Fixed Network Termination Service	New service access establishment to TM's POI	RM1000 per POI
Mobile Network Termination Service	New service access establishment to TM's POI	RM1000 per POI
Interconnect Link Service	a) Establishment of New Bearer b) Circuit Migration Exercises c) Provisioning of Additional Circuits (Full Span)	RM1000 per POI RM1000 per POI RM450 per circuit
Domestic Network Transmission Service	a) Establishment of New Bearer b) Circuit Migration Exercises c) Provisioning of Additional Circuits	RM1000 per POI RM1000 per POI RM450 per circuit
Private Circuit Completion Service	a) Establishment of New Bearer b) Circuit Migration Exercises c) Provisioning of Additional Circuits	RM 1000 per POI RM 1000 per POI RM 450 per circuit

SCHEDULE A**SERVICE DESCRIPTION****PART I – FIXED NETWORK ORIGINATION AND TERMINATION SERVICES****1. General**

1.1 **Part I of Schedule A** sets out the terms and conditions which would be applicable to:-

(a) Fixed Network Origination Service; and

(b) Fixed Network Termination Service,

unless otherwise expressly stated.

2. Access Service

2.1 TM will provide the agreed Access Service stated in this **Part I** in accordance with the terms of TM's ARD and Access Agreement (including the Service Ordering Procedures).

2.2 Each Operator must ensure that the carriage of Call Communications by it conforms to the QOS Standards for the carriage of Call Communications in respect of which the Operator has control.

2.3 The Access Seeker will pay to TM for Access Services stated in this **Part I** provided by TM, Charges in accordance with the applicable provisions set out in the **Part I** of **Schedule B**.

2.4 The routing and call handover principles to be applied to these types of Call Communications are set out in the relevant Manuals.

2.5 In the event that a Call Communication to a number (the 'B' party number) which is allocated to either Operator is "forwarded" to either Operator's Fixed Number, the forwarded portion of the call shall be considered in all respect to be a second and separate call for the purposes of calculating any Charges. Any Charges incurred in forwarding the call from the original 'B' party number to another Fixed Number or to another network, shall be to the account of the 'B' party or the Operator to which the 'B' party is connected. The DTS/MSC/Media Gateway/SBC shall submit the 'B' number to the terminating exchange and not the original 'A' number when the call is subject to "call forwarding". International call forwarding is not permitted.

3. Fixed Network SMS Termination Service

3.1 TM shall provide the Access Seeker with the Fixed Network SMS Termination Service, which is an access service for the carriage of SMS Communications over a digital signalling system from a POI to a Called Party, and for the carriage of signals over a digital signalling system for the purpose of terminating SMS Communications made to that Called Party.

- 3.2 TM shall only provide the Fixed Network SMS Termination Service on the PSTN Network (unless otherwise notified in writing by TM) and in Malaysia. Functionalities of the Fixed Network SMS Termination Service include circuit switching and the signalling required to support the Interconnection Service.
- 3.3 The Operators agree:-
- (a) that the Fixed Network SMS Termination Service shall only be provided for “peer to peer” SMS traffic between the Customers of the Operators unless otherwise agreed in writing by the Operators;
 - (b) not to deliver or terminate SMS Communication traffic, originating from message aggregators and/or third parties (for example E-Bay, Catchadotcom and other companies who conduct business of the same nature), to Customers of the other Operator unless otherwise agreed in writing by the Operators;
 - (c) that no “Information-On-Demand” traffic (for example stock information services, directory services and other type of services) will be carried and terminated to the Customers of the other Operator unless otherwise agreed in writing by the Operators;
 - (d) not to operate their Networks in a manner which may generate an increase in either Operator’s normal traffic pattern, causing congestion, network disruption or otherwise adversely affect the efficiency of the other Operator’s Network;
 - (e) to use their best efforts to ensure that their Customers do not send SMS Communications to the other Operator’s Customers which:
 - (i) are unsolicited or unwelcome SMS Communications;
 - (ii) are for any purpose against public interest, public order or national harmony;
 - (iii) are defamatory, obscene or which contain other unlawful material;
 - (iv) are in connection with the infringement of any copyright, patent, trademark, trade secret or other proprietary rights of any third party or rights of privacy; and
 - (v) interfere with, damage, disrupt or unlawfully gain access to any service, equipment or computer network belonging to the either Operator;
 - (f) TM may, acting in good faith, take necessary steps to block, in its Network, any SMS Communications originating from the Access Seeker’s Network, which contravene any applicable laws, rules, regulations, standards or codes in Malaysia, or which infringe any intellectual property rights or which are not in accordance with the requirements of this **Condition 3**. In such event, TM shall immediately notify the Access Seeker of the blocking;
 - (g) SMS Communications between the Operators shall be handed over at a mutually agreed dedicated POI; and

- (h) the implementation of Fixed Network SMS Termination Service shall be in accordance with the Technical Specification and other agreed requirement.

4. Facilities Access

- 4.1 Where relevant, the terms and procedures for Facilities Access and Network Co-Location Services set out in Section 5.13 of the MSA Determination and **Part X of Schedule A** shall be applicable.
- 4.2 Unless otherwise agreed by the Operators, each POI will be physically installed and housed at the locations to be agreed by the Operators.
- 4.3 Where an Access Seeker leases Interconnect Link Service from TM to trunk its Interconnect Traffic to and from the POI to its Gateway, TM's Equipment can be co-located in the Access Seeker's premises in accordance with Section 5.13 of the MSA Determination for the required space in the Access Seeker's premises.
- 4.4 The Access Seeker shall provide TM reasonable access to its premises when TM reasonably requires it for the purpose of installing, maintaining, modifying or removing TM's Equipment required at the POI.

5. Numbering

- 5.1 The Operators are to comply with the obligations, operations and procedures in relation to the Fixed Numbers determined by the Number Plan promulgated by the Commission.
- 5.2 The Operators shall have full discretion in allocating to their Customers the Fixed Numbers which have been allocated for their respective use by the Commission subject to the following conditions:
- (a) save for Telephony Service over IP, every 10,000(for Peninsular Malaysia) or 1,000 (for East Malaysia) block of numbers must be capable of reference to and restricted to one Telephone Area; and
 - (b) any allocation of Fixed Numbers facilitates access to and routing over the Operator's Network in accordance with the procedures laid down in the relevant Manuals.

6. Special Terms And Conditions

6.1 Fixed Network Origination Service

6.1.1 Customer Billing and Debt

The Access Seeker shall be responsible for Customer billing, collection and bad debts in respect of the provision of Communication Services to its Customers by the Access Seeker using the Fixed Network Origination Service.

6.2 Call Regeneration

6.2.1 The Operators agree and acknowledge that Fixed Network Termination Service on the IP Fixed Network provided by an Operator shall not involve:

- (a) the provision by that Operator of any network service, applications services and/or content applications services on the 'B' number in respect of which that Operator has a separate arrangement or agreement with the Customer of the other Operator; and/or
- (b) the provision by a Service Provider (as defined in **Paragraph 6.2.4**) of a network service, applications service and/or content applications service on the 'B' number in respect of which the Service Provider has a separate arrangement or agreement with the Customer of the other Operator.

It is the intention of the Operators that a particular Service which is normally regarded as a call origination service should not be offered or provided as a Fixed Network Termination Service.

6.2.2 In the event that the Operator fails or neglects to comply with **Paragraph 6.2.1**:

- (a) the other Operator is not liable to pay the Operator any Charges for the Fixed Network Termination Service on the IP Fixed Network; and
- (b) for all intent and purposes, the carriage of Call Communication from the other Operator's Network to the Operator's IP Fixed Network and the provision by the Operator and/or the Services Provider of their respective network service, applications service and/or content applications service on the 'B' number in respect of which the Operator and/or the Service Provider has a separate arrangement and/or agreement with the Customer of the other Operator shall be treated as if a Fixed Network Origination Service or Mobile Network Origination Service, as the case may be, is provided by the other Operator to the Operator; and
- (c) the other Operator shall be entitled to charge and the Operator shall be liable to pay to the other Operator the applicable Charge for Fixed Network Origination Service or Mobile Network Origination Service, as the case may be.

6.2.3 Nothing in **Paragraph 6.2.2** shall:

- (a) be construed as the other Operator permitting or authorising the Operator to continue to breach or to not comply with **Paragraph 6.2.1**; and
- (b) prejudice the other Operator's other rights and remedies under this Agreement and law.

6.2.4 For the purposes of this **Paragraph 6.2**, a Service Provider means a service provider providing network services, applications services and/or content applications services who has an arrangement or agreement with the Operator.

SCHEDULE A**SERVICE DESCRIPTION****PART II – MOBILE NETWORK ORIGINATION AND TERMINATION SERVICES****1. General**

1.1 **Part II of Schedule A** sets out the terms and conditions which would be applicable to:-

(a) Mobile Network Origination Service; and

(b) Mobile Network Termination Service,

unless otherwise expressly stated.

2. Access Service

2.1 TM will provide the agreed Access Service stated in this **Part II** in accordance with TM's ARD and the Access Agreement (including the Service Ordering Procedures).

2.2 Each Operator must ensure that the carriage of Call Communications by it conforms to the QOS Standards for the carriage of Call Communications in respect of which the Operator has control.

2.3 The Access Seeker will pay to TM for Access Services stated in this **Part II** provided by TM, Charges in accordance with the applicable provisions set out in the **Part II of Schedule B**.

2.4. The routing and call handover principles to be applied to this type of Call Communication is set out in the relevant Manuals.

2.5 A Call Communication made to or from a mobile terminal in Malaysia who is roaming from its base network ("**Home Network**") in a foreign country on the network of an Operator ("**Visited Network**") in Malaysia will, as between the Operators, be treated:-

(a) where the Call Communication is made from the mobile terminal, in all respect as if it was from a Mobile Number from which the Visited Network is the Network on which the Call Communication is originated; and

(b) where the Call Communication is made to the mobile terminal, in all respect as if it was to a Mobile Number from which the Visited Network is the Network on which terminating access is provided.

2.6 In the event that a Call Communication to a number (the 'B' party number) which is allocated to either Operator is "forwarded" to either Operator's Fixed Number or Mobile Number, the forwarded portion of the call shall be considered in all respect to be a second and separate call for the purposes of calculating any Charges). Any Charges incurred in forwarding the call from the original 'B' party number to another Fixed Number or Mobile Number or to another network, shall be to the account of the 'B' party or the Operator to which the 'B' party is connected. The DTS/MSR/Media Gateway/SBC shall submit the 'B' number to the terminating exchange and not the

original 'A' number when the call is subject to "call forwarding". International call forwarding is not permitted.

3. Facilities Access

- 3.1 Where relevant, the terms and procedures for Facilities Access and Network Co-Location Services set out in Section 5.13 of the MSA Determination and **Part X of Schedule A** shall be applicable.
- 3.2 Unless otherwise agreed by the Operators, each POI will be physically installed and housed at the locations to be agreed by the Operators.
- 3.3 Where an Access Seeker leases Interconnect Link Service from TM to trunk its Interconnect Traffic to and from the POI to its Gateway, TM's Equipment can be co-located in the Access Seeker's premises in accordance with Section 5.13 of the MSA Determination for the required space in the Access Seeker's premises.
- 3.4 The Access Seeker shall provide TM reasonable access to its premises when TM reasonably requires it for the purpose of installing, maintaining, modifying or removing TM's Equipment required at the POI.

4. Numbering

- 4.1 The Operators are to comply with the obligations, operations and procedures in relation to the Mobile Numbers determined by the Number Plan promulgated by the Commission.
- 4.2 The Operators shall have full discretion in allocating to their Customers the Mobile Numbers which have been allocated for their respective use by the Commission subject to the following conditions:
- (a) each Mobile Number must be allocated in accordance with the cellular mobile operator's respective numbering plan; and
 - (b) each Mobile Number must be capable of reference to the Home Area.

5. Special Terms And Conditions

5.1 Mobile Network Origination Service

5.1.1 Customer Billing and Debt

The Access Seeker shall be responsible for Customer billing, collection and bad debts in respect of the provision of Communication Services to its Customers by the Access Seeker using the Mobile Network Origination Service.

SCHEDULE A**SERVICE DESCRIPTION****PART III – INTERCONNECT LINK SERVICE****1. General**

- 1.1 **Part III of Schedule A** sets out the terms and conditions which are applicable to Interconnect Link Service.

2. Scope of Service

- 2.1 An Interconnect Link Service is a Facility and/or Service which enables:

- (i) the physical connection between the network of TM and the network of an Access Seeker for the purpose of providing an Interconnection Service; and
- (ii) the interconnection of the CCS7 network of TM to the CCS 7 network of an Access Seeker at the signal transfer points.

3. Pre- Requisites For Applying For Interconnect Link Service

- 3.1 TM shall not be obliged to provide to the Access Seeker Interconnect Link Service unless the Access Seeker has first applied and subscribed to:-

- (a) (i) Fixed Network Origination Service; and
- (ii) Fixed Network Termination Service, and/or
- (b) (i) Mobile Network Origination Service; and
- (ii) Mobile Network Termination Service.

- 3.2 The terms and conditions pertaining to:-

- (a) (i) Fixed Network Origination Service; and
- (ii) Fixed Network Termination Service, and/or
- (b) (i) Mobile Network Origination Service; and
- (ii) Mobile Network Termination Service,

as more particularly set out in **Parts I and II of Schedule A** respectively shall apply to this **Part III** subject to the amendments and modifications contained herein.

4. Interconnection Services

- 4.1 TM will provide agreed Interconnection Service in accordance with TM's ARD and the Access Agreement including the relevant provisions of **Schedule C**.
- 4.2 TM will provide:
- (a) CCS7 to the Access Seeker at all existing POI switches that have signalling transfer point function subject to availability of resources such as signalling terminal, digital trunk interface and current call processor loading at all existing POIs; and
 - (b) a minimum of two (2) signalling links from different E1 for diversity.
- 4.3 In providing the CCS7, TM shall adopt associated signalling method where the signalling messages are transferred over to the transmission links that directly connect the relevant signalling points.
- 4.4 Each Operator shall ensure that:
- (a) the Facilities and Services provided at each POI conform to the QOS Standards and Technical Specifications; and
 - (b) the network signalling standards and interworking procedures to be used conform to TM's current practices.
- 4.5 The Access Seeker shall follow the standard and specification that has been established at TM network.
- 4.6 Interconnect Link Service - Generally
- 4.6.1 (a) Each Operator must provide, install, test, make operational and maintain all Facilities on its side of the POI unless otherwise agreed.
- (b) In relation to Interconnect Traffic from directly connected Customers to each Operator's Network, each Operator shall provide its own Interconnect Link Service to the POI.
- 4.7 In-span Interconnection
- 4.7.1 (a) The preferred mode of provisioning Interconnect Link Service between the Operators shall be In-span Interconnection subject to an agreement between the Operators on the location and the time of installation of the POI, and the Access Seeker holding an individual network facilities provider licence. Where In-span Interconnection is utilised between the Operators, each Operator shall pay to the other Operator the cable rental Charges and the Interconnect Conditioning Charges as set out in **Part III of Schedule B**.
- (b) For the purposes of clarification:-
- (i) such cable rental Charges and Interconnect Conditioning Charges are only payable in respect of the Gateway;

- (ii) no other Charges shall be payable in respect of such In-span Interconnect Link Service between the Operators unless otherwise agreed; and
- (iii) In-span Interconnection shall be provided by means of optical fibre circuits.

4.8 Interconnect Link Service provided on behalf of the Access Seeker (Full Span)

- 4.8.1 (a) Where TM provides Interconnect Link Service from its Gateway to the Access Seeker's Gateway (via the POI) for and on behalf of the Access Seeker, the Charges set out in **Part III of Schedule B** for Interconnect Link Service, which is inclusive of Interconnect Conditioning Charges for DTS, MSC or Media Gateway originating and/or terminating capacity, shall apply.
- (b) Where such Interconnect Link Service provided for and on behalf of the Access Seeker uses CCS7 signalling on a particular route as agreed between the Operators, then the Charges, as set out in **Part III of Schedule B**, for the provision of such circuits for both incoming and outgoing traffic (two way Interconnect Link Service) is to be based on utilisation of the Interconnect Link Service on that route. For the purpose of clarification, Interconnect Link Service shall be provided on unidirectional circuits unless otherwise agreed by the Operators.

4.9 Interconnect Support

- 4.9.1 Incidental to the provision of related Interconnect Service, TM will provide related Interconnect Support and related Operations and Maintenance Support subject to any agreed Charges.

4.10 Installation of POI

- 4.10.1 (a) Subject to mutual agreement, each Operator is to assign, establish and install at least one POI for each Closed Number Area or Home Area, as the case may be, throughout the country for the delivery and acceptance of Interconnect Traffic.
- (b) Where an Operator assigns, establishes and installs a POP to **Paragraph 4.10.1(a)** above, the Operator who assigns, establishes and installs a POP shall bear the costs of trunking the Interconnect Traffic to and from such POP to the Closed Number Area where that Operator's Gateway is located.
- (c) If and when an Operator initiates a request to change the interconnection for an existing link, the requesting Operator shall bear all the cost and charges needed to test and re-establish the link in accordance with **Section 4.5.2**.

SCHEDULE A**SERVICE DESCRIPTION****PART IV – DOMESTIC NETWORK TRANSMISSION SERVICE****1. General**

1.1 **Part IV of Schedule A** sets out the terms and conditions which are applicable to Domestic Network Transmission Service.

1.2 Consistent with Government policy and the Access List Determination, TM shall only be required to provide Domestic Network Transmission Service until the Sunset Date.

2. Availability of Domestic Network Transmission Service

2.1 The terms and conditions in this **Part IV of Schedule A** shall only be applicable until the Sunset Date.

2.2 Access Seekers who are provided with access to Domestic Network Transmission Service pursuant to an Access Agreement prior to the Sunset Date will automatically be provided with access to Transmission Service after the Sunset Date unless:

(a) the Transmission Service does not offer leased circuits which has the same bandwidth as the leased circuit bandwidth offered under Domestic Network Transmission Service currently subscribed by the Access Seeker; or

(b) the Access Seeker:

(i) notifies TM in writing at least sixty (60) days prior to the Sunset Date that it does not wish to seek access to Transmission Service after the Sunset Date ("**Service Termination Notice**"); and

(ii) has met the conditions for termination of the Domestic Network Transmission Service as specified in the Access Agreement or by TM ("**Termination Conditions**").

2.3 Where the Transmission Services does not offer leased circuits which has the same bandwidth as the leased circuit bandwidth offered under Domestic Network Transmission Service, then those leased circuit for Domestic Network Transmission Service will automatically terminate on the Sunset Date. The Access Seeker may however subscribe for new leased circuits of different bandwidth under Transmission Services pursuant to a new leased circuit agreement and in accordance with the terms and conditions in **Part XVII of Schedule A**.

2.4 In relation to **Paragraph 2.2**, where the Access Seeker provides Service Termination Notice and complies with the Termination Conditions, TM shall cease to provide the Access Seeker with access to Domestic Network Transmission Service on the Sunset Date or such earlier date as agreed between the parties.

2.5 After the Sunset Date, Access Seekers who wish to seek access to Domestic Network Transmission Service shall be required instead to seek access to

Transmission Service in accordance with the terms and conditions in **Part XVII** of **Schedule A**.

3. Provisioning of Domestic Network Transmission Service

- 3.1 Subject to **Paragraph 2**, TM will provide Domestic Network Transmission Service in accordance with TM's ARD and the Access Agreement including the provisioning procedures in **Schedule C** and the Manuals.
- 3.2 Where the Access Seeker leases Domestic Network Transmission Service from TM, TM's Equipment can be co-located in the Access Seeker's premises in accordance with Section 5.13 of the MSA Determination, **Part X** of **Schedule A** and **Schedule C**.
- 3.3 The Access Seeker shall provide TM reasonable access to its premises when TM reasonably requires it for the purpose of installing, maintaining, modifying or removing Equipment related to the provision of Domestic Network Transmission Service by TM.
- 3.4 TM shall ensure that the Domestic Network Transmission Service conforms to the QOS Standards and Technical Specifications, subject to the Access Seeker's use of those Domestic Network Transmission Service in accordance with the Technical Specifications and other agreed requirements.
- 3.5 The minimum period in which the Access Seeker may lease Domestic Network Transmission Service is one (1) year.
- 3.6 The Access Seeker will pay to TM for Domestic Network Transmission Service stated in this **Part IV** provided by TM, Charges in accordance with the applicable provisions set out in **Part IV** of **Schedule B**.

SCHEDULE A**SERVICE DESCRIPTION****PART V - EQUAL ACCESS (PSTN) SERVICE****1. General**

- 1.1 **Part V of Schedule A** sets out the terms and conditions, which are applicable to Equal Access (PSTN) Service on a call-by-call basis.
- 1.2 Consistent with Government Policy and the Access List Determination, TM shall not be required to provide Equal Access (PSTN) Services from 2 February 2009.

2. Availability of Equal Access (PSTN) Services

- 2.1 Equal Access (PSTN) Services will not be provided to new Access Seekers (who are not already provided with such Service).
- 2.2 Notwithstanding **Paragraph 1.2**, Access Seekers who are currently provided with access to Equal Access (PSTN) Service will continue to be provided with such service until the same is discontinued and/or terminated in accordance with the terms of the Access Agreement but no new services to the Customers of such Access Seekers shall be provisioned under the Access Agreement.

SCHEDULE A**SERVICE DESCRIPTION****PART VI – INTERNET ACCESS CALL ORIGINATION SERVICE****1. General**

- 1.1 **Part VI of Schedule A** sets out the terms and conditions which would be applicable to Internet Call Access Origination Service unless otherwise expressly stated.
- 1.2 Consistent with Government Policy and the Access List Determination, TM shall not be required to provide Internet Access Call Origination Service from 2 February 2009.

2. Availability of Internet Access Call Origination Service

- 2.1 Internet Access Call Origination Services will not be provided to new Access Seekers (who are not already provided with such Service).
- 2.2 Notwithstanding **Paragraph 1.2**, Access Seekers who are currently provided with access to Internet Access Call Origination Service will continue to be provided with such service until the same is discontinued and/or terminated in accordance with the terms of the Access Agreement but no new services to the Customers of such Access Seekers shall be provisioned under the Access Agreement.

SCHEDULE A**SERVICE DESCRIPTION****PART VII – SPECIAL SERVICES****1. General**

1.1 **Part VII of Schedule A** sets out the terms and conditions which would be applicable to:

- (i) Freephone 1800 Service; and
- (ii) Toll Free Service

unless otherwise expressly stated.

1.2 The following table sets out the minimum period for which the Access Seeker will be provided with the respective Special Services:

Special Service	Minimum Period
Freephone 1800 Service	3 months from the Launch Date
Toll Free Service	3 months from the Launch Date

For the purposes of this Paragraph, “**Launch Date**” in relation to Special Services, shall be the Effective Date or such other date agreed between the Operators in the Access Agreement.

1.3 For the avoidance of doubt reference to Freephone 1800 Service and Toll Free Service means existing service types using the Freephone or Toll Free Service platform or the activation of new Freephone Service or Toll Free Service numbering ranges.

1.4 The Access Seeker may terminate their requirement for such Special Service provided it serves TM with at least a three (3) months written notice.

2. Pre- Requisites For Applying For Special Service

2.1 TM shall not be obliged to originate Call Communication for the Access Seeker providing Freephone 1800 Service and/or Toll Free Service unless the Access Seeker has first applied and subscribed to:-

- (a) Fixed Network Origination Service; and
- (b) Mobile Network Origination Service,

both as more particularly set out in **Parts I and II of Schedule A.**

2.2 The terms and conditions pertaining to:-

- (a) Fixed Network Origination Service; and
- (b) Mobile Network Origination Service,

as more particularly set out in **Parts I and II of Schedule A** shall apply to this **Part VII** subject to the amendments and modifications contained herein.

3. Freephone 1800 Service

3.1 All calls to Freephone Numbers of TM shall be handed over on a Near end Handover basis.

3.2 (a) VOIP services provided by the Operator to its end-users shall be by way of Freephone 1800 Service and the terms and conditions for Freephone 1800 Service shall, inter alia, apply to VOIP services.

(b) (i) The Operator agree that any arrangement or agreement between an Operator and a VOIP service provider to enable the VOIP service provider to provide its VOIP services shall be by way of Freephone 1800 Service and the terms and conditions for Freephone 1800 Service shall, inter alia, apply.

(ii) In the event that:

(A) an Operator; or

(B) a VOIP service provider which has an arrangement or agreement with an Operator,

does not provide the VOIP services by way of Freephone 1800 Service, then

(1) the other Operator shall not be liable to pay to the Operator the applicable Fixed Network Termination Charge for Call Communications made by the other Operator's Customer which is destined to the Operator's PSTN Fixed Network for the purpose of accessing the Operator or VOIP service provider's VOIP services; and

(2) the other Operator shall be entitled to charge the Operator:

(I) where the Call originates from a PSTN Fixed Network, the applicable Charge for Fixed Network Origination Service; or

(II) where the Call originates from a Mobile Network, the applicable Charge for Mobile Network Origination Service.

- (iii) Without prejudice to **Paragraph 3.2(b)**, the Operators shall notify each other, from time to time, of any VOIP service providers and/or PSTN numbers and locations utilized by VOIP service providers to provide their VOIP services. Upon written notification, the Operator shall monitor such calls and if such VOIP service providers are providing their VOIP service other than by way of the Freephone 1800 Service, the Operator shall block such PSTN numbers within five (5) Business Days.
- (c) Nothing in **Paragraph 3.2** shall:
 - (i) be construed as the other Operator permitting or authorising the Operator to continue to breach or to not comply with **Paragraph 3.2**; and
 - (ii) prejudice the other Operator's other rights and remedies under this Agreement and law.

4. Toll Free Service

- 4.1 All calls to Toll Free Numbers of TM shall be handed over on a Near end Handover basis.

SCHEDULE A**SERVICE DESCRIPTION****PART VIII – INFRASTRUCTURE SHARING****1. General**

1.1 **Part VIII of Schedule A** sets out the terms and conditions which are applicable to Infrastructure Sharing.

2. Pre-Requisites for Applying for Infrastructure Sharing

2.1 TM shall not be obliged to provide to the Access Seeker Infrastructure Sharing for the Designated and/or Associated Tower Sites, as the case may be, unless:

- (a) TM:
 - (i) is the legal owner of the Designated Tower and the land on which the Designated Tower resides; or
 - (ii) has the exclusive rights of use of the land pursuant to a lease or tenancy agreement on which the Designated Tower resides and TM has been granted the requisite approval by the owner or landlord of the said land to permit the Access Seeker to use the said land in accordance with the terms herein contained;
- (b) the Access Seeker has the appropriate license under the Act and its subsidiary legislation to operate the service for the purpose for which the equipment is to be installed and other approvals from relevant authorities, where required;
- (c) the Access Seeker has first obtained the approval from a third party to use its tower where the tower structure of the third party resides in TM's compound; and
- (d) there is sufficient space.

3. Infrastructure Sharing

3.1. TM agrees to provide Infrastructure Sharing at the designated tower or associated tower sites ("**Designated Tower or Associated Tower Sites**") to the Access Seeker in accordance with the terms of the TM's ARD and Access Agreement including the relevant provisions in **Schedule C** and the terms and conditions of this **Part VIII**.

3.2 Where third party owned towers are located on TM's premises, Infrastructure Sharing by TM shall be limited to providing support services at Associated Tower Sites for use at the Associated Tower Sites and Designated Tower.

3.3 The list of the Designated Tower and Associated Tower Sites may be obtained from TM upon written request.

3.4. Duration of Infrastructure Sharing

3.4.1 Infrastructure Sharing at a Designated Tower or Associated Tower Site, agreed between the Operators, shall be for a fixed period of three (3) years unless a lesser period is stipulated by TM (where TM's right to use the land on which the Designated Tower or Associated Tower Site is located is less than three (3) years) and may be further renewed subject to the mutual agreement of the Operators. The Access Seeker shall within six (6) months prior to expiry of the term of the Infrastructure Sharing notify TM in writing as to whether or not it wishes to renew the term of the Infrastructure Sharing.

3.4.2 The term of the Infrastructure Sharing shall commence on the date ("**Start Date**"):

- (a) TM makes available for physical possession the shared space ("**Shared Space**") at the Designated Tower or Associated Tower Site; or
- (b) the Access Seeker takes physical possession of the Shared Space at the Designated Tower or Associated Tower Site,

whichever is the earlier.

4. **Access Seeker's Obligations**

4.1 Utilities

4.1.1 The Access Seeker shall be responsible to apply for its own individual meter and power supply to the Shared Space and shall be further responsible for and bear the cost of all electricity utilised by the Access Seeker at the Shared Space.

4.1.2 In the event that the Access Seeker's application to the relevant authority for an individual meter is not successful, the Access Seeker may:

- (a) subject to TM's prior written approval, utilise the electricity supplied to TM at that premises provided that:
 - (i) TM is of the opinion that the electricity power load is sufficient to be shared with the Access Seeker and other access seekers within the Designated Tower and/or Associated Tower Site; and
 - (ii) the Access Seeker reimburse TM for all electricity charges utilised (and any additional charges for back-up power) by the Access Seeker at the Shared Space, the charges of which shall be determined by TM; or
- (b) where TM is not able to provide the electricity supply to the Access Seeker, the Access Seeker shall be entitled to bring and install its own generator at the Shared Space of the Designated Tower or Associated Tower Site.

4.2 To Permit TM to Enter and View Condition

4.2.1 Where the Shared Space is an enclosed or secured area or otherwise not accessible by TM, the Access Seeker shall permit TM and his agents, servants and contractors, to enter the Shared Space at all reasonable times and upon reasonable notice for the purpose of viewing the state and condition thereof or for any other reasonable

purpose. However, in the event of an emergency, TM may enter the Shared Space by first giving verbal notification and which shall be followed by a written notification within twenty four (24) hours and take reasonable actions as the circumstances dictate to address the emergency situation. The Access Seeker shall have the option to provide an escort to TM, at its own cost, but TM shall not be prevented from entering if the escort fails to be present.

4.3 Use of Shared Space

4.3.1 The Access Seeker shall only use the Shared Space for the sole purpose of providing Communication Services and shall not do or permit to be done any act or thing which is illegal or may become a nuisance or give reasonable cause for complaint from the owner or any of the other access seekers in TM's Designated Tower or Associated Tower Site or any other buildings adjoining the tower or associated tower site.

4.3.2 If the Access Seeker has not complied with **Paragraph 4.3.1**, the Access Seeker shall take the necessary rectification or remedial action to address any complaints made by TM or other access seekers in the Designated Tower or Associated Tower Site.

4.3.3 The Access Seeker's right to use the Shared Space and the right of access does not entitle the Access Seeker to any proprietary interest whether under statute, common law, equity or any theory of law in any building, land, fixture, other structure or in or to the Designated Tower or Associated Tower Sites.

4.3.4 Where the Designated Tower or Associated Tower Sites is owned or controlled by a third party ("**Infrastructure Site Owner**") and TM's use of the Designated Tower or Associated Tower Sites is pursuant to a tenancy or lease or licence, TM shall be under no obligation to seek any renewal of the term of the tenancy or lease or licence. The Access Seeker agrees that it shall not seek a tenancy, lease or licence to the Designated Tower or Associated Tower Sites from the Infrastructure Site Owner unless TM signifies that it is no longer interested in the use of the Designated Tower or Associated Tower Sites.

4.4 Storage

4.4.1 The Access Seeker shall not permit to be kept on the Shared Space or any part thereof:

- (a) any materials the storage of which may contravene any ordinance, statute, regulation or by-law;
- (b) any materials the storage of which an increased rate of insurance is usually required; or
- (c) any explosive, combustible or radioactive substances.

4.5 Increase in Premium

4.5.1 The Access Seeker shall not do or permit to be done anything which would render the insurance policy or policies with respect to TM's Designated Tower or Associated Tower Site on which the Shared Space is located void or voidable or whereby the premium of the said policy or policies may be increased. In the event of an increase in premium or other expenses on renewal of such policy of policies due to a breach

or non-observance of this condition by the Access Seeker, the Access Seeker undertakes to repay all sums paid by TM including the expenses incurred thereto.

4.6 Repairs

4.6.1 In the event of any damage caused to the Shared Space by the Access Seeker, the Access Seeker shall, at its own cost and expense, restore and to forthwith make good any replacement and/or repair (fair wear and tear excepted) as specified in the notice in writing given by TM to the Access Seeker. Where applicable, TM may specify all necessary repairs or where damage cannot be made good with repairs to the original state and condition, such replacements to be effected to plant, facilities and equipment.

4.6.2 If the Access Seeker fails to effect the replacements and/or repairs within a reasonable time period stipulated in the notice, TM may, whether or not together with its workmen, enter the Shared Space and make all necessary replacements and/or repairs to plant, facilities and equipment. The costs for all such necessary replacements and/or repairs shall be a debt due from the Access Seeker and shall be recoverable by TM save where the replacements and/or repairs were due to the natural failure of the structure or due to TM.

4.7 Tenantable Condition

4.7.1 The Access Seeker shall keep the Shared Space and the interior thereof including the flooring and interior plaster or other surface material or rendering on walls or ceilings and TM's fixtures thereon including doors, windows, glass shutters, locks, fastenings, electric wires, installations and fittings for electricity supply and other fixtures and additions and other goods therein including the items specifically attached thereto, if any, in good and tenantable repair and condition (reasonable wear and tear excepted).

4.8 Consents, Licences and Approvals

4.8.1 The Access Seeker shall be fully responsible to obtain all necessary consents, permits, approvals and licenses from third parties and governmental authorities or agencies to carry out/provide its Communications Services at the Shared Space including operating and using all equipments, systems, cables, links and devices.

4.8.2 The Access Seeker shall further observe and comply with all laws, by-laws, rules and regulations affecting the Access Seeker which are now in force or which may hereafter be enacted.

4.8.3 The Access Seeker shall further observe and perform and cause all its employees, independent contractors, agents or invitees to observe and perform all rules and regulations made by TM (and which rules and regulations equally apply to all access seekers) from time to time and notified to the Access Seeker in writing Provided Always that TM shall not be liable to the Access Seeker in any way for violation of the rules and regulations by any person including the Access Seeker or its employees, independent contractors, agents or invitees save where TM has been negligent.

4.9 Installation of Equipment

4.9.1 The Access Seeker shall ensure that all equipment, system or devices on the Shared Space shall:

- (a) be type-approved and comply with all relevant laws and regulations;
- (b) not cause any frequency interference to TM's and/or any other access seekers' equipment or services provided in or around the Shared Space;
- (c) be electromagnetically compatible in accordance with the prescribed standards and shall not cause electromagnetic interference to Telekom Malaysia's and/or any other access seekers' equipment or services provided in or around the Shared Space; and/or
- (d) not be connected to any equipment belonging to TM without the written consent of TM.

For the purposes of **Paragraph 4.9.1(b) and (c)**, where the Access Seeker's equipment causes frequency and/or electromagnetic interference to TM and/or other access seekers' equipment or services provided in or around the Shared Space, TM shall provide verbal notification followed by a written notification within 24 hours to the Access Seeker. The Access Seeker shall immediately (and in any event no longer than 24 hours) upon receipt of the verbal notification take all such necessary steps to stop any such interference.

4.9.2 In the event that:

- (a) the Access Seeker fails to fulfil its obligations under this **Paragraph 4.9.1**; or
- (b) the equipment, system or devices of the Access Seeker is or poses a threat or danger to the public health and safety or TM and/or other access seeker's facilities, equipment, device or system,

TM may direct the Access Seeker to take such remedial action as may be necessary to remedy such breaches including temporary shutting down of the equipment, system or devices.

4.9.3 The Access Seeker shall only be permitted to install its equipment, system and/or devices on the Shared Space for the provision of its Communication Services and shall not be permitted to install any other party's equipment, system and/or devices on the Shared Space without the prior written approval of TM.

4.9.4 The Access Seeker shall not damage, tamper, modify, alter or handle any equipment, system or devices belonging to TM or any other access seeker in the Shared Space without the prior written approval of TM and/or the other access seeker.

4.9.5 The Access Seeker is responsible for insuring its equipment and shall purchase the necessary insurances when carrying out any works including installation works on TM's Designated Tower or Associated Tower Sites. In particular, the Access Seeker shall obtain or procure an Erection All Risks insurance against all risks of physical loss or damage to the Access Seeker's work whereby TM is a named insured (either solely or jointly) in the insurance policy for the duration of the works and the insurance shall be in the amount which is sufficient to insure the full value of the works carried out by the Access Seeker.

4.10 Installation of Electrical Points and Plumbing Connection

4.10.1 The Access Seeker shall not install any electrical sockets, plugs or electrical power points or electrical motor or engine or appliances or make any additional plumbing connections on or to the Shared Space without the prior written consent of TM.

4.11 Safety and Health and Security Procedures

4.11.1 The Access Seeker shall comply with the provisions and requirements of the Occupational Safety and Health Act 1994 (“**OSHA**”). These provisions include the usage of personal protective equipment such as safety helmet, safety boots, safety goggles and other safety gadgets as prescribed by OSHA. Any failure to comply with OSHA by the Access Seeker shall be rectified immediately and if required by TM, the Access Seeker shall comply with all actions specified by TM including to cease or suspend work or to disconnect their equipment from the power supply or source.

4.11.2 The Access Seeker shall exercise due care in the execution of their work so as to prevent accidents and are required to report any incidents including but not limited to accidents as a result of their works to TM within twenty four (24) hours from the time of the occurrence.

4.11.3 The Access Seeker shall comply and cause its employees, agents and contractors to comply with all guidelines, rules and regulations issued by TM from time to time on site access and security procedures with respect to access to and use of the Shared Space. Further the Access Seeker shall take all such necessary measures to prevent unauthorised access to the Shared Space.

4.12 Sub-letting and Assignment

4.12.1 The Access Seeker shall not sub-let, assign or part with the possession of the Shared Space without the prior written approval of TM. Where TM allows the Access Seeker to sub-let the Shared Space, the Access Seeker shall be fully responsible for the acts and omission of its sub-lessee and shall ensure that its sub-lessee complies with all the Access Seeker's obligations with respect to the Shared Space under the Access Agreement.

4.13 Maintenance of Equipment

4.13.1 The Access Seeker shall be responsible for the operation and maintenance of its Equipment, system and/or devices at the Shared Space.

4.13.2 TM shall not be responsible for any damage to the Access Seeker's Equipment, system and/or devices at the Shared Space caused by fire, water leakage, air-conditioning/mechanical ventilation failure, power fluctuation/interruption and/or by any other causes or reasons unless due to TM's negligence.

4.13.3 In the operation and maintenance of the Equipment, systems and/or devices at the Shared Space, the Access Seeker must:

- (a) take such other action as a reasonably prudent Access Seeker would in operating and maintaining its Equipment, systems and/or devices;
- (b) keep the Shared Space in a tidy and safe condition at all times; and

- (c) ensure that flammable or toxic material is not left in or around the Shared Space following maintenance and/or other operations.

4.13.4 If a fault, defect or problem with the Access Seeker's Equipment, systems and/or devices at the Shared Space causes or may cause damage to the Shared Space and/or to TM's and other access seeker's equipment and/or facilities, the Access Seeker must:

- (a) notify TM in writing as soon as practicable; and
- (b) repair the fault, defect or problem or take other appropriate corrective action immediately to TM's satisfaction.

4.13.5 If the Access Seeker detects a fault, defect or problem in the Shared Space, it must notify TM as soon as possible.

5. TM's Obligations

5.1 Exclusive Possession

5.1.1 The Access Seeker recognises that it does not have exclusive possession of the Shared Space since TM occupies the Shared Space and may sub-let or intends to sub-let the Shared Space to other parties. However, TM agrees that it shall not tamper, modify, alter or handle any equipment, system or devices belonging to the Assess Seeker at the Shared Space for the duration of the Infrastructure Sharing unless an emergency situation arises and immediate notice has been given to the Access Seeker.

5.2 Payment of Quit Rents, Rates and Taxes

5.2.1 TM will pay all quit rents, rates (save for utilities), taxes, assessments which are or may hereafter be charged upon the Shared Space. Any increase in quit rent, assessment, taxes or rates on the Shared Space from the Commencement Date of the Infrastructure Sharing shall be borne equally between the Operators in proportion to their usage of space.

5.3 TM's Covenant

5.3.1 Where the Designated Towers were erected on or before 30 June 2003 and at the time being are undergoing the process of being regularised under the Nationwide Rationalisation Exercise launched in 2003, TM does not warrant or represent that it has obtained all the necessary authorisation, approvals or permitted from the relevant authorities (including the Federal or State Government) to erect the infrastructure on the Designated Tower or Associated Tower Site in which the Shared Space has been rented to the Access Seeker, or use or occupy the land on which those Designated Tower or Associated Tower Site is located. For clarification, the Nationwide Rationalisation Exercise refers to the exercise launched by the Government to require operators to obtain the requisite governmental and regulatory approvals for the construction and erection of their towers.

5.3.2 In the event that:

- (i) TM is required by the relevant authorities to dismantle the infrastructure on the Designated Tower or Associated Tower Site; or
- (ii) any governmental or State authority or owner/landlord of the land on which the Designated Tower resides, requires TM to vacate the land on which the Designated Tower resides for whatsoever reason;

such that the Access Seeker is not able to install its equipment, system or devices thereon or to provide its Communication Services in the Shared Space, the Access Seeker and/or TM may, notwithstanding the minimum term, terminate the Infrastructure Sharing at Shared Space without liability. Any advance payment will be refunded on a pro-rated basis. The Access Seeker agrees that the remedies set out in this **Paragraph 5.3** shall be the only remedy against TM and TM shall not be liable to the Access Seeker for any damages, costs and/or expenses including but not limited to the costs of dismantling and removing the Access Seeker's equipment, system or devices. However, TM will use its reasonable endeavours to offer the Access Seeker other suitable Designated Tower or Associated Tower Sites.

- 5.3.3 Where TM is required by any governmental authority or agency or any State backed company to sell or dispose the Designated Tower to the governmental authority or its nominated person or entity, TM will use its endeavours (but does not guarantee that it will be able) to sell the Designated Tower subject to any existing rights of the Access Seeker to use the Shared Space on the Designated Tower. However, where the third party purchaser requires that the Access Seeker vacate the Shared Space prior to the sale of the Designated Tower, the Access Seeker shall dismantle its equipment, system or device and vacate the Shared Space prior to the sale of the said Designated Tower to the third party. Any advance payment will be refunded on a pro-rated basis. The Operators agree that the Access Seeker and/or TM may, notwithstanding the minimum term, terminate the Infrastructure Sharing at the Shared Space without liability. The Access Seeker agrees that the remedies set out in this **Paragraph 5.3** shall be the only remedy against TM and TM shall not be liable to the Access Seeker for any damages, costs and/or expenses including but not limited to the costs of dismantling and removing the Access Seeker's equipment, system or devices except for damage to the Access Seeker's equipment, system or devices caused by TM.

6. Vacating the Shared Space

- 6.1 The Access Seeker shall on the expiration or termination of the Infrastructure Sharing at each Shared Space, at its own cost and expense, remove all its equipment, system and devices which may have been installed by the Access Seeker and to peaceably and quietly yield up the Shared Space to TM with all TM's fixtures and additions thereto in good and tenantable repair and condition (fair wear and tear excepted) in accordance with the covenants herein contained.
- 6.2 The Access Seeker shall be given:
- (a) a grace period of ten (10) Business Days to vacate the Shared Space effective from the expiry or termination of the Infrastructure Sharing at the Shared Space; or

- (b) where the Designated Tower is to be dismantled or TM is to vacate the land on which the Designated Tower resides in accordance with **Paragraphs 5.3.2** and **5.3.3**, such reasonable grace period as may be specified by TM taking into consideration the time lines provided by the relevant authorities or the owner of the land/landlord to TM to dismantle the Designated Tower or to vacate the said land provided always that the Access Seeker must vacate the Shared Space earlier than the stipulated time line provided to TM to enable TM to comply with the requisite time lines,

to vacate the Shared Space, during which no monthly rental will be charged by TM. Should the equipment, system or devices not be removed within the grace period, TM shall have the right to:

- (i) charge for the use of the Shared Space at the rate of two (2) times the current rental or the cost of reinstatement as debt due and payable; and
- (ii) without any liability to the Access Seeker, dispose of the equipment, system or devices in such manner as TM deems fit with a one (1) month's written notice. If the Access Seeker fails to settle any debt due, TM shall have a lien on the equipment, system or devices and is entitled to retain such equipment, system or devices or to sell the equipment system or devices at any price in such manner as it deems fit for payment of any such debt and the cost of sale shall be borne by the Access Seeker. TM shall be entitled to set off the proceeds from the sale of the equipment, system or devices against any and all debts due by the Access Seeker to TM. Any balance in the proceeds from the sale shall be returned to the Access Seeker.

SCHEDULE A**SERVICE DESCRIPTION****PART IX – DOMESTIC CONNECTIVITY TO INTERNATIONAL SERVICES****1. General**

1.1 **Part IX of Schedule A** sets out the terms and conditions which are applicable to Domestic Connectivity to International Services.

1.2 Consistent with Government policy and the Access List Determination, TM is only required to provide Domestic Connectivity to International Services (in relation to Domestic Backhaul Transmission Service) until the Sunset Date.

2. Scope of Domestic Connectivity to International Services

2.1 Subject to the Access Seeker complying with the Service Ordering Procedures, TM shall provide in accordance with the terms of TM's ARD and Access Agreement including the provisioning procedures in **Schedule C** and the Manuals, Domestic Connectivity to International Services requested by the Access Seeker.

2.2 Domestic Connectivity to International Services provided by TM are:

(a) Domestic Backhaul Transmission Service, which is an end-to-end connection provided by TM to the Access Seeker between an agreed network transmission point and:

(i) TM's Submarine Cable Landing Station; or

(ii) TM's Satellite Earth Station,

using TM's cross connect equipment for the purpose of accessing:

(A) cable capacity on the Submarine Cable System:

(1) owned by the Access Seeker;

(2) subject to an Indefeasible Right of Use ("IRU") that is granted or allowed to the Access Seeker; or

(3) leased by the Access Seeker in accordance with the terms and conditions of the Construction and Maintenance Agreements in respect of the respective Submarine Cable Systems; or

(B) space segment capacity on the Satellite Communication System leased by the Access Seeker in accordance with the terms and conditions of the Satellite Transponder Lease Agreement or Inmarsat Land Earth Operator Agreement in respect of the respective satellite communication system, and/or

(b) Connection Service, which is a service provided by TM either via Through-Connection or Point of Access to the Access Seeker for implementing, establishing and maintaining a connection to a Submarine Cable System for

the sole purpose of accessing cable capacity on the Submarine Cable System:

- (i) owned by the Access Seeker;
- (ii) subject to an IRU that is granted or allowed to the Access Seeker; or
- (iii) leased by the Access Seeker in accordance with the terms and conditions of the Construction and Maintenance Agreements in respect of the respective Submarine Cable Systems.

2.3 In the event that Network Co-location Service is required by the Access Seeker at the Submarine Cable Landing Station, Network Co-location Services will be offered by TM in accordance with **Part X of Schedule A**.

3. Domestic Backhaul Transmission Service

3.1 Availability of the Service

3.1.1 The terms and conditions in this **Part IX of Schedule A** in relation to Domestic Backhaul Transmission Service shall only be applicable until the Sunset Date.

3.1.2 The Access Seekers who are provided with access to Domestic Backhaul Transmission Service pursuant to an Access Agreement prior to the Sunset Date will automatically be provided with access to Transmission Service after the Sunset Date unless:

- (a) the Transmission Service does not offer leased circuits which have the same bandwidth as the leased circuit bandwidth offered under Domestic Backhaul Transmission Service currently subscribed by the Access Seeker; or
- (b) the Access Seeker:
 - (i) notifies TM in writing at least sixty (60) days prior to the Sunset Date that it does not wish to seek access to Transmission Service after the Sunset Date ("**Service Termination Notice**"); and
 - (ii) has met the conditions for termination of the Domestic Backhaul Transmission Service as specified in the Access Agreement or by TM ("**Termination Conditions**").

3.1.3 Where the Transmission Service does not offer leased circuits which has the same bandwidth as the leased circuit bandwidth offered under Domestic Backhaul Transmission Service, then those leased circuit for Domestic Backhaul Transmission Service will automatically terminate on the Sunset Date. The Access Seeker may however subscribe for new leased circuits of different bandwidth under Transmission Services pursuant to a new leased circuit agreement and in accordance with the terms and conditions in **Part XVII of Schedule A**.

3.1.4 In relation to **Paragraph 3.1.2**, where the Access Seeker provides Service Termination Notice and complies with the Termination Conditions, TM shall cease to provide the Access Seeker with access to Domestic Backhaul Transmission Service on the Sunset Date or such earlier date as agreed between the parties.

3.1.5 After the Sunset Date, Access Seekers who wish to seek access to Domestic Backhaul Transmission Service shall be required instead to seek access to Transmission Service in accordance with the terms and conditions in **Part XVII of Schedule A**.

3.2 Scope of the Service

3.2.1 The Access Seeker may use the Domestic Backhaul Transmission Service solely to access:

- (a) its own cable capacity, an IRU or leased cable capacity in the relevant Submarine Cable System; or
- (b) its leased space segment capacity at the Satellite Earth Station provided by the satellite owner.

3.3 Pre-requisites for Domestic Backhaul Transmission Service

3.3.1 The Access Seeker shall have acquired or entered into the following before TM will provide the Domestic Backhaul Transmission Service:

- (a) with respect to Submarine Cable System:
 - (i) an individual network facilities provider license enabling the Access Seeker to connect the portion of the Submarine Cable System which it owns or in respect of which it has an IRU or leased cable capacity to the relevant TM's Submarine Cable Landing Stations for the purpose of accessing its own cable capacity, IRU or leased cable capacity; or
 - (ii) where in the event that the Access Seeker is not the owner of the Submarine Cable System, the Access Seeker shall provide evidence (in the form of written confirmation from a director/senior general manager/senior vice president of the Access Seeker) to TM that it has been granted or allowed an IRU or it has a leased cable capacity agreement with respect to the relevant Submarine Cable System;
- (b) with respect to Satellite Earth Station:
 - (i) a satellite transponder lease agreement or Inmarsat land earth operator agreement; and
 - (ii) any such license as may be required to connect the portion of the satellite communications systems which it leases to the relevant TM's Satellite Earth Stations.

3.4 Obligations of the Access Seeker

3.4.1 The Access Seeker shall:

- (a) use the Domestic Backhaul Transmission Service only for connection to its own cable capacity, an IRU, leased cable capacity or space segment capacity;
- (b) use the Domestic Backhaul Transmission Service in accordance with the Technical Specifications and other agreed requirements;

- (c) not use, attempt to use or permit any other person whomsoever to use the Domestic Backhaul Transmission Service in breach of any laws or regulations whatsoever and shall be responsible for any non-compliance with the provision of the Domestic Backhaul Transmission Service;
- (d) not use TM's name, the TM's trademarks or the fact that the Domestic Backhaul Transmission Service is provided using the TM's network, in promoting or re-providing its own service, without the prior written consent of TM;
- (e) not connect any Equipment to the Equipment belonging to TM without the prior written consent of TM;
- (f) carry out adjustments, modifications, alterations or replacements, at its own expense, to its own Equipment connected to TM's Equipment when reasonably so required by TM;
- (g) promptly comply with all reasonable written notices or instructions given by TM in respect of the use or operation of the Domestic Backhaul Transmission Service;
- (h) ensure adequate preventive measures to avoid radiations and interferences that may interrupt other Facilities and Services;
- (i) provide complete parameters and coordinate with any relevant operators of cable capacity upon testing, commissioning, adjustments, trouble-shooting and termination;
- (j) be solely responsible and liable for obtaining and maintaining in its own name and at its own cost throughout the duration of the provisioning of the Domestic Backhaul Transmission Service, all licenses, permits, consents, authorizations and other rights required for its use of the Domestic Backhaul Transmission Service and for ensuring the due compliance with any regulatory or other requirements whether at law or otherwise in relation thereto; and
- (k) use its reasonable efforts to ensure that the cable capacity or space segment capacity and associated Equipment supplied and operated by the Access Seeker and used in connection with the Domestic Backhaul Transmission Service is fault-free before reporting any transmission malfunction to TM.

3.5 TM's Obligations

3.5.1 TM shall:

- (a) provide the Domestic Backhaul Transmission service subject to confirmation of resource availability at the time of the order and in accordance with the terms and conditions in this **Part IX**;
- (b) use reasonable endeavours to operate and maintain the Domestic Backhaul Transmission Service in accordance with the Technical Specifications and **Schedule C**;

- (c) address any fault affecting the Domestic Backhaul Transmission Service in accordance with the terms and conditions in **Schedule C**; and
- (d) use its reasonable endeavours to obtain and maintain in its own name throughout the duration of the provisioning of the Domestic Backhaul Transmission Service, all licences, permits, consents, authorisations or other rights required for the provision of the Domestic Backhaul Transmission Service.

3.6 Termination

3.6.1 The Domestic Backhaul Transmission Service shall be terminated in the event that:

- (a) with respect to Submarine Cable System:
 - (i) the Access Seeker ceases to hold an individual network facilities provider license enabling the Access Seeker to connect the portion of the Submarine Cable System which it owns or in respect of which it has an IRU or leased cable capacity to the relevant TM Submarine Cable Landing Stations for the purpose of accessing its own cable capacity, IRU or leased cable capacity;
 - (ii) the Access Seeker ceases to be an owner of the Submarine Cable System or no longer holds an IRU in respect of the Submarine Cable System or the leased capacity agreement in respect of the Submarine Cable System is terminated; or
 - (iii) the Submarine Cable System enters into retirement with no replacement in place; or
- (b) with respect to Satellite Earth Station:
 - (i) the satellite transponder lease agreement or Inmarsat land earth operator agreement has been terminated;
 - (ii) the Access Seeker ceases to hold the relevant license required to connect the portion of the satellite communications system which is leases to the relevant TM's Satellite Earth Station; or
 - (iii) the satellite communications system enters into retirement with no replacement in place.

3.6.2 The Access Seeker shall be obliged to inform TM immediately upon the occurrence of any of the events in **Paragraph 3.6.1** above.

3.7 Special Terms and Conditions

3.7.1 The activation of the circuit at the Submarine Cable Landing Station shall depend on the availability of the ports based on the terms and conditions set out in the Construction and Maintenance Agreements for the respective Submarine Cable Systems.

4. Connection Service

4.1 Scope of the Service

4.1.1 The Access Seeker may use the Connection Service solely for the purpose of enabling the Access Seeker to access:

- (a) its own cable capacity;
- (b) an IRU; or
- (c) leased cable capacity,

in the relevant Submarine Cable System.

4.2 Pre-requisites for Connection Service

4.2.1 The Access Seeker shall have acquired or entered into the following before TM will provide Connection Service:

- (a) an individual network facilities provider license enabling the Access Seeker to connect its Equipment which are co-located at the Submarine Cable Landing and the portion of the Submarine Cable System which it owns or in respect of which it has an IRU or leased cable capacity for the purpose of accessing its own cable capacity, an IRU or leased cable capacity;
- (b) where the Access Seeker is not the owner of the Submarine Cable System, the Access Seeker shall provide evidence (in the form of a written confirmation from a director/senior general manager/senior vice president of the Access Seeker) to TM that it has been granted or allowed an IRU or it has a leased capacity agreement with respect to the relevant Submarine Cable System; and
- (c) where Network Co-Location Service is required, an agreement or arrangement with TM for provisioning of Network Co-Location Services at Submarine Cable Landing Station in accordance with **Part X of Schedule A** and **Schedule C**.

4.2.2 The Access Seeker shall follow the standard and specification that has been established at TM network.

4.3 Access Seeker's Obligations

4.3.1 The Access Seeker shall:

- (a) promptly comply with all reasonable written notices or instructions given by TM in respect of the installation, use or operation of the Connection Service;
- (b) not use, attempt to use nor permit any other person to use the Connection Service in breach of any laws or regulations and will comply with all relevant directions and determinations issued by the Commission;
- (c) connect its Equipment through its associated cables between its own Equipment and TM's distribution frame; and

- (d) be solely responsible and liable for obtaining and maintaining in its own name and at its own cost throughout the duration of the provisioning of the Connection Service, all licenses, permits, consents, authorizations and other rights required for its use of the Connection Service and for ensuring the due compliance with any regulatory or other requirements whether at law or otherwise in relation thereto.

4.4 TM's Obligations

4.4.1 TM shall:

- (a) operate and maintain the Connection Service in accordance with the terms and conditions in **Schedule C**;
- (b) address any fault affecting the Connection Service in accordance with the terms and conditions in **Schedule C**; and
- (c) use its reasonable endeavours to obtain and maintain in its own name throughout the duration of the provisioning of the Connection Service, all licenses, permits, consents, authorizations or other rights required for the provision of the Connection Service.

4.5 New Submarine Cable Systems

- 4.5.1 Where a new Submarine Cable System which is not specified in **Appendix A** of this **Part IX** of **Schedule A**, lands at any Submarine Cable Landing Station, TM shall incorporate the new Submarine Cable System TM's ARD within fourteen (14) Business Days from the ready for service date of the new Submarine Cable System.

4.6 Submarine Cable System Requirements

4.6.1 For all types of Submarine Cable Systems:

- (a) the Access Seeker shall be responsible for all termination at its own Equipment and for providing the associated cabling and connectors between the Access Seeker's Equipment and TM's distribution frame or Equipment in order to facilitate the physical termination of the link to TM's distribution frame;
- (b) TM shall advise the Access Seeker for the type of connectors and the length of the associated cables referred to in paragraph (a) for the related capacity that is to be provisioned; and
- (c) TM shall provide the distribution frame in connection with the routing of the Access Seeker's circuits to the Submarine Cable System and shall perform the physical termination of the Access Seeker's Equipment or cabling to the TM's distribution frame or Equipment.

4.7 Termination

4.7.1 The Connection Service shall be terminated in the event that:

- (a) the Access Seeker ceases to hold an individual network facilities provider license enabling the Access Seeker to connect the portion of the Submarine Cable System which it owns or in respect of which it has an IRU or leased

cable capacity to the relevant TM Submarine Cable Landing Stations for the purpose of accessing its own cable capacity, IRU or leased cable capacity; or

- (b) the Access Seeker ceases to be an owner of the Submarine Cable System or no longer holds an IRU in respect of the Submarine Cable System or the leased capacity agreement in respect of the Submarine Cable System is terminated; or
- (c) the Submarine Cable System enters into retirement with no replacement in place; or
- (d) where the Access Seeker has co-located its Equipment in TM's Submarine Cable Landing Station, the agreement or arrangement with TM for Network Co-Location Services at the relevant Submarine Cable Landing Station is terminated or expires pursuant to **Part X of Schedule A** and **Schedule C**.

4.7.2 The Access Seeker shall be obliged to inform the Access Seeker immediately upon the occurrence of any of the events in **Paragraph 4.7.1** above.

APPENDIX A**1. List of TM's Submarine Cable Landing Station and Submarine Cable Systems**

- (a) FLAG Submarine Cable System – for Co-location Equipment located at Kuala Muda Submarine Cable Landing Station.
- (b) SMW3 Submarine Cable System – for Co-location Equipment located at Kuala Muda Submarine Cable Landing Station.
- (c) SAT3/WASC/SAFE Submarine Cable System – for Co-location Equipment located at Kuala Muda Submarine Cable Landing Station.
- (d) APCN2 Submarine Cable System – for Co-location Equipment located at Cherating Submarine Cable Landing Station.
- (e) APCN Submarine Cable System – for Co-location Equipment located at Mersing Submarine Cable Landing Station.
- (f) SMW3 Submarine Cable System – for Co-location Equipment located at Mersing Submarine Cable Landing Station.
- (g) DMCS Submarine Cable System – for Co-location Equipment located at Melaka Submarine Cable Landing Station.
- (h) SMW4 Submarine Cable System – for Co-location Equipment located at Melaka Submarine Cable Landing Station.

2. List of TM's Submarine Cable Landing Station

- (a) Kuala Muda Submarine Cable Landing Station
- (b) Cherating Submarine Cable Landing Station
- (c) Mersing Submarine Cable Landing Station
- (d) Melaka Submarine Cable Landing Station

3. List of TM's Satellite Earth Station

- (a) Kuantan Earth Station
- (b) Wangsa Maju Earth Station
- (c) Melaka Earth Station
- (d) Cyberjaya Earth Station

SCHEDULE A**SERVICE DESCRIPTION****PART X – NETWORK CO-LOCATION SERVICES****1. General**

- 1.1 **Part X** of **Schedule A** sets out the terms and conditions which are applicable to Network Co-location Service.

2. Types of Network Co-Location Services

- 2.1 The types of Network Co-Location Services provided by TM are:

- (a) Physical Co-Location, which refers to the provision of space at TM's premises to enable the Access Seeker to install and maintain equipment necessary for the provision of the Access Seeker's services through the Facilities and/or Services of TM. Physical Co-Location includes physical space, power, environmental services (such as heat, light, ventilation and air-conditioning), security, site maintenance and access for the personnel of the Access Seeker; and
- (b) Virtual Co-Location, which refers to the provision of facilities or services at TM's premises to enable the acquisition by the Access Seeker of Facilities and Services, where equipment is owned and maintained by TM.

3. Pre- Requisites For Applying For Network Co-Location Services**3.1 General Pre-requisites for Network Co-Location**

- 3.1.1 TM shall not be obliged to provide Network Co-Location at the designated sites ("**Designated Sites**") in accordance with the terms of TM's ARD and the Access Agreement including **Schedule C** unless:

- (a) TM:
 - (i) is the legal owner of the Designated Site; or
 - (ii) has exclusive rights of use of the Designated Sites pursuant to a lease or tenancy agreement and TM has been granted the requisite approval by the owner or landlord of the Designated Sites to permit the Access Seeker to use space for physical co-location in accordance with the terms herein contained;
- (b) The Access Seeker has the appropriate license under the Act and its subsidiary legislation to operate the service for the purpose for which the equipment is to be installed and other approvals from relevant authority, where required;
- (c) there is sufficient space at the Designated Sites; and

- (d) that it is not technically infeasible to implement Network Co-Location at the Designated Site.

3.1.2 The list of the Designated Sites may be obtained from TM upon written request

3.2 Additional Pre-requisites for Network Co-Location at Specific Sites

3.2.1 Network Co-Location at Submarine Cable Landing Station

3.2.1.1 For access to Designated Sites at Submarine Cable Landing Stations, the Access Seeker must have acquired the following before TM will provide such access at those places:

- (a) an Indefeasible Rights of Use (“**IRU**”) holder to access their acquired capacity of the relevant Cable System; or
- (b) a holder of a long term leased capacity to access their leased capacity in the relevant Cable System and have obtained a written authorisation of the leased cable provided of the relevant Cable System

3.2.1.2 The Co-located Space (as hereinafter defined) is solely for the purpose of the Access Seeker to access the Cable System or Systems (in the case where more than one cable system land in the Submarine Cable Landing Station) landed in the Submarine Cable Landing Station.

4. General Terms and Conditions on Network Co-Location Services

4.1 Duration

4.1.1 Network Co-Location at a Designated Site, agreed between the Operators, shall be for a fixed period of three (3) years unless a lesser period is stipulated by TM (where TM's right to use the Designated Site is less than three (3) years) and may be further renewed subject to the mutual agreement of the Operators. The Access Seeker shall within six (6) months prior to the expiry of the term of the Network Co-Location at the Designated Site notify TM in writing as to whether or not it wishes to renew the term of the Network Co-Location.

4.1.2 The term of the Network Co-Location shall commence on the date (“**Start Date**”):

- (a) TM makes available for physical possession the co-located space (“**Co-Located Space**”) at the Designated Site; or
- (b) the Access Seeker takes physical possession of the Co-Located Space at the Designated Site,

whichever is the earlier.

5. Specific Terms and Conditions for Physical Co-Location

5.1 Use of Co-Located Space

- 5.1.1 The Access Seeker shall only use the Co-Located Space for the sole purpose of providing Communication Services and shall not do or permit to be done any act or thing which is illegal or may become a nuisance or give reasonable cause for complaint by the owner or any of the other access seekers in TM's Designated Site or any other buildings adjoining the Designated Site.
- 5.1.2 If the Access Seeker has not complied with **Paragraph 5.1.1**, the Access Seeker shall take the necessary rectification or remedial action to address any complaints made by TM or other access seekers in the Designated Site.
- 5.1.3 The Access Seeker's right to use the Co-Located Space and the right of access does not entitle the Access Seeker to any proprietary interest whether under statute, common law, equity or any theory of law in any building, land, fixture, other structure or in or to the Designated Site.
- 5.1.4 Where the Designated Site is owned or controlled by a third party ("**Site Owner**") and TM's use of the Designated Site is pursuant to a tenancy or lease, TM shall be under no obligation to seek any renewal of the term of the tenancy or lease. The Access Seeker agrees that it shall not seek a tenancy or lease to the Designated Sites from the Site Owner unless the TM signifies in writing that it is no longer interested in the use of the Designated Sites.

5.2 Storage

- 5.2.1 The Access Seeker shall not permit to be kept on the Co-Located Space or any part thereof:
- (a) any materials the storage of which may contravene any ordinance, statute, regulation or bye-law;
 - (b) any materials the storage of which an increased rate of insurance is usually required; or
 - (c) any explosive, combustible or radioactive substances.

5.3 Increase in Premium

- 5.3.1 The Access Seeker shall not do or permit to be done anything which would render the insurance policy or policies with respect to TM's Designated Site on which the Co-Located Space is located void or voidable or whereby the premium of the said policy or policies may be increased. In the event of an increase in premium or other expenses on renewal of such policy or policies due to a breach or non-observance of this condition by the Access Seeker, the Access Seeker undertakes to repay all sums paid by TM including the expenses incurred thereto.

5.4 Repairs

- 5.4.1 In the event of any damage caused to the Co-Located Space by the Access Seeker, the Access Seeker shall, at its own cost and expense, restore and to forthwith make good any replacement and/or repair (fair wear and tear excepted) as specified in the notice in writing given by TM to the Access Seeker. Where applicable, TM may

specify all necessary repairs or, where damages cannot be made good with repairs to the original state and condition, such replacements to be effected to plant, facilities and equipment.

- 5.4.2 If the Access Seeker fails to effect the replacements and/or repairs within reasonable time period stipulated in the notice (which period must be a reasonable time), TM may, whether or not together with its workmen, enter the Co-Located Space and make all necessary replacements and/or repairs to the building, plant, facilities and equipment. The costs for all such necessary replacements and/or repairs shall be a debt due from the Access Seeker and shall be recoverable by TM save where the replacements and/or repairs were due to the natural failure of the structure or due to TM.

5.5 Tenantable Condition

- 5.5.1 The Access Seeker shall keep the Co-Located Space and the interior thereof including the flooring and interior plaster or other surface material or rendering on walls or ceilings and TM's fixtures thereon including doors, window, glass shutters, locks, fastenings, electric wires, installations and fittings for electricity supply and other fixtures and additions and other goods therein including the items specifically attached thereto, if any, in good and tenantable repair and condition (reasonable wear and tear excepted).

5.6 Consents, Licences and Approvals

- 5.6.1 The Access Seeker shall be fully responsible to obtain all necessary consents, permits, approvals and licenses from third parties and governmental authorities or agencies to carry out/provide its Communications Services at the Co-Located Space including operating and using all equipments, systems, cables, links and devices.
- 5.6.2 The Access Seeker shall further observe and comply with all laws, bye-laws, rules and regulations affecting the Access Seeker which are now in force or which may hereafter be enacted.
- 5.6.3 The Access Seeker shall further observe and perform and cause all its employees, independent contractors, agents or invitees to observe and perform all rules and regulations made by TM from time to time and notified to the Access Seeker in writing Provided Always that TM shall not be liable to the Access Seeker in any way for violation of the rules and regulations by any person including the Access Seeker or its employees, independent contractors, agents or invitees save where TM has been negligent.

5.7 Sub-letting and Assignment

- 5.7.1 The Access Seeker shall not sub-let, assign or part with the possession of the Co-Located Space without the prior written approval of TM. Where TM allows the Access Seeker to sub-let the Co-Located Space, the Access Seeker shall be fully responsible for the acts and omission of its sub-lessee and shall ensure that its sub-lessee complies with all the Access Seeker's obligations with respect to the Co-Located Space under TM's ARD and the Access Agreement.
- 5.7.2 Where the Access Seeker is permitted by TM to sub-let part of the Co-Located Space to other access seekers for the purposes of co-locating with the Access Seeker at the Co-Located Space, the Access Seeker shall strictly comply with the same procedures in respect of permitting access as those stipulated and/or required

by TM in providing access. The Access Seeker must notify TM of all persons with whom the Access Seeker has reached a co-location agreement. The Access Seeker shall provide sufficient evidence to TM to demonstrate that such agreement with the other access seeker have been duly registered with the Commission, failing which the other access seekers shall not be permitted to co-locate at the Co-Located Space. The Access Seeker shall be fully responsible to ensure that all other access seekers co-locating with the Access Seeker at the Co-Located Space shall strictly comply with all the relevant terms and conditions contained in TM's ARD and Access Agreement including but not limited to provisions pertaining to the preservation of and the security of TM's Network Facilities and premises.

5.8 Payment of Quit Rents, Rates and Taxes

5.8.1 TM will pay all quit rents, rates (save for utilities), taxes, assessments which are or may hereafter be charged upon the Co-Located Space. Any increase in quit rent, assessment, taxes or rates on the Co-Located Space after the Commencement Date of the Network Co-Location shall be borne equally between the TM and all access seekers in proportion to their usage of space.

5.9 TM's Covenant

5.9.1 TM does not warrant or represent that it has obtained all the necessary authorisation, approvals or permits from the relevant authorities (including the Federal and State Government) to erect the infrastructure on the Designated Site in which the Co-Located Space has been rented to the Access Seeker to use or occupy the Designated Site.

5.9.2 In the event that:

- (a) TM is required by the relevant authorities to dismantle the infrastructure on the Designated Site; or
- (b) any governmental or State authority owner/landlord of the Designated Sites, requires TM to vacate the Designated Site for whatsoever reason,

such that the Access Seeker is not able to:

- (i) install or utilise the equipment, system or devices thereon; or
- (ii) provide its communication services at the Designated Site,

either Operator may, notwithstanding the minimum term, terminate the Network Co-Location at Co-Located Space without liability. Any advanced payment will be refunded on a pro-rated basis. The Operators agree that the remedies set out in this **Paragraph 5.9** shall be the only remedy against TM and TM shall not be liable to the Access Seeker for any damages, costs and/or expenses including but not limited to the costs of dismantling and removing the Access Seeker's equipment, system or devices. However, TM will use its reasonable endeavours to offer the Access Seeker other suitable Designated Sites.

5.9.3 Where TM is required by any governmental authority or agency or any state backed company to sell or dispose the Designated Site to the governmental authority or its nominated person or entity, TM will use its endeavours (but does not guarantee that it will be able) to sell the Designated Site subject to any existing rights of the Access Seeker to use the Co-Located Space on the Designated Site. However, where the

third party purchaser requires that the Access Seeker vacate the Co-Located Space prior to the sale of the Designated Site, the Access Seeker shall dismantle its equipment, system and devices and vacate the Co-Located Space prior to the sale of the said Designated Site to the third party. Any advance payment will be refunded on a pro-rated basis. The Access Seeker and/or TM may, notwithstanding the minimum term, terminate the Network Co-Location at the Co-Located Space without liability. The Operators agree that the remedies set out in this **Paragraph 5.9** shall be the only remedy against TM and TM shall not be liable to the Access Seeker for any damages, costs and/or expenses including but not limited to the costs of dismantling and removing the Access Seeker's equipment, system or devices.

5.10 Utilities

5.10.1 The Access Seeker shall be responsible to apply for its own individual meter and power supply to the Co-Located Space and shall be further responsible for and bear the cost of all electricity utilised by the Access Seeker at the Co-Located Space.

5.10.2 In the event that the Access Seeker's application to the relevant authority for an individual meter is not successful, the Access Seeker may:

- (a) subject to TM's prior written approval, utilise the electricity supplied to TM at that premises provided that:
 - (i) TM is of the opinion that the electricity power load is sufficient to be shared with the Access Seeker and other access seekers within its Designated Site; and
 - (ii) the Access Seeker reimburse TM for all electricity charges utilised (and any additional charges for back-up power) by the Access Seeker at the Co-Located Space, the charges of which shall be determined by TM.
- (b) where TM is not able to provide the electricity supply to the Access Seeker for any reasons whatsoever, the Access Seeker shall be entitled to bring and install its own generator at the Co-Located Space.

5.11 To Permit TM to Enter and View Condition

5.11.1 Where the Co-Located Space is an enclosed or secured area, the Access Seeker shall permit TM and his agents, servants and contractors, to enter the Co-Located Space at all reasonable times and upon reasonable notice for the purpose of viewing the state and condition thereof or for any other reasonable purpose. However, in an emergency, TM may enter the Co-Located Space by first giving verbal notification and which shall be followed by a written notification within twenty four (24) hours and take reasonable actions as the circumstances dictate to address the emergency situation. The Access Seeker shall have the option to provide an escort to TM, at its own cost, but TM shall not be prevented from entering if the escort fails to be present.

5.12 Installation of Equipment

5.12.1 The Access Seeker shall ensure that all equipment, system or devices on the Co-Located Space shall:

- (a) be type-approved and comply with all relevant laws and regulations;

- (b) not cause any frequency interference to TM's and/or any of the other access seekers' equipment or services provided in or around the Co-Located Space; TM
- (c) be electromagnetically compatible in accordance with the prescribed standards and shall not cause electromagnetic interference to TM's and/or any of the other access seekers' equipment or services provided in or around the Co-Located Space; and/or
- (d) only connect its equipment to pre-determined equipment belonging to TM.

For the purposes of **Paragraphs 5.12.1 (b) and (c)**, where the Access Seeker's equipment causes frequency interference or electromagnetic interference to TM's and/or other access seekers' equipment or services provided in or around the Co-Located Space, TM shall provide immediate verbal notification followed by a written notice within 24 hours to the Access Seeker. The Access Seeker shall immediately (and in any event no longer than 24 hours) take all such necessary steps to stop any such interference.

5.12.2 In the event that:

- (a) the Access Seeker fails to fulfil its obligations under this **Paragraph 5.12.1**; or
- (b) the equipment, system or devices of the Access Seeker is or poses a threat or danger to public health and safety or TM and/or other access seeker's facilities, equipment, device or system,

TM may direct the Access Seeker to take such remedial action as may be necessary to remedy such breaches including temporary shutting down of the equipment, system or devices.

5.12.3 The Access Seeker shall only be permitted to install its Equipment on the Co-Located Space for the provision of its communication services and shall not be permitted to install any other party's equipment, system and/or devices on the Co-Located Space without the prior written approval of TM.

5.12.4 The Access Seeker shall not damage, tamper, modify, alter or handle any equipment, system or devices belonging to TM or any other access seeker in the Designated Site and/or the Co-Located Space without the prior written approval of TM and/or the other access seeker.

5.12.5 The Access Seeker is responsible for insuring its equipment and shall purchase the necessary insurances when carrying out any works including installation works on TM's Designated Site. In particular, the Access Seeker shall obtain or procure an Erection All Risks insurance against all risks of physical loss or damage to the Access Seeker's work whereby TM is a named insured (either solely or jointly) in the insurance policy for the duration of the works and the insurance shall be in the amount which is sufficient to insure the full value of the works carried out by the Access Seeker.

5.13 Installation of Electrical Points and Plumbing Connection

5.13.1 The Access Seeker shall only install electrical sockets, plugs or electrical power points or electrical motor or engine or appliances or make any additional plumbing

connections on or to the Co-Located Space after obtaining the without the prior written consent of TM to the work plan.

5.14 Safety and Health and Security Procedures

5.14.1 The Access Seeker shall comply with the provisions and requirements of the Occupational Safety and Health Act 1994 (“**OSHA**”). These provisions include the usage of personal protective equipment such as safety helmet, safety boots, safety goggles and other safety gadgets as prescribed by OSHA. Any failure to comply with OSHA by the Access Seeker shall be rectified immediately and if required by TM, the Access Seeker shall comply with all actions specified by TM including to cease or suspend work or to disconnect their equipment from the power supply or source.

5.14.2 The Access Seeker shall exercise due care in the execution of their work so as to prevent accidents and are required to report any incidents including but not limited to accidents as a result of their works to TM within twenty four (24) hours from the time of the occurrence.

5.14.3 The Access Seeker shall comply and cause its employees, agents and contractors to comply with all guidelines, rules and regulations issued by TM from time to time on site access and security procedures with respect to access to and use of the Co-Located Space. Further, the Access Seeker shall undertake all such necessary measures to prevent unauthorised access to the Co-Located Space.

5.15 Exclusive Possession

5.15.1 The Access Seeker recognises that it does not have exclusive possession of the Co-Located Space since TM occupies the Co-Located Space and may sub-let or intends to sub-let the Co-Located Space to other parties. However, TM agrees that it shall not tamper, modify, alter or handle any or interfere with equipment, system or devices belonging to the Assess Seeker at the Co-Located Space for the duration of the Physical Co-Location unless an emergency situation arises and immediate notice has been given to the Access Seeker.

5.16 Maintenance of Equipment

5.16.1 The Access Seeker shall be responsible for the operation and maintenance of its Equipment, system and/or devices at the Co-Located Space.

5.16.2 TM shall not be responsible for any damage to the Access Seeker's Equipment, system and/or devices at the Co-Located Space caused by fire, water leakage, air-conditioning/mechanical ventilation failure, power fluctuation/interruption, and/or by any other causes or reasons unless due to TM's negligence.

5.16.3 In the operation and maintenance of the Equipment, systems and/or devices at the Co-Located Space, the Access Seeker must:

- (a) take such other action as a reasonably prudent Access Seeker would in operating and maintaining their Equipment, systems and/or devices;
- (b) keep the Co-Location Space in a tidy and safe condition at all times; and
- (c) ensure that flammable or toxic material is not left in or around the Co-Location Space following maintenance and/or other operations.

5.16.4 If a fault, defect or problem with the Access Seeker's Equipment, systems and/or devices at the Co-Located Space causes or may cause damage to the Co-Location Space and/or to TM's and other access seeker's equipment and/or facilities, the Access Seeker must:

- (a) notify TM in writing as soon as practicable; and
- (b) repair the fault, defect or problem or take other appropriate corrective action immediately to TM's satisfaction.

5.16.5 If the Access Seeker detects a fault, defect or problem in the Co-Location Space, it must notify TM as soon as possible.

5.17 Vacating the Co-Located Space

5.17.1 The Access Seeker shall on the expiration or termination of the Physical Co-Location at each Co-Located Space, at its own cost and expense, remove all its equipment, system and devices which may have been installed by the Access Seeker and to peaceably and quietly yield up the Co-Located Space to TM with all TM's fixtures and additions thereto in good and tenantable repair and condition in accordance with the covenants herein contained.

5.17.2 The Access Seeker shall be given:

- (a) a grace period of ten (10) Business Days effective from the expiry or termination of the Physical Co-Location at the Co-Located Space; or
- (b) where the infrastructure on the Designated Site is to be dismantled or TM is to vacate the Designated Site in accordance with **Paragraph 5.17**, such reasonable grace period as may be specified by TM taking into consideration the time lines provided by the relevant authorities or the owner of the land/landlord to TM to dismantle the infrastructure or to vacate the Designated Site provided always that the Access Seeker must vacate the Co-Located Space earlier than the stipulated time line provided to TM to enable TM to comply with the requisite time lines,

to vacate the Co-Located Space during which no monthly rental will be charged by TM. Should the equipment, system or devices not be removed within the grace period, TM shall have the right to:

- (i) charge for the use of the Co-Located Space at the rate of two (2) times the current rental or the cost of reinstatement as debt due and payable; and
- (ii) without any liability to the Access Seeker, dispose of the equipment, system or devices in such manner as TM deems fit with a one (1) month's written notice. If the Access Seeker fails to settle any debt due, TM shall have a lien on the equipment, system or devices and is entitled to retain such equipment, system or devices or to sell the equipment, system or devices at any price in such manner as it deems fit for payment of any such debt and the cost of sale shall be borne by the Access Seeker. TM shall be entitled to set off the proceeds from the sale of the equipment, system or devices against any and all debts due by the

Access Seeker to TM. Any balance in the proceeds from the sale shall be returned to the Access Seeker.

6. Specific Terms and Conditions for Virtual Co-Location

- 6.1 Virtual Co-Location at a Designated Site shall be subject to the availability of the equipment which the Access Seeker is requesting TM to own and maintain on its behalf.
- 6.2 The terms of Virtual Co-Location at a Designated Site shall be subject to terms and conditions (including the Charges there of) to be mutually agreed on a case by case basis.

SCHEDULE A**SERVICE DESCRIPTION****PART XI – BITSTREAM SERVICES****1. General**

1.1 **Part XI of Schedule A** sets out the terms and conditions which are applicable to Bitstream Services.

2. Types of Bitstream Services

2.1 The types of Bitstream Services provided by TM are:-

(a) Bitstream with Network Service, which is a Facility and/or Service for the provision of Layer 2 connectivity for the carriage of certain communications (being data in digital form and conforming to Internet Protocols) between the customer equipment at a Customer's premises and a POI at the Access Seeker's premises, where:

- (i) the customer equipment is directly connected to TM's Network;
- (ii) the Access Seeker, but not TM, assigns the Customer with an Internet Protocol address; and
- (iii) the Access Seeker leases from TM backhaul transmission network from TM's DSLAM at TM's Exchange to the POI at the Access Seeker's premises.

Bitstream with Network Services includes shared splitting services, interfaces to operational support systems and network information.

(b) Bitstream without Network Service, which is a Facility and/or Service for the provision of Layer 2 connectivity for the carriage of certain communications (being data in digital form and conforming to Internet Protocols) between the customer equipment at a Customer's premises and a POI at TM's premises, where:

- (i) the customer equipment is directly connected to TM's network; and
- (ii) the Access Seeker, but not TM, assigns the Customer with an Internet Protocol address.

Bitstream without Network Services includes shared splitting services, interfaces to operational support systems and network information.

3. Availability of Bitstream Services

3.1 Consistent with Government policy and the Access List Determination, TM shall not be required to provide Bitstream Services:

- (a) in the premises to which the HSB Network is connected; or

- (b) where the minimum subscription period for Bitstream Services cannot be satisfied or completed prior to the connection of the Customer premises to the HSBB Network.

4. Pre-requisites for Applying for Bitstream Services

4.1 TM shall not be obliged to provide to the Access Seeker:-

- (a) Bitstream with Network Services unless the Access Seeker also applied and subscribed to the backhaul transmission network to the Access Seeker's POI at the Access Seeker's premises; or
- (b) Bitstream without Network Services unless the Access Seeker also applied and subscribed to Network Co-location Services.

4.2 The terms and conditions pertaining to Network Co-Location Services, is more particularly set out in **Part X** of **Schedule A**, respectively, shall apply to this **Part XI** subject to the amendments and modifications contained herein.

5. Provisioning of Bitstream Services

5.1 Bitstream Services is only available:-

- (a) to the Access Seeker:
 - (i) in respect of specific Customers who are directly connected to TM's Network and who is a subscriber of TM's PSTN services; or
 - (ii) where the Access Seeker concurrently subscribes to both Bitstream Services and Wholesale Line Rental Services in relation to a particular Communications Wire to provide a retail broadband service to the Customer over that Communications Wire;
- (b) where the Communications Wire is suitable for the provision of the Bitstream Services in accordance with the Technical Specifications; and
- (c) based specifically on ADSL ITU-T G.992.1 recommendation.

5.2 Bitstream Services will be activated in relation to a particular Communications Wire where:

- (a) the Customer has, in accordance with the Service Ordering Procedures, specifically requested the Access Seeker to provide to the Customer retail broadband services utilising Bitstream Services. Evidence of such request shall be provided to TM; and
- (b) if a retail broadband service is already being provided over the Communications Wire including retail broadband services provided by other access seekers utilising Full Access Service, Sub-Loop Service, Line Sharing Service, Bitstream Services and DSL Resale, the minimum subscription period for such retail broadband services have been satisfied, completed or waived.

- 5.3 Where Bitstream Services are available, TM will provide agreed Bitstream Services in accordance with TM's ARD and the Access Agreement including the relevant provisions of the **Schedule C**.
- 5.4 Each Operator must ensure that its Facilities provided at each POI conforms to the QOS Standards and Technical Specifications.
- 5.5 TM shall use all reasonable endeavours to correct any trouble affecting the quality of service of TM. In the case of urgency, TM shall be entitled to:
- (a) disconnect the Bitstream Services immediately and without prior consultation with Access Seeker, provided that TM can reasonably identify that the traffic on the Bitstream Services has caused a breakdown of networks or services (or parts thereof) or if there is imminent risk of such breakdown. TM will immediately inform the Access Seeker about the disconnection before its execution; and
 - (b) contact the Access Seeker's Customers directly with a view of maintaining or ensuring TM's ownership of network facilities. The Operators agree that only TM may carry out service works on equipment belonging to TM.
- 5.6 The minimum period in which the Access Seeker may subscribe to the Bitstream Services is one (1) year.
- 5.7 Where either the Customer terminates TM's PSTN services provided to that Customer or the Access Seeker terminates TM's Wholesale Line Rental Service, TM shall be entitled to terminate the Bitstream Services to that Customer premises and shall not be obliged to provide Bitstream Services to that Customer premises.
- 5.8 The Operators agree that the time period for line activation for access to Bitstream Services are as follows:

Type of Bitstream Services	Activation time period
Bitstream with Network Service	Five (5) Business Days from receipt of a written request for line activation together with all relevant supporting documentation for such request.
Bitstream without Network Service	Five (5) Business Days from receipt of a written request for line activation together with all relevant supporting documentation for such request.

6. General Principles for the provision of Bitstream Services

- 6.1 TM shall keep the full ownership of the equipment and network elements that belong to TM and that have been installed by TM or on behalf of TM and that are used to provide Bitstream Services to the Access Seeker.
- 6.2 TM remains solely responsible for the specifications or type of the equipment and technologies used in its Network, as well as for determining the evolution in the said equipment and technologies. The Access Seeker shall ensure that its Network or system is compatible with TM's Network to enable TM to provide the Bitstream Services to the Access Seeker. The Access Seeker shall bear its own cost and expenses in connecting its system or Network to TM's POI.

- 6.3 The Access Seeker shall be solely responsible to provide its own IP addresses for its Customers.
- 6.4 TM does not, as part of the Bitstream Services, provide:
- (a) a personal computer;
 - (b) DSL modems or related drivers or software; and
 - (c) DSL micro-filters or splitters.
- 6.5 Any request for Bitstream Services shall be made by the Access Seeker in writing to TM and shall be subject to manual checking process which shall be agreed and detailed in the Access Agreement.
- 6.6 In the event of service break down due to third party acts including but not limited to cable theft, construction works and vandalism, TM shall use its reasonable endeavours to repair or replace the Unconditioned Communications Wire except in cases where TM through the exercise of its reasonable commercial judgement determines that the Unconditioned Communications Wire shall not be replaced. TM may, but shall not be obligated to offer an alternative solution to the Customer premises, subject to its own commercial criteria.

7. Obligations of the Access Seeker

- 7.1 The Access Seeker is only permitted to use the Bitstream Services for the purpose of providing broadband data services (including voice over broadband) to its Customers.
- 7.2 The Access Seeker has to ensure that the equipment if any and related software that it uses complies with international standards and does not, at any time, cause service degradation in TM's Network. The Access Seeker shall provide DSL modem to the Customers. The Access Seeker shall use DSL modem and Point to Point Protocol (PPP) as reasonably recommended by TM
- 7.3 In order to ensure the adequate operation of the Access Seeker's service, the Access Seeker needs to ensure the full interoperability between the equipment installed at the Customer premises and the POI.
- 7.4 At all times, the co-existence needs to be ensured between the services provided by the Access Seeker through the use of the Bitstream Services and the services provided by TM or another Access Seeker on TM's Network. TM shall be entitled to take a number of measures to protect its Network taking into account the need to ensure the co-existence of the different services mentioned above. The abovementioned rules and measures will relate in particular to the need to ensure that the Access Seeker's contemplated use of the Bitstream Services does not disturb the existing services provided by TM.
- 7.5 The Access Seeker shall, independently of TM, manage all aspects of the relations with its own Customer unless otherwise agreed between the Operators in writing. The Access Seeker shall, therefore, be fully responsible for all its Customer inquiries including but not limited to inquiries concerning product information, service, fault

reports, technical issues and settlement. The Access Seeker may only refer a matter to TM in the case of a fault of TM.

- 7.6 The Access Seeker shall be liable to TM for ensuring that the Access Seeker's Customers do not in any way dispose of, sell, rent out and pledge TM's equipment and installations and the Access Seeker shall ensure that their Customers do not in any way interfere with the network facilities and/or installations of TM. The Access Seeker further undertakes to use its best endeavours to ensure that its Customers will at all times maintain the marking of equipment and network facilities indicating that they belong to TM.
- 7.7 TM may give the Access Seeker instructions which TM reasonably believes are necessary for health, safety or the quality of any Communications Services provided by TM to the Access Seeker or any other person.
- 7.8 Any equipment connected to or used with the Bitstream Services must be connected and used in accordance with all applicable instructions, safety and security procedures set out in the Technical Specifications. Any equipment that is attached, directly or indirectly, to the Bitstream Services must be technically compatible with the Bitstream Services and approved for that purpose under any application legislation or industry standards.
- 7.9 The Access Seeker acknowledges and agrees that TM has no responsibility for any equipment to be installed on the Access Seeker's Customer premises beyond the Network Boundary. TM shall not be responsible for testing, provisioning, supplying, purchasing, installing or maintaining any equipment to be installed on the Access Seeker's Customer premises beyond the Network Boundary, including, without limitation, the DSL modem required for the Bitstream Services.

8. Customer Terms and Conditions

- 8.1 The Access Seeker shall cause the terms and conditions governing the Access Seeker's contractual relationships with its Customers to be compliant with the terms and conditions set out in TM's ARD and the Access Agreement with respect to Bitstream Services.
- 8.2 The Access Seeker shall indemnify TM against all losses, claims or liability suffered by TM due to the fact that the Access Seeker failed to comply with **Paragraph 8.1**.

SCHEDULE A**SERVICE DESCRIPTION****PART XII – BROADCASTING TRANSMISSION SERVICE****1. General**

1.1 **Part XII of Schedule A** sets out the terms and conditions which are applicable to Broadcasting Transmission Service.

1.2 Consistent with Government policy and the Access List Determination, TM shall only be required to provide Broadcasting Transmission Service until the Sunset Date.

2. Availability of Broadcasting Transmission Service

2.1 The terms and conditions in this **Part IV of Schedule A** shall only be applicable until the Sunset Date.

2.2 Access Seekers who are provided with access to Broadcasting Transmission Service pursuant to an Access Agreement prior to the Sunset Date will automatically be provided with access to Transmission Service after the Sunset Date unless:

(a) the Transmission Service does not offer leased circuits which have the same bandwidth as the leased circuit bandwidth offered under Broadcasting Transmission Service currently subscribed by the Access Seeker; or

(b) the Access Seeker:

(i) notifies TM in writing at least sixty (60) days prior to the Sunset Date that it does not wish to seek access to Transmission Service after the Sunset Date ("**Service Termination Notice**"); and

(ii) has met the conditions for termination of the Broadcasting Transmission Service as specified in the Access Agreement or by TM ("**Termination Conditions**").

2.3 Where the Transmission Service does not offer leased circuits which has the same bandwidth as the leased circuit bandwidth offered under Broadcasting Transmission Service, then those leased circuit for Broadcasting Transmission Service will automatically terminate on the Sunset Date. The Access Seeker may however subscribe for new leased circuits of different bandwidth under Transmission Service pursuant to a new leased circuit agreement and in accordance with the terms and conditions in **Part XVII of Schedule A**.

2.4 In relation to **Paragraph 2.2**, where the Access Seeker provides the Service Termination Notice and complies with the Termination Conditions, TM shall cease to provide the Access Seeker with access to Broadcasting Transmission Service on the Sunset Date or such earlier date as agreed between the parties.

2.5 After the Sunset Date, Access Seekers who wish to seek access to Broadcasting Transmission Service shall be required instead to seek access to Transmission Service in accordance with the terms and conditions in **Part XVII of Schedule A**.

3. Service Description

3.1 The Broadcasting Transmission Service:

- (a) is a Facility and/or Service for the carriage of Communications which comprise a content application service between transmission points via network interfaces at such transmission rates as may be agreed between TM and the Access Seeker on a permanent basis;
- (b) consists of the following elements:
 - (i) transmission network;
 - (ii) transmitter stations facilities;
 - (iii) tower facilities; and
 - (iv) various network elements eg. codecs, switches, splitters, multiplexers, network management system, etc; and
- (c) usually commences from a licensed content application service provider's studio or from other content application service transmission points. For the purpose of clarification, the content application service provider's studio or broadcasting facility is usually located at a content application service provider's premises and is the common starting transmission point of a Broadcasting Transmission Network.

3.2 The transmission points referred to in **Paragraph 3.1** are any technically feasible network transmission points.

3.3 The transmission network between the content application service provider's studio and the transmitter stations facilities shall be governed by the terms and conditions for Domestic Network Transmission Service as set out in **Part IV of Schedule A**.

3.4 The transmitter station facilities shall be governed by the terms and conditions for Network Co-location as set out in **Part X of Schedule A**. For the purpose of clarification, in this context, the transmission station facilities typically relate to:

- (a) the physical and/or virtual co-location of broadcasting transmitters and their ancillary equipment or instrument; and
- (b) In-span interconnection between TM and the Access Seeker's network facilities at designated POI.

3.5 The tower facilities shall be governed by the terms and conditions for Infrastructure Sharing Service as set out in **Part VIII of Schedule A**. For the purpose of clarification, in this context, the tower facilities typically relate to the provision of broadcasting antennas and their ancillary equipment or instrument.

3.6 The network elements as in **Paragraph 3.1(b)** shall be provided in conjunction with the transmission network between the content application service provider's studio and the transmitter stations facilities and shall be governed by the terms and conditions for Domestic Network Transmission Service as set out in **Part IV of Schedule A**. The Access Seeker will pay to TM for these network elements in accordance with the applicable provisions set out in **Part XII of Schedule B**.

4. Scope of and Pre-requisites for the Broadcasting Transmission Service

- 4.1 Subject to the Access Seeker complying with the Service Ordering Procedures, TM will provide in accordance with TM's ARD and the Access Agreement including the agreed provisioning procedures as set out in **Schedule C**, Broadcasting Transmission Service requested by the Access Seeker.
- 4.2 TM shall not be obliged to provide the Access Seeker Broadcasting Transmission Service requested by the Access Seeker unless the Access Seeker has first applied for and subscribed:-
- (a) Domestic Network Transmission Service;
 - (b) Infrastructure Sharing Service, and
 - (c) Network Co-Location Service.
- 4.3 The terms and conditions pertaining to:
- (a) Domestic Network Transmission Service;
 - (b) Infrastructure Sharing Service, and
 - (c) Network Co-Location Service.

as more particularly set out in **Part IV**, **Part VIII** and **Part X** of **Schedule A** respectively shall apply to this **Part XII** of **Schedule A** subject to the amendments and modifications contained herein.

5. Facilities Access

- 5.1 Where relevant, the network facilities access and co-location procedures set out in Section 5.13 of the MSA Determination, **Part X** of **Schedule A** and **Schedule C** shall be applicable.
- 5.2 Where the Access Seeker leases Broadcasting Transmission Service from TM, TM's equipment can be co-located in the Access Seeker's premises in accordance with Section 5.13 of the MSA Determination, **Part X** of **Schedule A** and **Schedule C** for the required space in the Access Seeker's premises.
- 5.3 The Access Seeker shall provide TM reasonable access to its premises when TM reasonably requires it for the purpose of installing, maintaining, modifying or removing equipment related to the provision of Broadcasting Transmission Service by TM.

SCHEDULE A**SERVICE DESCRIPTION****PART XIII – DSL RESALE SERVICE****1. General**

- 1.1 **Part XIII of Schedule A** sets out the terms and conditions which are applicable to DSL Resale Service.

2. Scope of DSL Resale Service

- 2.1 DSL Resale is:

- (a) a Facility and/or Service for the provision of Layer 3 connectivity using Digital Subscriber Line technology for the carriage of certain communications (being data in digital form and conforming to Internet Protocols) between the customer equipment at the Customer's premises and TM's predefined point of presence, in which TM, assigns the Customer with a private Internet Protocol address; and
- (b) is limited to the wholesale provision of the digital subscriber line service ordinarily provided by TM to Customers.

- 2.2 DSL Resale Service does not include any connection to the Internet.

3. Availability of DSL Resale Service

- 3.1 Consistent with Government policy and the Access List Determination, TM shall not be required to provide DSL Resale Services in any premises to which the HSBB Network is connected.

4. Provisioning of DSL Resale Services

- 4.1 The DSL Resale Services is available:

- (a) subject to Port availability in the exchange serving the Customer premises;
- (b) for Customer who are directly connected to and receive PSTN voice service from TM's PSTN Network at the premises where the DSL Resale Services is to be delivered; and
- (c) on those Communications Wire which is suitable in accordance with the Technical Specifications and which are within a prescribed distance of TM's DSL-enabled exchanges.

- 4.2 The minimum period in which the Access Seeker may subscribe to the DSL Resale Service is one (1) year.

- 4.3 Where the Customer terminated TM's PSTN services provided to that Customer, TM

shall be entitled to terminate the DSL Resale Service to that Customer premises.

5. TM's Obligations

- 5.1 TM does not guarantee that the DSL Resale Service will perform at the speeds ordered at any given time.
- 5.2 TM does not provide a firewall or any other form of security as a standard feature of the DSL Resale Service.
- 5.3 TM does not, as part of the DSL Resale Service, provide:
- (a) a personal computer;
 - (b) DSL modems or related drivers or software; and
 - (c) DSL micro-filters or splitters.
- 5.4 TM shall provide to the Access Seeker, upon request, the specifications of such modems and micro-filters as are compatible with TM's DSL Resale Service, without however guaranteeing that any modems or micro-filters obtained by the Access Seeker will in fact be compatible with the DSL Resale Service.
- 5.5 TM shall not be responsible for the installation, operation or maintenance of the Access Seeker's equipment or apparatus nor the transmission of information by such equipment or apparatus.
- 5.6 Notwithstanding anything contained herein, TM does not guarantee the provision of speeds to the Access Seeker or to the Access Seeker's Customers. TM makes no warranties, express or implied, statutory or otherwise, including without limitation those arising out of custom or usage with respect to merchantability, fitness for a particular purpose, condition or quality.

6. The Access Seeker's Obligations

- 6.1 The Customer subscribing to the Access Seeker's services remains the responsibility of the Access Seeker and as such must be billed and supported by the Access Seeker accordingly.
- 6.2 In the event of a failure of the equipment of the Access Seeker's Customer or the equipment of the Access Seeker, the DSL Resale is still available and therefore is chargeable.
- 6.3 The Access Seeker agrees to accurately represent the Access Seeker's services to its Customers and to include all relevant restrictions contained in this **Part** in all of the Access Seeker's marketing materials. The Access Seeker agrees not to offer to provide the Access Seeker's services with different bandwidth characteristics than those provided by the DSL Resale Services, nor suggest that the service is suitable for use in ways for which it is not intended.

- 6.4 The Access Seeker acknowledges and agrees that TM has no responsibility for any equipment to be installed on the Access Seeker's Customer premises beyond the Network Boundary. TM shall not be responsible for testing, provisioning, supplying, purchasing, installing or maintaining any equipment to be installed on the Access Seeker's Customer premises beyond the Network Boundary, including, without limitation, the DSL modem required for the DSL Resale Services.
- 6.5 The Access Seeker shall use its best endeavours to ensure the continuing integrity of TM's voice and other services during the installation of any equipment at the Access Seeker's Customer premises and following the commencement of the Access Seeker's services.
- 6.6 If after the installation of any equipment at the Access Seeker's Customer premises and/or the commencement of the Access Seeker's services, any interruption or degradation of TM's services occur, then upon notification by TM, the Access Seeker shall within forty eight (48) hours of notice being sent by TM, conduct a thorough investigation, with the reasonable assistance of TM promptly following the investigation. The Access Seeker shall take all steps necessary to eliminate such interruption or degradation at its sole expense, and, if necessary, the Access Seeker shall remove any equipment from the Access Seeker's Customer premises. If the Access Seeker fails to eliminate such interruption or degradation within forty eight (48) hours of notice being sent by TM, TM may, without prejudice to any of its other rights under TM's ARD and the Access Agreement, terminate the provision of the DSL Resale Services to that Access Seeker's Customer premises.
- 6.7 The Access Seeker shall use commercially reasonable efforts to provide (free of charge) such information and cooperation as TM may reasonably require in order for TM to perform its obligations under TM's ARD and the Access Agreement without interruption.

SERVICE DESCRIPTION**PART XIV– PRIVATE CIRCUIT COMPLETION SERVICE****1. General**

Part XIV of **Schedule A** sets out the terms and conditions which are applicable to Private Circuit Completion Service.

- 1.2 Consistent with Government policy and the Access List Determination, TM shall only be required to provide Private Circuit Completion Service until the Sunset Date.

2. Availability of Private Circuit Completion Service

- 2.1 The terms and conditions in this **Part XIV** of **Schedule A** shall only be applicable until the Sunset Date.

- 2.2 Access Seekers who are provided with access to Private Circuit Completion Service pursuant to an Access Agreement prior to the Sunset Date will automatically be provided with access to Wholesale Local Leased Circuit Service after the Sunset Date unless:

(a) the Wholesale Local Leased Circuit Service does not offer leased circuits which have the same bandwidth as the leased circuit bandwidth offered under Private Circuit Completion Service currently subscribed by the Access Seeker; or

(b) the Access Seeker:

(i) notifies TM in writing at least sixty (60) days prior to the Sunset Date that it does not wish to seek access to Wholesale Local Leased Circuit Service after the Sunset Date ("**Service Termination Notice**"); and

(ii) has met the conditions for termination of the Private Circuit Completion Service as specified in the Access Agreement or by TM ("**Termination Conditions**").

- 2.3 Where the Wholesale Local Leased Circuit Services does not offer leased circuits which has the same bandwidth as the leased circuit bandwidth offered under Private Circuit Completion service, then those leased circuit for Private Circuit Completion Service will automatically terminate on the Sunset Date. The Access Seeker may however subscribe for new leased circuits of different bandwidth under Wholesale Local Leased Circuit Service pursuant to a new leased circuit agreement and in accordance with the terms and conditions in **Part XVI of Schedule A**.

- 2.4 In relation to **Paragraph 2.2**, where the Access Seeker provides Service Termination Notice and complies with the Termination Conditions, TM shall cease to provide the Access Seeker with access to Private Circuit Completion Service on the Sunset Date or such earlier date as agreed between the parties.

- 2.5 After the Sunset Date, Access Seekers who wish to seek access to Private Circuit Completion Service shall be required instead to seek access to Wholesale Local

Leased Circuit Service in accordance with the terms and conditions in **Part XVI of Schedule A**.

3. Scope of Private Circuit Completion Service

3.1 A Private Circuit Completion Service:

- (a) is an Access Service for the carriage of communications by way of a private circuit between a POI and an end user, available only at one end of a private circuit; and
- (b) comprises:
 - (i) a tail segment which comprise the portion between TM's POP and the Access Seeker's end user premise; and
 - (ii) a trunk segment which comprise the portion between TM's POP and the POI to the Access Seeker's network. The connection between TM's POP and the POI to the Access Seeker's network shall be provided by means of optical fiber circuits.

For the avoidance of doubt, reference to Private Circuit Completion Service means the general availability of such service on a new fibre cable route and not additional circuits to an existing fibre cable route which has already been made available.

3.2 The functionalities of the Private Circuit Completion Service includes:

- (a) switching (whether packet or circuit); and
- (b) the signalling required to support the Interconnection Service.

3.3 An example of a technology used in the Private Circuit Completion Service would be Integrated Services Digital Network (ISDN) and IP based networks.

3.4 For the purposes of this Part XIV, an end user includes a wholesale or retail customer and includes an Operator and the final recipient of the service.

4. Provisioning of Private Circuit Completion Service

4.1 Subject to Paragraph 2, the applicable Charges in Part XIV of Schedule B and the procedures in Schedule C and the appropriate Manuals, TM shall provide a Private Circuit Completion Service to the Access Seeker.

4.2 Private Circuit Completion Service may only be made available by TM:

- (a) for one "end" of the private leased circuit as the other "end" of the private leased circuit must be provided and continue to be provided by the Access Seeker's own Network;

- (b) to provide a Private Circuit Completion Service to end-user of Access Seeker who are either:
 - (i) retail customers of the Access Seeker; or
 - (ii) third parties who are licensed applications service providers or licensed network service providers under the Act, where such licence is required; and
- (c) to connect the Access Seeker's digital trunk switch / Media Gateway or other Facilities; and
- (d) for a minimum period of one (1) year duration as agreed between the Operators in relation to each individual Private Circuit Completion Service.

SCHEDULE A**SERVICE DESCRIPTION****PART XV – WHOLESALE LINE RENTAL SERVICE****1. General**

- 1.1 **Part XV of Schedule A** sets out the terms and conditions which are applicable to Wholesale Line Rental Service.

2. Scope of Wholesale Line Rental Services

- 2.1 Wholesale Line Rental Services is a Service for the use of Unconditioned Communications Wire between the Network Boundary at a Customer's premises and a point on TM's Network which allows an Access Seeker's Customer to connect to TM's PSTN and provides the Access Seeker's Customer with an ability to make and receive Call Communications such as voice over broadband.

3. Pre-requisite For Applying Wholesale Line Rental

- 3.1 TM shall only be obliged to provide Wholesale Line Rental Services to the Access Seeker where:
- (a) the Access Seeker has been granted an applications service provider license under the Act (and may for the purposes of clarification also hold a network facilities and/or network service individual licence under the Act);
 - (b) in relation to a particular Communications Wire:
 - (i) the Access Seeker concurrently subscribes to Bitstream Services and is eligible to be provided with Bitstream Services in accordance with **Part XI of Schedule A**;
 - (ii) the Customer has, in accordance with the Service Ordering Procedures, specifically requested the Access Seeker in writing to provide the Customer a retail broadband service which utilises both the Wholesale Line Rental Service and Bitstream Services to provide such retail broadband service to its Customer. Evidence of such written request shall be furnished to TM;
 - (iii) if a retail broadband service is already being provided over the Communications Wire including retail broadband services utilizing Full Access Service, Sub-Loop Service, Line Sharing Service, Bitstream Services (which is not provided by the Access Seeker) and DSL Resale, the minimum subscription period for such retail broadband services have already been satisfied, completed or waived; and/or
 - (iv) the minimum subscription period for the Wholesale Line Rental Services on the Communications Wire can be satisfied or completed prior to the connection of the Customer premises to the HSB Network;

4. Provisioning of Wholesale Line Rental Services

- 4.1 Wholesale Line Rental Services is available only to Communications Wires currently provisioned and forming part of TM's PSTN.
- 4.2 The minimum subscription period in which the Access Seeker may subscribe to the service is one (1) year.
- 4.3 TM will provide Wholesale Line Rental Services in accordance with TM's ARD and the Access Agreement including the relevant provisions of the **Schedule C**.

5. TM's Obligations

- 5.1 TM shall be responsible for the installation and activation of the Wholesale Line Rental Service from the Network Boundary at the Customer premises up to the point on TM's network.
- 5.2 TM warrants to the Access Seeker that it will provide the Wholesale Line Rental Service with reasonable care and skill but does not guarantee that the Wholesale Line Rental Service will operate without fault and/or interruption.
- 5.3 TM shall ensure that the provision of Wholesale Line Rental Service conforms to the industry standards, QOS Standards and Technical Specifications.
- 5.4 TM shall use all reasonable endeavours to correct any occurrence adversely affecting the quality of service of its network and facilities. In the case of urgency, TM shall be entitled to contact the Access Seeker for obtaining access to the Access Seeker's Customer's premises for the purpose of installation, operation and maintenance of the Wholesale Line Rental Service.
- 5.5 In the event of service breakdown for whatsoever reason including but not limited to third party acts, cable theft, construction works, vandalism and wear and tear, TM shall use its best endeavours to repair or replace the Unconditioned Communication Wire except in cases where TM through the exercise of its reasonable commercial judgement determines that the Unconditioned Communications Wires shall not be replaced. TM may, but shall not be obligated to offer an alternative solution to the Customer premises subject to its own commercial criteria. However, the minimum subscription period will not apply to those Unconditioned Communications Wires which is not replaced by TM.
- 5.6 The TM shall not be responsible for testing, provisioning, supplying, purchasing, installing or maintaining any equipment to be installed on the Access Seeker's Customer's side of the Network Boundary.
- 5.7 TM agrees that it will not use the Access Seeker's Customer information to market its goods and services to that Customer including any use or intended use by TM to persuade that Customer from entering into a contractual relationship with the Access Seeker for retail services that use the Wholesale Line Rental Service as an input or to persuade that Customer to enter into a contractual relationship with TM for TM's retail services except where:
- (a) the information on the Customer is publicly available;

- (b) information on the Customer has been received or developed by the TM from sources other than the Access Seeker.

6. The Access Seeker's Obligations

- 6.1 The Customer subscribing to the Access Seeker's services remains the responsibility of the Access Seeker and as such Customers shall be billed and supported by the Access Seeker accordingly.
- 6.2 In the event of a failure of the equipment of either Access Seeker or the Access Seeker's Customer, the Wholesale Line Rental Service is still being made available by TM and therefore remains chargeable.
- 6.3 The Access Seeker is to accurately represent the Access Seeker's services to its Customers and to include all relevant restrictions contained in this **Part XV** in all of the Access Seeker's marketing materials. The Access Seeker is to provide the Access Seeker's services consistent with the features and characteristics with those provided by the Wholesale Line Rental Service, and shall not suggest that the service is suitable for use in ways for which it is not designed nor intended.
- 6.4 The Access Seeker shall use its best endeavours to provide such other information and cooperation as TM may reasonably require in order for TM to perform its obligations under the Access Agreement without interruption.

SERVICE DESCRIPTION**PART XVI – WHOLESALE LOCAL LEASED CIRCUIT SERVICE****1. General**

1.1 **Part XVI of Schedule A** sets out the terms and conditions which are applicable to Wholesale Local Leased Circuit Service.

2. Scope of the Wholesale Local Leased Circuit Service

2.1 A Wholesale Local Leased Circuit Service:

- (a) is an Access Service for the carriage of Communications by way of a private circuit between a POI and an end user, available only at one end of a private circuit;
- (b) comprises transmission and switching (whether packet or circuit) at such transmission rates as may be agreed between TM and the Access Seeker on a permanent or virtual basis; and
- (c) comprises:
 - (i) a tail segment which comprise the portion between TM's POP and the Access Seeker's end user premise; and
 - (ii) a trunk segment which comprise the portion between TM's POP and the POI to the Access Seeker's network. The connection between TM's POP and the POI to the Access Seeker's network shall be provided by means of optical fiber circuits.

For the avoidance of doubt, reference to Wholesale Local Leased Circuit Service means the general availability of such service on a new fibre cable route and not additional circuits to an existing fibre cable route which has already been made available.

2.2 The functionalities of the Wholesale Local Leased Circuit Service include:

- (a) transmission and switching (whether packet or circuit);
- (b) the signalling required to support the Interconnection Service; and
- (c) a digital protocol (including Internet Protocol).

2.3 An example of technology used in the Wholesale Local Leased Circuit Service would be Integrated Service Digital Network (ISDN) and IP based networks.

2.4 For the purposes of this **Part XVI**, an end user includes a wholesale or retail customer and includes an Operator and the final recipient of the service.

3. Provisioning of Wholesale Local Leased Circuit Service

- 3.1 Subject to the applicable Charges in **Part XVI** of **Schedule B** and the procedures in **Schedule C** and the appropriate Manuals, TM shall provide a Wholesale Local Leased Circuit Service to the Access Seeker.
- 3.2 Wholesale Local Leased Circuit Service may only be made available by TM:
- (a) for one “end” of the private leased circuit as the other “end” of the private leased circuit must be provided and continue to be provided by the Access Seeker’s own Network;
 - (b) to provide a Wholesale Local Leased Circuit Service to end-users of Access Seeker who are either:
 - (i) retail customers of the Access Seeker; or
 - (ii) third parties who are licensed applications service providers or licensed network service providers under the Act, where such licence is required; and
 - (c) to connect the Access Seeker’s circuit or packet node or other Facilities as agreed by both parties; and
 - (d) for a minimum period of one (1) year as agreed between the Operators in relation to each individual Wholesale Local Leased Circuit Service.

SERVICE DESCRIPTION**PART XVII – TRANSMISSION SERVICE****1. General**

1.1 **Part XVII of Schedule A** sets out the terms and conditions which are applicable to Transmission Service.

2. Scope of Transmission Service

2.1 Transmission Service:

(a) is a Facility and/or Service for the carriage of communications between any two technically feasible network transmission points (not being Customer transmission points) via network interface at such transmission rates as may be agreed between TM and the Access Seeker on a permanent or virtual basis; and

(b) comprises:

(i) Domestic Transmission Service;

(ii) Backhaul Transmission to International Service; and

(iii) Broadcast Transmission Service,

which are more particularly described in **Paragraph 3**.

2.2 Network interface may use any technology as may be agreed between TM and the Access Seeker.

2.3 The functionalities of the Transmission Service include:

(a) transmission and switching (whether packet or circuit);

(b) the signalling required to support the technology or to provide a service;

(c) termination at either end by a port, router, network termination unit, switch, submarine cable landing centre or earth station;

(d) termination between codecs and to a transmitter station; and

(e) a digital protocol (including Internet Protocols)

2.4 A technically feasible network transmission point in **Paragraph 2.1** includes submarine cable and satellite link between Sabah and Sarawak and Peninsular Malaysia, submarine cable landing station centre or/an earth station.

2.5 The Transmission Service may be for the carriage of Communications which comprise of content applications service.

- 2.6 For the purposes of this **Part XVII of Schedule A**, an Access Seeker includes (but is not limited to) a network facilities provider or network service provider which is only authorised to provide limited (e.g. in the last mile) network facilities or network service, but wishes to acquire the Transmission Service in order to connect its limited network facilities or network services.

3. Provisioning of Transmission Services

3.1 Domestic Transmission Service

- 3.1.1 TM will provide Domestic Transmission Service requested by the Access Seeker in accordance with TM's ARD and the Access Agreement including the terms and conditions in **Schedule C**.
- 3.1.2 Where the Access Seeker leases Domestic Transmission Service from TM, TM's Equipment can be co-located in the Access Seeker's premises in accordance with **Schedule C**.
- 3.1.3 The Access Seeker shall provide TM reasonable access to its premises when TM reasonably requires it for the purpose of installing, maintaining, modifying or removing Equipment related to the provision of Domestic Transmission Service by TM.
- 3.1.4 TM shall ensure Domestic Transmission Services conform to the QoS Standards and Technical Specifications, subject to the Access Seeker's use of those Domestic Transmission Services in accordance with the Technical Specifications and other agreed requirements.
- 3.1.5 The minimum period in which the Access Seeker may lease Domestic Transmission Services is one (1) year.
- 3.1.6 The Access Seeker shall pay to TM for Domestic Transmission Services stated in this **Part XVII of Schedule A** provided by TM, Charges in accordance with the applicable provisions set out in **Part XVII of Schedule B**.

3.2 Backhaul Transmission to International Service

- 3.2.1 The Access Seeker may use the Backhaul Transmission to International Service solely to access:

- (a) its own cable capacity, an IRU or leased cable capacity in the relevant Submarine Cable System; or
- (b) its leased space segment capacity at the Satellite Earth Station provided by the satellite owner.

3.2.2 Pre-requisites for Backhaul Transmission to International Service

- 3.2.2.1 The Access Seeker shall have acquired or entered into the following before TM will provide the Backhaul Transmission to International Service:

- (a) with respect to Submarine Cable System:

- (i) an individual network facilities provider license enabling the Access Seeker to connect the portion of the Submarine Cable System which it owns or in respect of which it has an IRU or leased cable capacity to the relevant TM's Submarine Cable Landing Stations for the purpose of accessing its own cable capacity, IRU or leased cable capacity; or
 - (ii) where in the event that the Access Seeker is not the owner of the Submarine Cable System, the Access Seeker shall provide evidence (in the form of written confirmation from a director/senior general manager/senior vice president of the Access Seeker) to TM that it has been granted or allowed an IRU or it has a leased cable capacity agreement with respect to the relevant Submarine Cable System;
- (b) with respect to Satellite Earth Station:
- (i) a Satellite Transponder Lease Agreement or Inmarsat Land Earth Operator Agreement; and
 - (ii) any such license as may be required to connect the portion of the satellite communications systems which it leases to the relevant TM's Satellite Earth Stations;

3.2.3 Obligations of the Access Seeker

3.2.3.1 The Access Seeker shall:

- (a) use the Backhaul Transmission to International Service only for connection to its own cable capacity, an IRU, leased cable capacity or space segment capacity;
- (b) use the Backhaul Transmission to International Service in accordance with the Technical Specifications and other agreed requirements;
- (c) not use, attempt to use or permit any other person whomsoever to use the Backhaul Transmission to International Service in breach of any laws or regulations whatsoever and shall be responsible for any non-compliance with the provision of the Backhaul Transmission to International Service;
- (d) not use TM's name, TM's trademarks or the fact that the Backhaul Transmission to International Service is provided using TM's network, in promoting or re-providing its own service, without the prior written consent of TM;
- (e) not connect any Equipment to the Equipment belonging to TM without the prior written consent of TM;
- (f) carry out adjustments, modifications, alterations or replacements, at its own expense, to its own Equipment connected to TM's Equipment when reasonably so required by TM;
- (g) promptly comply with all reasonable written notices or instructions given by TM in respect of the use or operation of the Backhaul Transmission to International Service;

- (h) ensure adequate preventive measures to avoid radiations and interferences that may interrupt other Facilities and Services;
- (i) provide complete parameters and coordinate with any relevant operators of cable capacity upon testing, commissioning, adjustments, trouble-shooting and termination;
- (j) be solely responsible and liable for obtaining and maintaining in its own name and at its own cost throughout the duration of the provisioning of the Backhaul Transmission to International Service, all licenses, permits, consents, authorizations and other rights required for its use of the Backhaul Transmission to International Service and for ensuring the due compliance with any regulatory or other requirements whether at law or otherwise in relation thereto; and
- (k) use its reasonable efforts to ensure that the cable capacity and associated Equipment supplied and operated by the Access Seeker and used in connection with the Backhaul Transmission to International Service is fault-free before reporting any transmission malfunction to TM.

3.2.4 TM's Obligations

3.2.4.1 TM shall:

- (a) provide the Backhaul Transmission to International Service subject to confirmation of resource availability at the time of the order and in accordance with the terms and conditions in this **Part XVII of Schedule A**;
- (b) use reasonable endeavours to operate and maintain the Backhaul Transmission to International Service in accordance with the Technical Specifications and **Schedule C**;
- (c) address any fault affecting the Backhaul Transmission to International Service promptly and in accordance with the terms and conditions in **Schedule C**; and
- (d) use its reasonable endeavours to obtain and maintain in its own name throughout the duration of the provisioning of the Backhaul Transmission to International Service, all licences, permits, consents, authorisations or other rights required for the provision of the Backhaul Transmission to International Service.

3.2.5 Termination

3.2.5.1 The Backhaul Transmission to International Service shall be terminated in the event that:

- (a) with respect to Submarine Cable System:
 - (i) the Access Seeker ceases to hold an individual network facilities provider license enabling the Access Seeker to connect the portion of the Submarine Cable System which it owns or in respect of which it has an IRU or leased cable capacity to the relevant TM Submarine

Cable Landing Stations for the purpose of accessing its own cable capacity, IRU or leased cable capacity;

- (ii) the Access Seeker ceases to be an owner of the Submarine Cable System or no longer holds an IRU in respect of the Submarine Cable System or the leased capacity agreement in respect of the Submarine Cable System is terminated; or
 - (iii) the Submarine Cable System enters into retirement with no replacement in place; or
- (b) with respect to Satellite Earth Station:
- (i) the satellite transponder lease agreement or Inmarsat land earth operator agreement has been terminated;
 - (ii) the Access Seeker ceases to hold the relevant license required to connect the portion of the satellite communications system which is leases to the relevant TM's Satellite Earth Station; or
 - (iii) the satellite communications system enters into retirement with no replacement in place.

3.2.5.2 The Access Seeker shall be obliged to inform TM immediately upon the occurrence of any of the events in **Paragraph 3.2.5.1** above.

3.2.6 Special Terms and Conditions

3.2.6.1 The activation of the circuit at the Submarine Cable Landing Station shall depend on the availability of the ports based on the terms and conditions set out in the Construction and Maintenance Agreements for the respective Submarine Cable Systems.

3.3 **Broadcast Transmission Service**

3.3.1 Prerequisites for Broadcasting Transmission Service

3.3.1.1 TM will provide Broadcast Transmission Service requested by the Access Seeker in accordance with TM's ARD and Access Agreement including the agreed provisioning procedures set out in **Schedule C**.

3.3.1.2 TM shall not be obliged to provide the Access Seeker Broadcasting Transmission Service requested by the Access Seeker unless the Access Seeker has first applied for and subscribed:-

- (a) Domestic Transmission Service;
- (b) Infrastructure Sharing Service, and
- (c) Network Co-Location Service.

3.3.1.3 The terms and conditions pertaining to:

- (a) Domestic Transmission Service;
- (b) Infrastructure Sharing Service, and
- (c) Network Co-Location Service.

as more particularly set out in **Paragraph 3.1** of **Part XVII**, **Part VIII** and **Part X (Paragraph 3.2)** of **Schedule A** respectively shall apply to this **Paragraph 3.3** of **Part XVII** of **Schedule A** subject to the amendments and modifications contained herein.

3.3.2 Facilities Access

3.3.2.1 Where relevant, the network facilities access and co-location procedures set out in Section 5.13 of the MSA Determination, **Part X** of **Schedule A** and **Schedule C** shall be applicable.

3.3.2.2 Where the Access Seeker leases Broadcast Transmission Service from TM, TM's equipment can be co-located in the Access Seeker's premises in accordance with Section 5.13 of the MSA Determination, **Part X** of **Schedule A** and **Schedule C** for the required space in the Access Seeker's premises.

3.3.2.3 The Access Seeker shall provide TM reasonable access to its premises when TM reasonably requires it for the purpose of installing, maintaining, modifying or removing equipment related to the provision of Broadcast Transmission Service by TM.

SERVICE DESCRIPTION**PART XVIII – ACCESS TO NETWORK ELEMENTS****1. General**

1.1 **Part XVIII of Schedule A** sets out the terms and conditions which are applicable to Access to Network Elements.

2. Availability of ANE

2.1 TM shall not be obliged to provide:

(a) Full Access Service, Line Sharing Service and Sub-Loop Service where:

- (i) the facilities and service are provided over the HSBB Network in accordance with the HSBB Ministerial Direction; or
- (ii) the premises for which access has been requested will be served by a HSBB Network Service within three (3) years from the date of the request for the Services.

(b) Bitstream Services in the premises to which the HSBB Network is connected.

3. Scope of ANE

3.1 ANE provided by TM comprises of:-

- (a) Full Access Service;
- (b) Line Sharing Service;
- (c) Bitstream Services; and
- (d) Sub Loop Service.

3.2 Full Access Service, Line Sharing Service and Sub Loop Service shall only be offered over Unconditioned Communications Wires.

3.3 Full Access Service

3.3.1 Full Access Service:

- (a) is a Facility and/or Service for the use of Unconditioned Communications Wire between the Network Boundary at a Customer's premises and a point on a network that is a POI located at or associated with a Customer Access Module and located on the Customer side of the Customer Access Module; and

- (b) includes the use of associated transmission services between an Intermediate Point and the POI, associated tie cable services, shared splitting services, interfaces to operational support systems and network information.

3.4 Line Sharing Service

3.4.1 Line Sharing Service:

- (a) is a Facility and/or Service for the use of the non-voice band frequency spectrum of Unconditioned Communications Wire (over which wire an underlying voice band PSTN service is operating) between the Network Boundary at a Customer's premises and a point on a network that is a POI located at, or associated with, a Customer Access Module and located on the Customer side of the Customer Access Module; and
- (b) includes the use of associated transmission services between an Intermediate Point and the POI, associated tie cable services, shared splitting services, interfaces to operational support systems and network information.

3.5 Bitstream Services

3.5.1 Bitstream Services has the meaning ascribed in **Part XI** of **Schedule A**.

3.6 Sub-loop Service

3.6.1 Sub-loop Service:

- (a) is a Facility and/or Service for the use of Unconditioned Communications Wire between the Network Boundary at a Customer's premises and a point on a network that is a POI located at or associated with a Customer Access Module and located on the Customer side of the Customer Access Module. For Sub-loop Service, the Customer Access Module is to be housed in a roadside cabinet; and
- (b) includes the use of associated transmission services between an Intermediate Point and the POI, associated tie cable services, shared splitting services, interfaces to operational support systems and network information.

4. **Prerequisites for ANE**

4.1 Subject to **Paragraph 2.1**, TM shall only be obliged to provide to the Access Seeker Full Access Service, Sub Loop Service and Line Sharing Services where:-

- (a) the Access Seeker holds an network facilities provider individual licence and network service provider individual licence;
- (b) the Access Seeker utilises digital subscriber line technology to offer broadband services over Unconditioned Communications Wire; and
- (c) in relation to a particular Communications Wire:
 - (i) the Customer has, in accordance with the Service Ordering Procedures, specifically requested the Access Seeker to provide to

the Customer retail broadband services utilising the relevant ANE. Evidence of such request shall be provided to TM; and

- (ii) if a retail broadband service is already being provided over the Communications Wire including retail broadband services provided by other access seekers utilizing Full Access Service, Sub-Loop Service, Line Sharing Service, Bitstream Services and DSL Resale, the minimum subscription period for such retail broadband services have already been satisfied, completed or waived; and/or
 - (iii) the minimum subscription period for Full Access Service, Sub Loop Service and Line Sharing Service can be satisfied or completed prior to the connection of the Customer premises to the HSBB Network.
- (d) the Access Seeker concurrently subscribes or has already subscribed to Network Co-Location Services at the point of unbundling access.

4.2 The pre-requisites for Bitstream Services are set out in **Part XI of Schedule A**.

4.3 The terms and conditions pertaining to Network Co-Location Services, is more particularly set out in **Part X of Schedule A**, respectively, shall apply to this **Part XVIII of Schedule A** subject to the amendments and modifications contained herein.

5. Provisioning of ANE

5.1 Full Access Service

5.1.1 Subject to **Paragraph 2.1**, Full Access Service will be offered:-

- (a) where the Unconditioned Communications Wire is suitable for the provision of the Full Access Service in accordance with any relevant Technical Specifications;
- (b) where there is unutilised Unconditioned Communications Wire which runs from the main distribution frame at TM's exchange to the Network Boundary;
- (c) where the relevant DLS has been pre-provisioned for ANE.

5.1.2 Where Full Access Services are available, TM will provide agreed Full Access Services in accordance with TM's ARD and the Access Agreement including the relevant provisions of the **Schedule C**.

5.1.3 Each Operator must ensure that its Facilities provided at each POI conforms to the QoS Standards and Technical Specifications.

5.1.4 The minimum period in which the Access Seeker may subscribe to the Full Access Services is one (1) year.

5.2 Line Sharing Service

5.2.1 Subject to **Paragraph 2.1**, Line Sharing Service is only offered:-

- (a) on TM's Communications Wires that are currently offering PSTN services;

- (b) to the Access Seeker in respect of specific Customers who are directly connected to TM's Network and who is a subscriber of TM's PSTN services;
 - (c) where the Unconditioned Communications Wire is suitable for the provision of the Line Sharing Service in accordance with the Technical Specifications; and
 - (d) where the relevant DLS has been pre-provisioned for ANE.
- 5.2.2 Where Line Sharing Services are available, TM will provide agreed Line Sharing Services in accordance with TM's ARD and the Access Agreement including the relevant provisions of the **Schedule C**.
- 5.2.3 Each Operator must ensure that its Facilities provided at each POI conforms to the QoS Standards and Technical Specifications.
- 5.2.4 The minimum period in which the Access Seeker may subscribe to the Line Sharing Services is one (1) year.
- 5.2.5 Where the Customer terminates TM's PSTN services provided to that Customer, TM shall be entitled to terminate the Line Sharing Service to that Customer premises and shall not be obliged to provide Line Sharing Service to that Customer premises. However, subject to receipt of a written request by Access Seeker which is fourteen (14) days prior to the termination date, the Line Sharing Service can be migrated to Full Access Service in order to support broadband services that being offered to the Customer by the Access Seeker.
- 5.3 Sub Loop Service
- 5.3.1 Subject to **Paragraph 2.1**, Sub Loop Service will be offered:-
- (a) subject to the availability of unutilized Unconditioned Communications Wire that runs from TM's roadside distribution cabinet to the Network Boundary;
 - (b) where the Unconditioned Communications Wire is suitable for the provision of the Sub Loop Service in accordance with the Technical Specifications;
 - (c) where relevant DLS has been pre-provisioned for ANE; and
 - (d) there is sufficient space available in the relevant TM roadside distribution cabinet.
- 5.3.3 Where Sub Loop Services are available, TM will provide agreed Sub Loop Services in accordance with TM's ARD and the Access Agreement including the relevant provisions of the **Schedule C**.
- 5.3.4 Each Operator must ensure that its Facilities provided at each POI conforms to the QOS Standards and Technical Specifications.
- 5.3.5 The minimum period in which the Access Seeker may subscribe to the Sub Loop Services is one (1) year.

5.4 Bitstream Services

5.4.1 The terms and conditions in **Part XI** of **Schedule A** shall be applicable to Bitstream Services.

6. **General Principles for the provision of Full Access, Line Sharing and Sub Loop Services**

6.1 TM shall keep the full ownership of the equipment and network elements that belong to TM and that have been installed by TM or on behalf of TM and that are used to provide ANE to the Access Seeker.

6.2 TM remains solely responsible for the specifications or type of the equipment and technologies used in its Network, as well as for determining the evolution in the said equipment and technologies. The Access Seeker shall ensure that its Network or system is compatible with TM's Network to enable TM to provide the ANE to the Access Seeker. The Access Seeker shall bear its own cost and expenses in connecting its system or Network to TM's POI.

6.3 Any request for ANE should will be made by the Access Seeker in writing to TM and shall be subject to manual checking process which shall be agreed and detailed in the Access Agreement.

6.4 In the event of service break down for whatsoever reason including but not limited to third party acts, cable theft, construction works, vandalism and wear and tear, TM shall use its reasonable endeavors to repair or replace the Unconditioned Communications Wire except in cases where TM through the exercise of its reasonable commercial judgement determines that the Unconditioned Communications Wire shall not be replaced. TM may, but shall not be obligated to offer an alternative solution to the Customer premises, subject to its own commercial criteria.

6.5 TM shall use all reasonable endeavours to correct any trouble affecting the quality of service of its network and facilities. In the case of urgency, TM shall be entitled to:

- (a) disconnect the ANE immediately and without prior consultation with the Access Seeker, provided that TM can reasonably show that the traffic on the ANE has caused a breakdown of networks or services (or parts thereof) or if there is imminent risk of such breakdown. TM will immediately inform the Access Seeker about the disconnection before its execution; and
- (b) contact the Access Seeker's Customers directly with a view of maintaining or ensuring TM's ownership of network facilities. The operators agree that only TM may carry out service works on equipment belonging to TM. TM will immediately inform the Access Seeker about any intended disconnection before its execution.

7. **Obligations of the Access Seeker**

7.1 The Access Seeker is obliged to comply with following:

- (a) the Access Seeker is only permitted to use the ANE for the purpose of providing broadband data (including voice over broadband) services to its Customers; and
 - (b) the Access Seeker shall ensure the provisioning and proper operation of Access Seeker's network equipment in the agreed colocation location. In the case of Bitstream Services, the Access Seeker will lease the DSLAM equipment from TM.
- 7.2 The Access Seeker has to ensure that the equipment if any and related software that it uses is complies with international standards and does not, at any time, cause service degradation in TM's Network. The Access Seeker shall use DSL modems and "PPP client" (Point to Point Protocol) reasonably recommended by TM.
- 7.3 Where applicable, the Access Seeker has to ensure the DSLAM and splitter they are deploying shall conform to the Technical Specification in order to protect low frequency voice services.
- 7.4 The Access Seeker shall, independently of TM, manage all aspects of the relations with its own Customer unless otherwise agreed between the Operators in writing. The Access Seeker shall, therefore, be fully responsible for all its Customer inquiries including but not limited to inquiries concerning product information, service, fault reports, technical issues and settlement. The Access Seeker may only refer a matter to TM in the case of a fault of TM.
- 7.5 The Access Seeker shall be liable to TM for ensuring that the Access Seeker's customers do not in any way dispose of, sell, rent out and pledge TM's equipment and installations and the Access Seeker shall ensure that their Customers do not in any way interfere with the network facilities and/or installations of TM. The Access Seeker further undertakes to use its reasonable endeavours to ensure that its Customers will at all times maintain the marking of equipment and network facilities indicating that they belong to TM.
- 7.6 Any equipment connected to or used with the ANE must be connected and used in accordance with all applicable instructions, safety and security procedures set out in the Technical Specifications. Any equipment that is attached, directly or indirectly, to the ANE must be technically compatible with the ANE and approved for that purpose under any application legislation or industry standards.
- 7.7 Access Seeker shall be responsible to provide the internal wiring, drop wires and customer premises equipment at a Customer location.
- 7.8 In the case of any suspected faults, Access Seeker should undertake a check of their network, relevant network facilities and their customer's equipment prior raising the fault report to TM. Faults which have been notified to TM but which are found to be either not faulty (that is, they are 'right when tested') or such fault is not within TM networks following investigation, shall be charged to the Access Seeker. The Access Seeker is responsible for repair of faults relating to the Access Seeker's terminating equipment.

8. Customer Terms and Conditions

- 8.1 The Access Seeker shall cause the terms and conditions governing the Access Seeker's contractual relationships with its Customers to be compliant with the terms and conditions set out in TM's ARD and the Access Agreement with respect to ANE.
- 8.2 The Access Seeker shall indemnify TM against all losses, claims or liability suffered by TM due to the fact that the Access Seeker failed to comply with **Paragraph 8.1**.

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART I – FIXED NETWORK ORIGINATION AND TERMINATION SERVICES

1. General

1.1 **Part I of Schedule B** sets out the charges and the charging principles which would be applicable to:-

(a) Fixed Network Origination Service; and

(b) Fixed Network Termination Service,

unless otherwise expressly stated.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART II – MOBILE NETWORK ORIGINATION AND TERMINATION SERVICES

1. General

1.1 **Part II of Schedule B** sets out the charges and the charging principles which would be applicable to:-

(a) Mobile Network Origination Service; and

(b) Mobile Network Termination Service,

unless otherwise expressly stated.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART III – INTERCONNECT LINK SERVICES

1. General

- 1.1 **Part III of Schedule B** sets out the charges and the charging principles which would be applicable to Interconnect Link Services.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART IV – DOMESTIC NETWORK TRANSMISSION SERVICE

1. General

1.1 **Part IV of Schedule B** sets out the charges and the charging principles which would be applicable to Domestic Network Transmission Service.

1.2 Consistent with Government Policy and the Access List Determination, TM shall only be required to provide Domestic Network Transmission Service until the Sunset Date. Accordingly, the terms and conditions in this **Part IV of Schedule B** shall only be applicable until the Sunset Date.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART V – EQUAL ACCESS (PSTN) SERVICE

1. General

- 1.1 Consistent with Government Policy and the Access List Determination, TM is not required to provide Equal Access (PSTN) Service effective from 2 February 2009.

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART VI – INTERNET ACCESS CALL ORIGINATION SERVICE

1. General

- 1.1 Consistent with Government Policy and the Access List Determination, TM is not required to provide Internet Access Call Origination Service effective from 2 February 2009.

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART VII – SPECIAL SERVICES

1. General

1.1 **Part VII of Schedule B** sets out the charges and the charging principles which would be applicable to:

(i) Freephone 1800 Service; and

(ii) Toll Free Services,

unless otherwise expressly stated.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART VIII – INFRASTRUCTURE SHARING SERVICE

1. General

- 1.1 **Part VIII of Schedule B** sets out the charges and the charging principles which would be applicable to Infrastructure Sharing.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART IX – DOMESTIC CONNECTIVITY TO INTERNATIONAL SERVICES

1. General

1.1 **Part IX of Schedule B** sets out the charges and charging principles which would be applicable to Domestic Connectivity to International Services.

1.2 Consistent with Government Policy and the Access List Determination, TM shall only be required to provide Domestic Connectivity to International Services (in relation to Domestic Backhaul Transmission Service) until the Sunset Date. Accordingly, the terms and conditions in this **Part IV of Schedule B** in relation to Domestic Backhaul Transmission Service shall only be applicable until the Sunset Date.

2. Charges and Charging Principles.

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART X – NETWORK CO-LOCATION SERVICE

1. General

- 1.1 **Part X of Schedule B** sets out the charges and the charging principles which would be applicable to Physical Co-location unless otherwise expressly stated.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART XI – BITSTREAM SERVICES

1. General

1.1 **Part XI of Schedule B** sets out the charges and charging principles which would be applicable Bitstream Services.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART XII – BROADCASTING TRANSMISSION SERVICE

1. General

1.1 **Part XII of Schedule B** sets out the charges and charging principles which would be applicable to Broadcasting Transmission Service.

1.2 Consistent with Government Policy and the Access List Determination, TM shall only be required to provide Broadcasting Transmission Service until the Sunset Date. Accordingly, the terms and conditions in this **Part XII of Schedule B** in relation to Broadcasting Transmission Service shall only be applicable until the Sunset Date.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART XIII – DSL RESALE SERVICE

1. General

- 1.1 **Part XIII of Schedule B** sets out the charges and charging principles which would be applicable to DSL Resale Service.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART XIV – PRIVATE CIRCUIT COMPLETION SERVICE

1. General

1.1 **Part XIV of Schedule B** sets out the charges and charging principles which would be applicable to Private Circuit Completion Service.

1.2 Consistent with Government Policy and the Access List Determination, TM shall only be required to provide Private Circuit Completion Service until the Sunset Date. Accordingly, the terms and conditions in this **Part XIV** of **Schedule B** in relation to Private Circuit Completion Service shall only be applicable until the Sunset Date.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART XV – WHOLESALE LINE RENTAL SERVICE

1. General

1.1 **Part XV of Schedule B** sets out the charges and charging principles which would be applicable to Wholesale Line Rental Service.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART XVI – WHOLESALE LOCAL LEASED CIRCUIT SERVICE

1. General

- 1.1 **Part XVI of Schedule B** sets out the charges and charging principles which would be applicable to Wholesale Local Leased Circuit Service.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART XVII – TRANSMISSION SERVICE

1. General

- 1.1 **Part XVII of Schedule B** sets out the charges and charging principles which would be applicable to Transmission Service.

2. Charges and Charging Principles

[REMOVED]

SCHEDULE B

CHARGES AND CHARGING PRINCIPLES

PART XVIII – ACCESS TO NETWORK ELEMENTS

1. General

1.1 **Part XVIII of Schedule B** sets out the charges and charging principles which would be applicable to ANE.

2. Charges and Charging Principles

[REMOVED]

**SCHEDULE C
TECHNICAL AND OPERATIONAL MATTERS**

PART I – MANUALS

1. General

1.1 The Operators will:

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

1.2 Where relevant, the obligations set out in **Parts II to X** shall be documented in the relevant Manuals.

PART II - FORECASTING**1. General**

- 1.1 **Part II of Schedule C** sets out forecasting procedures that are applicable in relation to the provision of Facilities and/or Service.
- 1.2 The detailed forecasting obligations shall be mutually agreed between the Operators.

2. Forecasting Requirements - Generally

- 2.1 The Access Seeker is required to provide the following forecast for the following Facilities and/or Services:
 - (a) Interconnect Link Service
 - (b) Domestic Network Transmission Service
 - (c) Private Circuit Completion Service
 - (d) Domestic Connectivity to International Services
 - (e) Wholesale Local Leased Circuit Service
 - (f) Broadcasting Transmission Service
 - (g) Transmission Service
 - (h) Full Access Service
 - (i) Line Sharing Service
 - (j) Sub-loop Service
 - (k) Bitstream Services
 - (l) DSL Resale Service
 - (m) Wholesale Line Rental Service
- 2.2 The Forecast required in **sub-paragraphs (a) to (m) of Paragraph 2.1** above, shall be a five (5) years rolling Forecast for Facilities and/or Services updated on a six (6) month basis and shall consist of quarterly projections for the first year and annual projections for the remaining years.
- 2.3 For Infrastructure sharing and Network Co-location Services, the Access Seeker shall provide a forecast on annual basis and reviewed on a half yearly basis.
- 2.4 The Access Seeker shall meet the requirements of forecasting process that enables TM to plan for the expected need for Facilities or Services in order to carry the forecasted traffic and conform to Grade of Service Standards to be mutually agreed between the Operators.
- 2.5 The Access Seeker shall provide traffic forecast for each and every route. The Access Seeker and TM will discuss in good faith on the planning and design of the relevant part of their respective networks and the dimensioning of Network Capacity to carry traffic within TM's Network.

PART III – ORDERING AND PROVISIONING**1. General**

- 1.1 **Part III of Schedule C** sets out ordering and provisioning procedures that are applicable in relation to the provision of Facilities and Services including but not limited to the indicative timeframe for delivery.
- 1.2 Where relevant, the ordering and provisioning obligations set out in Section 5.7 of the MSA Determination shall be applicable.

2. Ordering Procedures

- 2.1 Subject to **Paragraph 3.1 of Part II of Schedule C**, the Operators may place firm orders for Facilities and/or Services from time to time in line with the quantity indicated in the first year forecast.
- 2.2 The Access Seeker shall ensure that the Order contains enough information to enable TM to assess and fulfill the Order.
- 2.3 When an order is placed, the Access Seeker should give TM a priority list, allowing for progressive delivery and setting out its preferred order of delivery.
- 2.4 Ordering Information provided by the Access Seeker shall be treated by TM as the confidential information of the Access Seeker and shall only be used by those persons within TM whose role is within:

- (a) TM's wholesale or interconnection group; and
- (b) the part of the Network engineering group of TM responsible for interconnection,

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

3. Domestic Network Transmission Service**3.1 Provisioning of Domestic Network Transmission Service**

- 3.1.1 The Operators will mutually agree in each case the technology and route diversity for the Domestic Network Transmission Service to be provided.
- 3.1.2 The location of interfaces for the Domestic Network Transmission Service will be determined in each case by mutual agreement of the Operators.
- 3.1.3 Upon mutual agreement, TM may determine, and may alter at any time, the routing of Domestic Network Transmission Service between the interfaces.
- 3.1.4 TM shall ensure that Domestic Network Transmission Service conform to the QOS Standards and Technical Specifications, subject to the Access Seeker's use of those Domestic Network Transmission Service in accordance with the Technical Specifications and other agreed requirements (if any).

- 3.1.5 Where the Access Seeker leases Domestic Network Transmission Service from TM and the Access Seeker owns or occupies the premises at which an interface is located, it must:-
- (a) provide TM with safe and reasonable access to the premises as reasonably required, to enable TM to install, test, inspect, repair, modify and maintain its Equipment at the premises;
 - (b) not permit any person other than an authorized representative of TM to maintain, modify, repair or interfere with such Equipment;
 - (c) provide (at its own cost) TM with necessary services such as electricity and air conditioning as reasonably required by TM;
 - (d) if the Operators agree, maintain TM's Equipment on such terms and conditions as may be agreed.
- 3.1.6 Where a third party owns or controls premises at which an interface is located, the Access Seeker shall obtain the permission of the third party to give effect to **Paragraph 3.1.5** above.
- 3.1.7 For the purpose of clarification, this **Paragraph 3.1** shall only be applicable until the Sunset Date.

4. Interconnect Link Service

- 4.1 Unless otherwise specified in the Access Agreement, an Access Seeker is responsible for providing Interconnect Link Service for its outgoing Interconnect Traffic from its Network to TM's Network.
- 4.2 The provision of additional E1 Interconnect Link Service at the POI shall be agreed once any of the following conditions are met:-
- (a) the utilization of the existing interconnect facilities (provisioned E1) reaches 85% or more; or
 - (b) the demand of circuits exceeds the Forecasted circuits provided always that the demand shall be based on the reasonable assessment by the Access Seeker of its traffic pattern/flow and call pattern which is derived from information which is available to the Access Seeker.

In order to have a reasonable lead time in provisioning of additional E1 Interconnect Link Service at the POI, the notification for provisioning additional E1 Interconnect Link Service shall be provided once utilization of the existing Interconnect facilities (provisioned E1) reaches 75%.

- 4.3 The Operators will:
- (a) test the Interconnect Link Service in accordance with the agreed testing specifications;
 - (b) make any adjustment to the Interconnect Link Service which are necessary to meet the test requirements of the specification; and

- (c) provide a copy of the test results to the Access Seeker on or prior to the committed or agreed delivery dates.
- 4.4 On the date of the commissioning of the circuit, which is to be agreed, duly authorized representative of each Operator will sign handover documentation to acknowledge that each Operator has tested (or has waived testing of) the network facility of the other Operator so far as is necessary to establish that Interconnection with its network had taken place properly and safely.

PART IV – NETWORK CONDITIONING

1. General

- 1.1 **Part IV of Schedule C** sets out network conditioning procedures that are applicable in relation to the provision of Facilities and/or Services.
- 1.2 Where relevant, the network conditioning obligations set out in Section 5.8 of the MSA Determination shall be applicable.

2. Network Conditioning Obligations

- 2.1 TM shall perform Network Conditioning on an equivalent basis to that which TM performs for itself for the same or similar Facilities and/or Services.
- 2.2 The costs incurred in Network Conditioning shall be apportioned between the Operators as follows:
 - (a) if the work has been carried out in accordance with a Government or Commission requirement, the Operators will bear their own costs;
 - (b) if the work has been carried out to fulfill an Order made in accordance with the Access Agreement, the costs shall be apportioned in an equitable manner between the Operators having regards to cost causation.

PART V – POINT OF INTERFACE AND DECOMMISSIONING

1. General

- 1.1 **Part V of Schedule C** sets out point of interface and decommissioning procedures that are applicable in relation to the provision of Facilities and/or Services.
- 1.2 Where relevant, the point of interface procedures and decommissioning obligations set out in Sections 5.9 and 5.10 of the MSA Determination shall be applicable.

2. Point of Interface Location Considerations

- 2.1 Technical consideration for determining locations for POIs/POPs shall include *inter alia* the following:
 - (a) whether access, switching and transmission facilities have the capacity to interconnect with other networks;

- (b) timely and efficient deployment of sufficient capacity of links to support the required Quality of Service to customers; and
- (c) preservation of network security.

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

- 2.2 The Operators shall publish on its website and keep updated a list of the general locations in respect of which in-span interconnection is available on and from the date of publication for the following twelve (12) months.

3. Criteria for Establishing of a New POI/POP

- 3.1 Prior to accepting the establishment of a new POI/POP, the Operators shall comply with the following:
- (a) The Access Seeker shall submit its five (5) year requirement including traffic and circuit forecast, and Interconnect Link Service requirement at the proposed new POI/POP;
 - (b) The Interconnect Link Service shall be dimensioned to provide for a minimum of three (3) year provisioning period for the purposes of planning;
 - (c) Indicate the number of routes and nodes that will be served by the Interconnect Link Service that is provided at the proposed POI/POP;
 - (d) Specify whether the method of provisioning is Full Span, In-Span or physical col-location; and
 - (e) Determine the availability of the switch capacity at the nodes, or in the case of POP, the associated switch.

4. POI/POP Establishment Procedure

- 4.1 Each Operator shall interconnect and keep its Network interconnected with the Network of another Operator in accordance with the terms of the Access Agreement.
- 4.2 TM shall reasonably consider a request by an Access Seeker to interconnect at a point other than that specified in **Table 1**. TM shall promptly accept or reject a request by the Access Seeker, and provide the Access Seeker with reasons if it rejects the Access Seeker's request. The Access Seeker may request, in writing, for a meeting with TM to discuss the rejection of its request.
- 4.3 Each Operator is responsible for the provisioning and maintenance of network facilities (including those network facilities which form part of the Interconnect Links and the transmission equipment) on its side of the POI/POP.

5. Decommissioning of POI/POP

- 5.1 Either TM or Access Seekers may request for the decommissioning of POI/POP.
- 5.2 The Operators must co-operate and negotiate in relation to the timetable for decommissioning of the relevant POI/POP, Facilities and/or Services.

- 5.3 The Operator making the request must offer an alternative POI/POP to route interconnection traffic.
- 5.4 The Operator making the request shall ensure that there will be no traffic interruption and should be responsible for rerouting the existing traffic before the decommissioning of the relevant POI/POP

TABLE 1: LIST OF POIs

Region	Closed Number Area	Home Area	TM's POI		
			Fixed	Cellular	TSOIP
Central	03	Central	Batu Wangsa Maju Bandar Tun Razak Raja Chulan Putrajaya Bangi Klang Kelana Jaya	Batu Wangsa Maju Bandar Tun Razak Raja Chulan Putrajaya Bangi Klang Kelana Jaya	Putrajaya Klang
Northern	04 05	Northern	Alor Setar Penang Seberang Jaya Ipoh Taiping	Alor Setar Penang Seberang Jaya Ipoh Taiping	Seberang Jaya Ipoh
Southern	06 07	Southern	Melaka Rasah Johor Bahru Skudai	Melaka Rasah Johor Bahru Skudai	Melaka Skudai
Eastern	09 (States of Pahang, Terengganu & Kelantan)	Eastern	Teruntum Temerloh Kuala Terengganu Pasir Mas	Teruntum Temerloh Kuala Terengganu Pasir Mas	Teruntum
Sabah	087/088/089	Sabah	Kota Kinabalu Penampang	Kota Kinabalu Penampang	Penampang
Sarawak	082/083/084/ 085/086	Sarawak	Stampin Miri	Stampin Miri	Stampin

PART VI – NETWORK CHANGE**1. General**

- 1.1 **Part VI of Schedule C** sets out the network change procedures that are applicable in relation to the provision of Facilities and Services.
- 1.2 Where relevant, the network change obligations set out in Section 5.11 of the MSA Determination shall be applicable.

2. Network Change Obligations2.1 Scope

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

2.2 Types of Changes

The following types of proposed Network Changes are within the scope of **Paragraph 2.1**:

- (a) any change by the Operator proposing to make the change ("**Notifying Operator**") to any technical specification of the interconnection interface between their respective Networks ("**Interface Change**");
- (b) any change by the Notifying Party to any technical specification or characteristic of the Facilities and/or Services to which the other Operator ("**Recipient Operator**") has access which will or might affect:
- (i) the Recipient Operator's Network;
 - (ii) the Recipient Operator's use of the Facilities or Services provided by the Notifying Operator ("**Service Change**");
- (c) any change by the Notifying Operator to any technical specification or characteristic of that Notifying Operator's Network which will or might affect the Recipient Operator's Network ("**Network Change**");
- (d) any change by the Notifying Operator to any of the operational support systems used inter-operator processes, including without limitation:
- (i) the billing system;
 - (ii) the Ordering and provisioning systems; or
 - (iii) the Customer Churn process, ("**OSS Change**"); and
- (e) any enhancement by the Notifying Operator of the feature, functions or capabilities of the Facilities or Services to which the Recipient Operator has access, which enhancement the Notifying Operator proposes to make available either:

- (i) to itself; or
 - (ii) to any other Operator (“**Functionality Change**”).
- (collectively, “**Relevant Changes**”).

PART VII– NETWORK FACILITIES ACCESS AND CO-LOCATION

1. General

- 1.1 **Part VII of Schedule C** sets out the network facilities access and co-location procedures that are applicable in relation to the provision of Facilities and Services.
- 1.2 Where relevant, the network facilities access and co-location obligations set out in Section 5.13 of the MSA Determination shall be applicable.

2. Facilities Access Procedures

- 2.1 The Operators shall negotiate the terms and conditions on which Facilities Access and co-location will be provided in order to facilitate administration and certainty of planning.
- 2.2 The Facilities Access and co-location will be for a fixed period and the period may vary depending on the type of facilities/premises provided.
- 2.3 The Operators may agree from time to time on such further terms of Facilities Access for different types of Facilities and/or premises. The terms of Facilities Access for different types of facilities will be set having regard to such matters as *inter alia*:
 - (a) the reasonable life span of the Facilities or Equipment on TM's standard planning horizons;
 - (b) the reasonable life span of the Access Seeker's Facilities or Equipment which it installs within or attaches to or uses in conjunction with the Facilities to which access is provided; and
 - (c) the type of Facilities or Equipment available to the Access Seeker.
- 2.4 TM shall have reasonable physical access to the Access Seeker's Network premises and/or facilities with respect to any facilities and services requested by the Access Seeker for the purpose of installation, commissioning, maintenance, modification, decommissioning and removal of equipment installed within, attached to, or situated in the Access Seeker's premises.
- 2.5 Where Access Seeker relocates, rebuilds or replaces any facility and/or premises to which TM has access to during the fixed period of access, the Access Seeker will provide access to a replacement facility and/or premises on substantially similar terms.

PART VIII– OPERATIONS AND MAINTENANCE**1. General**

- 1.1 **Part VIII of Schedule C** sets out the operations and maintenance procedures that are applicable in relation to the provision of Facilities and Services.
- 1.2 Where relevant, the operations and maintenance obligations set out in Section 5.15 of the MSA Determination shall be applicable.

2. Operations and Maintenance Standard and Procedures

- 2.1 The Operators shall take such reasonable steps within its respective Networks to facilitate end-to-end connection of Call Communications in accordance with agreed operations and maintenance standards.
- 2.2 The Operators shall ensure that the operations and maintenance standards and procedures used in its Network do not adversely affect the operations of each other's Networks.
- 2.3 Each Operator shall be responsible for the operations and maintenance of its own Facilities and Services.
- 2.4 Each Operator is responsible for managing the traffic from its own Gateway to the other Operator's Gateway. This includes applying Network management actions for traffic control under situations like abnormal traffic upsurge, Network instability and other abnormal traffic behaviour.
- 2.5 The Operators will take all necessary precautions to avoid causing damage to the Equipment and premise of the other Operator when such facilities are placed in the same co-located space.
- 2.6 The Operators will comply with the relevant national safety and health regulations when carrying out work inside TM or third party premise.

3. Fault Management

- 3.1 The Operators will co-operate to enable each other to meet the terms of their respective Licences and to fulfil their obligations under the Access Agreement and to provide Communications Services to their Customers.
- 3.2 The Operators will manage their Networks to minimise disruption to services and, in the event of interruption or failure of any service (excluding the submarine cable), will endeavour to restore those services following the target restoration time stipulated in Section 5.15.13 of the MSA Determination. Where there is any interruption to or failure of the submarine cable, the Operators will use their reasonable endeavours to restore the submarine cable as soon as practicable.
- 3.3 The Operator shall establish and maintain a fault reporting centre that allows Customers who are directly connected to the Network of that Operator and to whom that Operator supplies services (inter alia), to report faults relating to any network or support system.
- 3.4 Each Operator will manage, notify and correct faults arising in its Network which affect the provision of any Communications Service by the other Operator:

- (a) as it would in the ordinary course for similar faults affecting the provision of Communications Services by it;
- (b) in accordance with the fault notification and escalation procedures and the principles of priority of repair of faults documented in the relevant Manual; and
- (c) in accordance with any service quality standards determined by the Commission.

3.5 Each Operator will be responsible for its own fault management escalation procedures and shall offer full assistance for interconnection faults.

3.6 Each Operator will use its best endeavour to determine faults on its own Network and establish the nature of the fault by carrying out thorough test on its Network. And, if such test proves that the fault is genuine and not residing in its own Network, then TM will convey this fault to the other Operator's fault reporting centre.

4. Fault Reporting

4.1 Each Operator shall maintain a 24hrs a day, 7 days a week fault reporting centre to which all factors relevant to the proper functioning of the Facilities and/or Services and complaints are reported.

4.2 The Operators shall report all interconnection outages that relate to Facilities and/or Services to the respective fault reporting centre.

5. Network Monitoring

5.1 Each Operator is responsible for monitoring of alarms belonging to its own Network.

6. Service Review

6.1 The Operators shall hold meetings regularly to review the performance of interconnection between its Network and other Operators' Networks and mutually exchanged that operational information. In addition, the Operators shall discuss at the meetings, any other inter-working issue that arise. The information provided in such reports is confidential information and subject to confidentiality obligations.

6.2 The Operators shall manage their respective PSTN networks at a level which enables the Quality of Service Standard set out in section 5.16.9 of the MSA Determination to be met.

6.3 The Operators shall manage the TSoIP network based on best effort service. The Quality of Service standard shall be acceptable and mutually agreed between the Operators.

7. Planned and Emergency Maintenance

7.1 In the event that an Operator intends to carry out planned or emergency maintenance, which may affect the other Operator's Network, the Operator will provide prior notification as in accordance with Sections 5.15.14 and 5.15.16 of the MSA Determination.

7.2 An Operator shall mutually agree with the other Operator upon suitable maintenance windows and the windows of time for such maintenance must have the least effect on end-users.

8. Maintenance of POI/POP and/or Shared Sites

8.1 Each Operator shall be responsible for *inter alia*:

- (a) maintaining its POI/POP equipment located in POI/POP sites and/or shared sites in good working condition;
- (b) maintaining the POI/POP and/or shared sites in a tidy and safe condition;
- (c) ensuring that combustible material is not left in or around the POI/POP and/or shared sites following maintenance works or other operation activities; and
- (d) take any other action as a reasonable prudent operator of such POI/POP equipment would take.

PART IX– CHURN OBLIGATIONS

1. General

1.1 **Part IX of Schedule C** sets out the churn procedures that are applicable in relation to the provision of Facilities and Services.

1.2 Where relevant, the churn obligations set out in Section 5.18 of the MSA Determination shall be applicable.

1.3 The Operators mutually agree to develop churn procedures in relation to Wholesale Line Rental Services, DSL Resale Service and ANE, respectively.

PART X–OTHER TECHNICAL MATTERS

1. General

1.1 **Part X of Schedule C** sets out the other technical matters and procedures that are applicable in relation to the provision of Facilities and Services.

1.2 Where relevant, the technical obligations set out in Section 5.16 of the MSA Determination shall be applicable.

2. Technical Obligations

2.1 Compliance

The 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 or are not inconsistent with any technical obligations set out in the MSA Determination.

2.2 Prevention of technical harm and interference

2.2.1 Each Operator is responsible for the safe operation of its Network and must take all reasonable and necessary steps to ensure that its Network, its Network operations and implementation of the Access Agreement:

- (a) do not endanger the safety or health of the officers, employees, contractors, agents or Customers of the other Operator; and
- (b) do not damage, interfere with or cause any deterioration in the operation of the other Operator's Network.

2.2.2 The Access Seeker must not interfere with the use of the Communications Services provided by TM.

2.3 Prohibition on tampering and modification

2.3.1 A Operator must not modify, or take any action which would have the effect of modifying the operation of the Network of the other Operator or take any action with respect to the other Operator's Network without the other Operator's permission.

3. **Other Technical Issues**

3.1 The Operators shall:

- (a) designate in writing the POI/POP or POI/POPs for the handover of Interconnect Traffic destined for every Telephone Area and Closed Number Area; and
- (b) provide at least two (2) months prior written notice of its intention to designate a Point of Interface as the point for the handover of particular Interconnect Traffic that would affect the interconnect charges payable by a Operator to the other Operator on any particular route. This notice period can be shortened by agreement between the Operators.

3.2 In all situations, a Customer's original CLI from domestic or international inbound calls must be routed by TM to the Access Seeker and, where applicable, by the Access Seeker to TM. Accordingly, in all situations, the translation of numbers, the use of "dummy" numbers or CLI, or any other means of altering numbers which does confuse, or may have the tendency to confuse the Network of TM or the Provider's or Access Seeker's billing system is absolutely prohibited provided always, that agreed "dummy" numbers or CLI may be used to overcome technical problems relating to routing of Interconnect Traffic or billing of Access Services and such "dummy" numbers are listed in the relevant Manual.

3.3 In the event that a Call Communication from the Network of TM is terminated at the RVA of the Access Seeker's Network, the Access Seeker shall forward the answer signal to TM's Network on the activation of the RVA and/or the intervention of a human operator, if applicable, on the Access Seeker's Network.

3.4 In the event that a Call Communication from the Network of TM is not completed due to trunk congestion (which is exhibited by signalling for congestion) on the Access Seeker's Network, the Access Seeker shall forthwith re-dimension their Network including Interconnect Link Service and Interconnect Conditioning, as soon as

possible, to enable a Call Communication from the Network of TM to be completed on the Network of the Access Seeker.

4. Excessive Request

4.1 In the event that TM receives large numbers of Access Requests, Forecasts and/or Orders from the Access Seeker and/or other various access seekers such that it is not:

- (a) within the reasonable estimation or contemplation of TM;
- (b) reasonably practicable for TM to process the Access Requests, Forecasts and/or Orders within the time frames stipulated in TM's ARD;
- (c) fair and equitable to process the Access Request, Forecasts and/or Orders on a first come first serve basis,

TM shall notify the Access Seeker of the same in writing. TM will, after consultation with the Access Seeker and other access seekers, develop a process to manage and process the large volume of Access Request, Forecasts and/or Orders in a fair and equitable manner ("**Excessive Request Process**").

4.2 Notwithstanding anything to the contrary, the time frames stipulated for the management and processing of the Access Request, Forecasts and/or Orders in TM's ARD and Access Agreement will not apply and/or be suspended upon the occurrence of any event specified in **Section 4.1** provided that TM complies with the Excessive Request Process.

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