

REFERENCE ACCESS OFFER [RAO]



PR1MA COMMUNICATIONS SDN. BHD.
[COMPANY REGISTRATION NO. 201401044100 (1120287-D)]

VERSION 3.0

This PR1MA Communications Sdn. Bhd. ("**PCSB**") Reference Access Offer ("**RAO**") is published pursuant to the Malaysian Communications and Multimedia Commission ("**MCMC**"):

- Commission Determination on Access List ("**Access List**"), Determination No.6 of 2021 made 2 December 2021;
- Commission Determination on the Mandatory Standard on Access ("**MSA**"), Determination No.1 of 2022 made 21 September 2022; and
- Commission Determination on the Mandatory Standard on Access Pricing ("**MSAP**"), Determination No.1 of 2023 made 16 February 2023.

in enabling eligible licensees under the Communications and Multimedia Act 1998 to seek access to PCSB's Network Facilities and/or Services.

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ARTICLES OF THE AGREEMENT

THIS AGREEMENT is made on the day of 2025

BETWEEN:

- 1) **PR1MA COMMUNICATIONS SDN. BHD. (Company Registration No. 201401044100 (1120287-D))**, a company incorporated under the laws of Malaysia and having its registered address at PR1MA Communications Sdn. Bhd, 9th Floor, Block F, No.2 Jalan PJU 1A/7A, Oasis Square, Oasis Damansara, 47301 Petaling Jaya, Selangor Darul Ehsan ("**PCSB**") of the first part;

AND

- 2) **COMPANY NAME** (Company Registration No. **XXXXXXXXXXXX (XXXXXX-X)**), a company incorporated under the laws of Malaysia and having its registered address at ("**Access Seeker**") of the second part.

PCSB and **XXX** shall hereinafter be collectively referred to as "Parties" and individually referred to as "Party", as the context may require.

RECITALS:

- i. PCSB is a licensed operator under the Act and pursuant to its licence(s) under the Act, PCSB may offer network facilities and/or services within Malaysia.
- ii. The Access Seeker is a licensed operator under the Act and pursuant to its licence(s) under the Act, the Access Seeker may offer, as applicable, network facilities and/or services and applications services within Malaysia.
- iii. This Agreement sets out the agreed terms and conditions on which Facilities and/or Services are offered by PCSB to the Access Seeker subject to the scope of their respective Licenses. This Agreement is entered into pursuant to PCSB's Reference Access Offer ("**RAO**") in compliance with the Commission Determination on Access List (Determination No. 6 of 2021), the Commission Determination on the Mandatory Standard on Access (Determination No. 1 of 2022), and the Commission Determination on the Mandatory Standard on Access Pricing (Determination No. 1 of 2023).

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. In consideration of the Parties Operators mutual promises, the Parties agree that the provision of Facilities and/or Services by PCSB to the Access Seeker shall be governed by the terms of this Agreement.

2. General Scope and Structure of the Agreement

- a) This Agreement governs the terms and conditions to access the Regulated Facilities and/or Services. More specifically: -
 - i) the Definitions and Rule of Interpretation are applicable to all documents consisting part of this Agreement unless otherwise stated;
 - ii) the General Terms and Conditions govern the supply of Regulated Facilities and/or Services;
 - iii) the Terms and Conditions for Technical Matters govern the technical matters pertaining to the Regulated Facilities and/or Services; and
 - iv) the Terms and Conditions for Regulated Facilities and Services govern the supply of Regulated Facilities and/or Services unless otherwise stated.
3. The following documents shall be deemed to form and be read and construed as an integral part of this Agreement: -
 - a) this Articles of Agreement;
 - b) Terms and Conditions for Regulated Facilities and/or Services;
 - c) the General Terms and Conditions and the Terms and Conditions for Technical Matters including all annexures, appendices and schedules referred to therein; and
 - d) the Definitions and Rules of Interpretation.
4. In the event there is a conflict between or amongst the above stated documents in Clause 3, the documents shall take precedence according to the order in which they are listed. If there are any conflicts between a document incorporating any annexures, appendices or schedules ("main document") and its annexures, appendices or schedules, the main document shall take precedence.
5. There shall be no order of precedence between the following: -
 - a) the General Terms and Conditions and the Terms and Conditions for Technical Matters;
 - b) the terms and conditions of the different Facilities and/or Services within a particular category; and
 - c) the annexures, appendices and schedules unless expressly specified.
6. The definitions of all words used in this Agreement are contained in the Definitions and Rules of Interpretation.

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

SIGNED by)
as authorised representative for)
PR1MA COMMUNICATIONS SDN. BHD.)
(Company Registration)
No. 201401044100 (1120287-D)))
in the presence of)
))
))
))
.....)
Signature of witness)
))
))
.....)
Name of witness)
))
.....)
NRIC No. of witness)
))
.....)
Occupation of witness)

.....
By executing this Agreement
the signatory warrants that the
signatory is duly authorised to
execute this Agreement on
behalf of **PR1MA**
COMMUNICATIONS SDN. BHD.
(Company Registration No.
201401044100 (1120287-D))

SIGNED by)
as authorised representative for)
COMPANY NAME)
(Company Registration No.)
XXXXXXXXXXXX (XXXXXX-X)))
in the presence of)
))
))
.....)
Signature of witness)
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.....)
Name of witness)
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.....)
NRIC No. of witness)
))
.....)
Occupation of witness)

.....
By executing this Agreement
the signatory warrants that the
signatory is duly authorised to
execute this Agreement on
behalf of **COMPANY NAME.**
(Company Registration No.
XXXXXXXXXXXX (XXXXXX-X))

DEFINITIONS AND RULES OF INTERPRETATION

DEFINITIONS AND RULES OF INTERPRETATION

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

“Access Instruments” mean collectively the Access List Determination, MSA Determination and the MSAP Determination.

“Access List Determination” means the Commission Determination on Access List, Determination No. 6 of 2021 which contains the list of Facilities and Services determined by the Commission under Chapter 3 of Part VI of the Act;

“Access Provider” means:

- a) network facilities provider who owns or provides Facilities listed in Access List Determination; or
- b) network service provider who provides Services listed in the Access List Determination; and
- c) who is a licensee as defined in the Act;

For the purpose of this Agreement, **Access Provider means PR1MA Communications Sdn Bhd. (“PCSB”)**;

“Access Seeker” means a network facilities provider, network services provider, an application service provider or a content application service provider and who is a licensee as defined in the Act and makes a written request for access to Facilities or Services;

“Act” means the Communications and Multimedia Act 1998 as amended and/or revised from time to time;

“Agreement” means this Agreement consisting of the documents set out in **Clause 3** of the Articles of Agreement, including any modification, amendment or addition thereto as may be agreed in writing between the Parties from time to time;

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

“Billing Dispute Notice” means the written notification made by a Party to the other Party in relation to a Billing Dispute in accordance with **Conditions 12.5.1 and 12.5.2** of the General Terms and Conditions;

“Billing Dispute Notification Period” means the period specified in **Condition 12.5.1** of the General Terms and Conditions

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

“Billing Representative” means a representative of the Parties appointed in accordance with the billing procedures set out in **Condition 12.5** of the General Terms and Conditions;

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

“Broadband Termination Unit” or “BTU” means an access device that is capable of supporting multiple terminating equipment (TE) with multiple type of interfaces including but not limited to FE (RJ45), RJ11 and wireless via a single last mile connectivity;

“Business Day” means a day other than the following days:

- a) where an activity is to be performed in a State where Sunday is observed as the weekly holiday and/or with respect to the performance of any payment obligations, Saturday, Sunday and a public holiday;
- b) where an activity is to be performed in a State where Friday is observed as the weekly holiday (excluding the performance of any payment obligations), Friday and Saturday and a public holiday;

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

“Churn” means the processes which are required to be carried out by the Parties in relation to the provision of Services and transfer of Customers, whenever a Customer requests for a transfer from the Party who has been providing the said Customer with one or more Services (Releasing Service Provider) to another Party (Gaining Service Provider);

“Churn Service” means the Service which the Customer requests a Gaining Service Provider to provide;

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

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

“Creditworthiness Information” means the information required by PCSB to assess the creditworthiness of the Access Seeker which are more particularly described in **Condition 3.2** of the General Terms and Conditions;

“Customer” means in relation to an Operator, an end-user having a contractual relationship with the Operator for the provision of communications by means of that Operator’s Facilities and/or Services;

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

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

“Duct and Manhole Access Service” shall have the meaning ascribed in Section III of Part A of the Terms and Conditions for Regulated Facilities and/or Services;

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

“Effective Date” means the date the relevant portions of this Agreement requiring lodgment are duly lodged with the Commission under section 150 of the Act;

“End User” means a customer and final recipient of the service, and includes an ultimate retail Customer of a Party;

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

“Equivalence of Inputs” is a concept that describes PCSB providing to itself and to all Access Seekers the same Facilities and Services on the same terms and conditions including at the same prices and service levels, using the same systems and processes and to the same timescales. For clarification, references to “itself” includes its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest;

“Facilities” means Regulated Facilities offered by PCSB subject to availability of capacity at the time of the Access Request namely;

- (a) Infrastructure Sharing
- (b) Network Co-Location Service
- (c) Duct and Manhole Access

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

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

“Forecast Information” has the meaning given to it in **Condition 2.2** Section II of Terms and Conditions for Technical;

“Forecast Request” means a request by PCSB for Forecast Information from the Access Seeker, as described in **Condition 2.3** Section II of Terms and Conditions for Technical Matters;

“Force Majeure” means any event or circumstance beyond the reasonable control of the Party which affects the Party’s ability to perform its obligations, but not limited to, an act of God, industrial disputes of any kind, war declared or undeclared, blockade, disturbance, lightning, fire, earthquake, storm, explosion of meteor, governmental restraint and expropriation;

“Infrastructure Sharing” shall have the meaning ascribed in Section I of Part A of the Terms and Conditions for Regulated Facilities and/or Services;

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

“Intellectual Property” means all rights conferred under statute, common law and equity in and in relation to trademarks, trade names, logos and get up, inventions, patents, designs, copyright, circuit layouts, Confidential Information, know-how and trade secrets and all rights and interests in them or licenses to use any of them;

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

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

“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;

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

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

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

“Lead-In Duct” means a duct which extends from an End User or PCSB’s location to the first manhole associated with such a duct;

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

“Minimum Value” for the purposes of calculating the Security Sum means the total estimated value of access to the Facilities and/or Services provided (based on the most recent amounts invoiced for those Facilities and/or Services’) or to be provided by PCSB to the Access Seeker for three (3) Billing Periods;

“Minister” means the Minister of Communications and Multimedia Malaysia, or, if different, the Minister administering the Act;

“MSA Determination” means the Commission Determination on the Mandatory Standard on Access, Determination No. 1 of 2022 as amended or superseded by the Commission from time to time;

“MSAP Determination” means the Commission Determination on the Mandatory Standard on Access Pricing, Determination No. 1 of 2023 as amended or superseded by the Commission from time to time;

“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, and in relation to a Party, means so much of the network as is owned or operated by the Party;

“Network Co-location Service” shall have the meaning ascribed in Section II of Part A of the Terms and Conditions for Regulated Facilities and/or Services;

“Notice of Acceptance” means PCSB’s notice of acceptance of an Order provided to the Access Seeker pursuant to **subsections 5.7.12 and 5.7.13** of MSA Determination;

“Notice of Receipt” means the acknowledgment of receipt of the Order from the Access Seeker, as described in **subsections 5.7.5 and 5.7.6** of MSA Determination;

“Operational Support System” or **“OSS”** means the interactive operational support system provided, or to be provided, by PCSB to the Access Seeker to perform the functions required in respect of access to Facilities and/or Services including but not limited to the service fulfilment and service assurances operational support systems;

“Operator” means PCSB or the Access Seeker and **“Operators”** means the parties to this Agreement collectively;

“Order” means an Order which an Access Seeker must give to PCSB to obtain access to Facilities and/or Services pursuant to Section III of the Terms and Conditions for Technical Matters;

“Packet Loss” means the ratio of total lost IP packets to total transmitted packets in a population of interest. Total lost packet includes any delivered with errors or Latency greater than 3 seconds;

“QoS” means Quality of Service;

“QoS Class” or “Quality of Service Class” means a set of quality of service parameters as defined above as Latency, Jitter and Packet Loss, that are associated with Layer 2 connectivity;

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

“Regulated Facilities and/or Services” means: -

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

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

“Residential Gateway” or “RG” means a manageable access device with auto configuration, multiple interface, multi-service perceiving, bears services of different types at the same time and connects a home’s local area network to PCSB’s BTU;

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

“SAO” or “Standard Access Obligations” means the obligations which relate to access as referred to in **section 149** of the Act;

“Security Sum” means the security in the form of a Bank Guarantee provided to, or to be provided by the Access Seeker to, PCSB for the supply of Facilities or Services under This Agreement;

2. In this Agreement except where the contrary intention appears;

- 2.1 the singular includes the plural and vice versa;
- 2.2 a document includes all amendments or supplements to that document, or replacements or novations of it;
- 2.3 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;
- 2.4 the word “person” includes a firm, body corporate, unincorporated association or an authority;
- 2.5 a reference to a person includes the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation), and assigns;

-
- 2.6 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;
 - 2.7 a reference to a related body corporate of a Party has the same meaning as in the Companies Act 2016;
 - 2.8 a reference to a third person is a reference to a person who is not a party to this Agreement;
 - 2.9 headings are included for convenience and do not affect the interpretation of this Agreement;
 - 2.10 no rule of construction and/or interpretation applies to the disadvantage and/or detriment of the Party having control and/or responsible for the preparation of this Agreement.

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GENERAL TERMS AND CONDITIONS OF THE AGREEMENT

CONDITION 1 – PRINCIPLES OF ACCESS AND INTERCONNECTION

1.1 Provision and Usage of Facilities and Services subject to Licence

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

1.2 Principles of Access to Facilities and Services in the Access List Determination

- 1.2.1 **SAO:** In accordance with the Act and subject to exemptions determined by the Minister, PCSB shall provide access on reasonable terms and conditions to the Facilities and/or Services listed in the Access List Determination to any other:

- a) network facilities provider;
- b) network services provider;
- c) applications service provider; or
- d) content applications service provider;

- 1.2.2 **Reasonableness:** PCSB may refuse a request if:

- a) Supply of the relevant listed Facilities and/or Services would not be reasonable in accordance with **Condition 3.5.1** of this Agreement; or
- b) supply of the relevant listed Facilities and/or Services would be reasonable, but the terms and conditions requested by the Access Seeker are not reasonable in accordance with the MSA Determination.

1.3 Principles of Non-Discrimination

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

- 1.3.2 Consistent with **section 149(2)** of the Act, access to Regulated Facilities and/or Services provided by PCSB to the Access Seeker shall be: -

- a) of at least the same or more favourable technical standard and quality as the technical standard and quality provided for itself on PCSB's Facilities and/or Services; and
- b) on an equitable and non-discriminatory basis and for the purpose of this Agreement, shall be subject to the basis of Equivalence of Inputs in **Condition 1.3.4** below.

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

1.3.4 For the purpose of this Agreement, the non-discrimination principle and the term "non-discriminatory" apply on an Equivalence of Inputs basis and require a comparison of:

- a) the basis on which a Facility and/or Service is provided by PCSB to the Access Seeker; with
- b) the basis on which that Facility and/or Service is provided by PCSB to itself and or the other access seeker.

1.4 Application of non-discrimination principle

The non-discrimination principle contained in **section 149(2)** of the Act applies to, amongst others the following:

- a) processing of applications for access;
- b) acceptance or refusal of Access Requests;
- c) provision of information required to provide Forecasts or place Orders;
- d) provision of Facilities and/or Services;
- e) allocation of constrained capacity;
- f) fault reporting and fault rectification;
- g) allocation of space at exchanges;
- h) the purpose or use for which access is provided; and
- i) access to Operational Support Systems in respect of service fulfilment and service assurance.

1.5 Customer Relationship Principles

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

- a) the same person may be a Customer of more than one Party: -
 - (i) in respect of the same or different Services provided by different Parties;
 - (ii) in respect of the same or different Facilities provided by different Parties;
 - (iii) in respect of Facilities provided by one Party and Services provided by another Party.
- b) The supply by a Party to another Party, which the latter Party then utilises in providing Facilities and/or Services to its Customers, does not mean that those Customers are also Customers of the first-mentioned Party.

- c) For the avoidance of doubt, the Parties acknowledge that each Party will be responsible for billing its own Customers, unless otherwise agreed in writing by the Parties.
- d) A Customer will be regarded as a Customer of a Party when the Customer utilises facilities and/or services provided to that Customer by the Party.

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

1.6 No exclusivity and no restriction on resale

- 1.6.1 PCSB must not, in relation to the supply of a Facility and/or Service, include a term or condition in this Agreement preventing the Access Seeker from acquiring the same or any other Facility and/or Service from another Party.
- 1.6.2 Except for Duct and Manhole Access, PCSB must not, in relation to the supply of a Facility and/or Service, include a term or condition in this Agreement preventing the Access Seeker from resupplying that Facility and/or Service to any person.

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CONDITION 2 – SCOPE OF THE AGREEMENT

- 2.1 The scope of this Agreement is, unless otherwise specified in this Agreement, limited only to the provision of the Regulated Facilities and/or Services. For non-regulated Regulated Facilities and/or Services shall be subjected to commercial agreement agreed between both parties.
- 2.2 For the avoidance of doubt, this Agreement is intended to apply only to the provision of Facilities and/or Services by one Party to the other and to related matters concerning the Parties and may not be construed as conferring benefits on third persons.
- 2.3 The Parties hereby agree and acknowledge that this Agreement shall be effective and enforceable upon the lodgment of the relevant portion of this Agreement (which requires lodgment) with the Commission within thirty (30) days from the date of execution or amendment of this Agreement, as the case may be pursuant to section 150 of the Act. The Parties hereby agree and acknowledge that those portions of this Agreement which do not require lodgment with the Commission, will not be lodged with the Commission for lodgment.
- 2.4 Each Party shall notify the other Party as soon as possible of all correspondences from the Commission pertaining to the lodgment of this Agreement. In the event that the Commission refuses or fails to register this Agreement or part thereof, the Parties shall negotiate in good faith to decide on the next course of action to be undertaken by the Parties.

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CONDITION 3 – PROCEDURES FOR REQUESTING NEW FACILITIES AND SERVICES

3.1 Application for Access to New Facilities and/or Services

3.1.1 The Access Seeker may request PCSB to supply network Facilities or network Services that are not currently specified in this Agreement by submitting an Access Request to PCSB.

3.1.2 The purpose of such Access Request is to provide PCSB with sufficient information to assess the Access Seeker' request for the supply of network Facilities or network Services requested by the Access Seeker that are not currently specified in this Agreement.

3.1.3 The Access Request must:

- a) contain the name and contact details of the Access Seeker;
- b) specify the network facilities or network services in respect of which access is sought;
- c) a list of the relevant licenses held by the Access Seeker;
- d) indicate whether the Access Seeker wishes to accept PCSB's terms of offering for the requested network facilities and/or services as specified in the RAO, or to negotiate on alternative terms;
- e) specify the ready for service date(s) for the Facilities and/or Services that is being sought by the Access Seeker;
- f) contain the information (if any) as set out in **Condition 3.1.4** that the Access Seeker reasonably requires PCSB to provide for the purposes of the access negotiations;
- g) where there is no such confidentiality agreement already in force, contain two (2) copies of confidentiality agreement properly executed by the Access Seeker in the form prescribed by PCSB;
- h) preliminary information regarding the scale and scope of the Facilities and/or Services that the Access Seeker expects to acquire from PCSB pursuant to the Access Request;
- i) provide the relevant information relating to the Access Seeker' Network and the functionality of its services, to the extent that the Access Seeker is aware that such information may affect PCSB's Network;
- j) creditworthiness information in accordance with PCSB's requirements, as set out in **Condition 3.2**;
- k) contain Insurance Information as set out in **Condition 3.3**;
- l) be accompanied by the Security Sum as set out in **Condition 3.3.2**;
- m) contain relevant technical information relating to the interface standards of the Equipment of the Access Seeker; and
- n) contain such other information that PCSB may reasonably request.

3.1.4 For the purposes of **Condition 3.1.3(f)**, PCSB must provide the following information to the Access Seeker within ten (10) Business Days of receipt of a written request and

complete information and supporting documents from the Access Seeker, to the extent that it is not provided in PCSB's RAO:

- a) the application forms required to be completed by the Access Seeker to apply for access to network facilities or network services;
- b) any supplementary details of a network facilities and/or network services offered by the Access Provider not included in the RAO;
- c) any supplementary access charges for access to network facilities and/or network services not included in the RAO;
- d) all supplementary technical information relating to the network facilities and/or network services which may be the subject of the Access Request, which are not included in the RAO, including but not limited to any physical and logical interfaces of its network necessary to allow the development and deployment of communications services, value-added services and communications equipment that can interconnect to, and interoperate with, PCSB's Network;
- e) supplementary details of PCSB's operational processes and procedures not included in the RAO;
- f) supplementary details of PCSB's provisioning cycles not included in the RAO and any impact such cycles may have upon an Access Request by the Access Seeker;
- g) details of PCSB's alternative quality of service targets not included in the RAO and actual achievements of service targets in respect of the network facilities and/or network services which may be the subject of the Access Request; and
- h) PCSB's reason for failing to supply any of the information referred to in paragraphs (a) to (g) of this **Condition 3.1.4**.

The provision of information under this **Condition 3.1.4** is subject to the Confidentiality Agreement as set out in **Condition 8**.

3.2 Creditworthiness Information

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

- a) a letter, signed by the executive director/senior general manager/senior vice president 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 reasonably requested by PCSB provided that such information are information which are publicly available.

3.3 Insurance Information

3.3.1 Subject to **Condition 9.2**, PCSB may request for additional insurances, the sum of which is to be specified by PCSB, prior to the provisioning of new facilities and/or services.

3.3.2 Security Sum

The Access Provider may request for additional Security Sum to be specified by PCSB in accordance with **Condition 5.4** prior to the provision of the new network facilities and/or network services.

3.4 Processing of Access Request

3.4.1 Acknowledgement of Receipt of Access Request

PCSB 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 **Condition 3.4.3**, 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 network facilities or network services subject to such terms of offering as specified in the RAO or, where the Access Seeker wishes to negotiate different terms, such terms to be mutually agreed in writing between the Parties.

Subject to the additional information being received by PCSB within ten (10) Business Days from the date of request, PCSB shall reconsider the Access Request in accordance with this **Condition 3.4.1** upon receipt of such additional information.

3.4.2 Resource Charge

PCSB:

- a) may charge the Access Seeker a one-off non-refundable fee, to be determined by reference to the costs incurred by PCSB, for allocation of manpower and other resources to enable PCSB to test and fulfil an Order for new Facilities and/or Services, provided that such one-off fee is justified by PCSB to the Access Seeker as necessary for PCSB to provide the requested Facilities and/or Services; and
- b) The fee for the respective Facilities and Services are set out in Part B of the Terms and Conditions for Regulated Facilities and/or Services. Processing fees for Facilities and Services not currently specified in Part B will be mutually agreed between the Parties from time to time.
- c) must specify the methodology and unit costs for calculating any fees under **Condition 3.4.2 (a)** above, and in its Agreement.

3.4.3 Request for information

Where PCSB requests for additional information pursuant to **Condition 3.4.1(a)**, PCSB shall not require the Access Seeker to provide any of the following information to PCSB unless otherwise agreed (whether as a condition of the provision of further

information or as a condition of assessing the Access Seeker' application, or at any other time):

- a) The Access Seeker' proposed service launch date (though PCSB may request the Access Seeker to specify any ready-for-service dates which the Access Seeker requires from PCSB in respect of the requested network facilities and/or network services);
- b) details of the functionality of the Access Seeker proposed service, except to the extent that such functionality may affect PCSB's Network;
- c) details of the Access Seeker's Network rollout plans, except to the extent that such rollout plans relate to ready-for-service dates requested by the Access Seeker;
- d) details of the Access Seeker's current or proposed retail charges;
- e) details of the Access Seeker's marketing strategy or proposed client base;
- f) financial information relating to the Access Seeker's business, except to the extent that such information may be required pursuant to the creditworthiness requirements under this Agreement;
- g) details of any other supply arrangements or agreements to which the Access Seeker may be a party, except to the extent that such details are directly relevant to technical characteristics of the Access Request; or
- h) any other commercially sensitive information of the Access Seeker which is not strictly required by PCSB to supply a requested network Facilities and/or network Services.

3.5 Assessment of Access Request

3.5.1 Reasons for Refusal

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

- a) in PCSB's reasonable opinion, the Access Seeker' Access Request was not made in good faith and PCSB shall set out the basis on which the Access Request was not made in good faith;
- b) in PCSB's reasonable opinion, the Access Request does not contain the information reasonably required by PCSB hereunder provided that PCSB has sought the information from the Access Seeker under **Condition 3.4.1** and has not received that information within ten (10) Business Days of making such a request;
- c) PCSB does not currently supply or provide access to the requested network facilities and/or network services to itself or to any third parties (in which case it shall identify any alternative network facilities and/or network services which it does provide to itself or to any third parties, which may be acceptable

- substitutes), except where the Access Seeker compensates PCSB for the supply of access to such network facilities or network services;
- d) it is not technically feasible to provide access to the requested network facilities and/or network services;
 - e) PCSB has insufficient capacity or space to provide the requested network facilities and/or network services;
 - f) there are reasonable grounds in PCSB's opinion to believe that the Access Seeker may fail to make timely payment for the supply of the relevant facilities and/or services and such concern cannot be addressed through a security requirement in accordance with the MSA Determination;
 - g) there are reasonable grounds in PCSB's opinion to believe that the Access Seeker would fail, to a material extent, to comply with this Agreement and the terms and conditions applicable to the supply of the network facilities and/or network services; or
 - h) there are reasonable grounds for PCSB to refuse access in the national interest.

3.5.2 Determination of technical infeasibility

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

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

3.5.3 Determination of capacity constraints

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

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

3.5.4 Assessment of the Access Seeker's ability to pay for supply of relevant network facilities or network services

Reasonable grounds in which PCSB may refuse in accordance with **Condition 3.5.1(f)** includes evidence that the Access Seeker is not, in the reasonable opinion of PCSB, creditworthy and such creditworthiness concerns cannot be addressed through a security requirement in accordance with this Agreement.

3.5.5 Assessment of the Access Seeker's ability to comply with terms and conditions applicable to the supply of relevant network facilities or network services

Reasonable grounds in which PCSB may refuse in accordance with **Condition 3.5.1(g)** includes repeated failures by the Access Seeker to comply with the terms and conditions on which similar access to network facilities or network services being provided by PCSB to the Access Seeker.

3.6 Notification of Rejection to the Access Seeker

3.6.1 Where PCSB rejects the Access Request, PCSB 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 **Condition 3.4.1**, as the case may be;
- b) provide reasons for rejection under **Condition 3.5** to the Access Seeker;
- c) provide the basis for the Access Provider's rejection of the Access Request; and
- d) indicate a date and time, not later than seven (7) Business Days from the date of the notice of rejection, at which representatives of PCSB 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 PCSB to substantiate its reasons for refusal, and if access has been refused based on the ground in:
 - (i) **Condition 3.5.1(b)**, PCSB must reassess the Access Seeker's original Access Request considering any supplementary information provided by the Access Seeker;
 - (ii) **Condition 3.5.1(e)**, PCSB must identify when additional capacity is likely to be available; and

- (iii) **Condition 3.5.1(f)**, PCSB must identify the form of security requirement which would satisfy its concern that the Access Seeker may fail to make timely payment for the requested network facilities and/or network services, its reasons for the security requirement and why it considers such concern cannot be addressed through a security requirement.

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

3.7 Acceptance of Access Request

3.7.1 Where PCSB agrees to provide access to the requested network facilities or network services to the Access Seeker in accordance with the terms and conditions of the RAO, PCSB shall within ten (10) Business Days of such response under **Condition 3.4.1(b)**, provide the Access Seeker with two (2) copies of a supplemental agreement to this Agreement.

3.7.2 The Parties shall ensure that their designated representative meet on one of the available dates notified in the Access Request and as agreed by both representatives and that such representative:

- a) agree a timetable for the negotiations, including milestones and dates for subsequent meetings, required to meet the agreed target ready for service date provided that the representative of PCSB shall be available for an initial meeting with the representative of the Access Seeker no later than fifteen (15) Business Days from PCSB's response under **Condition 3.4.1(b)**;
- b) agree on negotiation procedures including:
 - (i) calling and chairing meetings;
 - (ii) responsibility for keeping minutes of meetings;
 - (iii) clearly defined pathways and timetables for escalation and resolution by each Party of matters not agreed in meetings;
 - (iv) procedures for consulting and including in the negotiating process relevant experts from the staff of each of the Parties; and
 - (v) procedures for preparing and exchanging position papers.
- c) review the information requested and provided to date and identify information yet to be provided by each Party; and
- d) identify what technical investigations, if any, need to be made and by whom such investigations should be made.
- e) Agree to return one (1) copy of the executed confidentiality agreement by Access Seeker which also has been executed properly by PCSB in accordance to **Condition 5.4.6 (f)** of the MSA.

3.7.3 The Parties shall co-operate, in good faith and in a commercially reasonable manner, in negotiating and implementing the supplemental agreement with this Agreement. This includes avoiding unnecessary disputes and resolving disputes promptly and fairly. The Parties shall use their best endeavours to conclude the supplemental agreement within three (3) months of receipt of the draft supplemental agreement in **Condition 3.7.1** or such other period as may be mutually agreed in writing ("**Negotiation Period**") and if negotiations are not concluded within the Negotiation Period:

- a) the Parties may jointly apply to the Commission for an extension of time to negotiate and if the extension of time is not granted by the Commission, there shall be deemed to be a dispute between the Parties and the dispute resolution procedures in **Condition 12** shall take effect; or
- b) either Party may initiate the dispute resolution procedures in **Condition 12**.

3.7.4 For the purposes of this Condition, good faith requires that PCSB shall not:

- a) refuse to negotiate terms of access not related to price for the reason that the rate, charge, charging principles or methodologies of access has not been agreed upon;
- b) refuse to negotiate access to network facilities or network services because the Access Seeker has not agreed to acquire access to other network services or network facilities or because the Access Seeker has not agreed to acquire a particular configuration, option or feature of a requested network facilities or network services;
- c) require the Access Seeker to enter into a confidentiality agreement the terms of which would preclude the disclosure of information requested by the Commission or required to be disclosed for the purposes of dispute resolution;
- d) require the Access Seeker to warrant that supplemental agreements to this Agreement complies with all applicable laws;
- e) refuse to include in supplemental agreement to this Agreement a provision permitting variation of this Agreement in the event of any change in rules, applicable laws or applicable regulations (including Commission decisions and Determinations);
- f) make any negotiation conditional on the Access Seeker first obtaining any regulatory approval or consent;
- g) intentionally mislead or coerce the Access Seeker into reaching an Agreement, which would not otherwise have been reached if not for the misleading act or coercion;
- h) intentionally obstruct or delay negotiations or any dispute resolution process;
- i) fail to nominate representatives who have sufficient authority and with sufficient availability to progress negotiations in a timely and efficient manner; or
- j) fail to provide information that is necessary to conclude the supplemental agreement to this Agreement including, without limitation:

- (i) information about PCSB's Network that the Access Seeker reasonably requires to identify the Network elements or network components to which it requires access; and
- (ii) information about the basis of the determination of rates, charges or fees.

3.7.5 PCSB will not be taken to have agreed to provide, and the Access Seeker will not be taken to have agreed to acquire the requested Facilities and/or Services until:

- a) a supplemental agreement to this Agreement has been executed between the Parties and the terms in respect of Regulated Facilities and/or Services are lodged with the Commission in accordance with **section 150 of the Act**.

3.8 Application of Condition 3 to facilities and/or services not listed in the Access List Determination

With respect to facilities and/or services which are not in the Access List Determination, the Parties agree that:-

- a) the procedures and obligations under **Conditions 3.3, 3.4, 3.5 and 3.6** shall not apply to any Access Request for facilities and services not listed in the Access List Determination;
- b) where an Access Request for facilities and/or services not listed in the Access List Determination has been made by the Access Seeker, the Parties will arrange to meet within ten (10) Business Days from the date of the receipt of Access Request or such other date to be mutually agreed, to discuss the Access Request made by the Access Seeker; and
- c) where PCSB agrees to provide the facilities and/or services not listed in the Access List Determination, both Parties will negotiate the terms and such agreed terms and conditions shall be documented in a supplemental Agreement (which shall not be lodged with the Commission).

3.9 Fast Track Application Process

3.9.1 Notwithstanding and as an alternative process to that set out in **Condition 3.1 to Condition 3.8**, PCSB shall make available a fast-track application and agreement process for Access Seekers based on the following principles:

- a) the fast-track process shall be limited to the criteria set out by the Access Provider in accordance with **Condition 3.9.2**;
- b) the fast-track application form:
 - (i) shall be limited to gathering information from the Access Seeker as set out in **Condition 3.1.3(a) and 3.1.3(b)**; and

- (ii) in respect of any requirement to provide security, shall set out a process for determining the required security sums under **Condition 5.4 within five (5) Business Days** of PCSB 's receipt of a fast-track application;
 - c) PCSB may only refuse the Access Seeker's fast-track application for the reasons set out in **Conditions 3.5.1(c), 3.5.1(f) and 3.5.1(g)**;
 - d) the fast-track agreement between PCSB and the Access Seeker must be on the terms of PCSB 's RAO; and
 - e) within ten (10) Business Days of PCSB 's receipt of a fast-track application, PCSB will provide the Access Seeker with two (2) copies of the RAO executed by PCSB, or a notice of refusal that sets out the grounds for refusal under **Condition 3.6.1(c)** (including the basis on which those grounds apply).
- 3.9.2 PCSB shall set up, and publish on its publicly accessible website, the criteria on which Access Seekers will be eligible for the fast-track application and agreement process according to the following principles:
- a) the criteria must be determined and applied by PCSB on a non-discriminatory basis;
 - b) the fast-track process may be limited to the supply of Facilities and/or Services to the extent that such supplies do not have a material impact on PCSB's current level of network resources; and
 - c) the Facilities and/or Services which may be the subject of a fast track application may be limited to Layer 2 HSBB Network Services with QoS.

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CONDITION 4 – PROVISION OF INFORMATION

- 4.1. The obligations of each Party to provide information to the other Party are as set out in this Agreement or as otherwise agreed between the Parties and are subject to the requirements of confidentiality imposed by this Agreement.
- 4.2. A Party must provide the other Party on a timely basis with all agreed information reasonably required to determine rates and charges to be billed by each Party to the other Party or by each Party to its Customers.
- 4.3. Information provided under this Agreement may only be used for the purpose for which it was given. Personal information about a Customer's credit worthiness, credit standing, credit history or credit capacity may only be used for the purposes permitted by, and in compliance with, Malaysian law.
- 4.4. If any of the information is used by a Party for any purpose other than the purpose for which it was given, the providing Party may deny the recipient Party further access to the information for the period during which the non-observance or non-conforming use continues on notice specifying the non-observance or non-conforming use. The Parties will cooperate to resolve the providing Party's reasonable concerns so that information exchange can be resumed as soon as possible.
- 4.5. The Parties acknowledge that when information (including, for the purposes of this Condition any updated information) required to be provided under this Condition is held on a database, the Party entitled to receive the information will not be entitled to obtain direct access to the database. The precise method by which information is to be made available will be determined by the Party having regard to the reasonable cost, convenience and security concerns of the Parties.
- 4.6.
 - a) Subject to the Act and any subordinate legislation, nothing in this Agreement may be construed as requiring a Party at any time to disclose to the other Party information which is at the date when this Agreement comes into force, the subject of a confidentiality obligation owed to a third person unless the third person consents to such disclosure. Where the consent of a third person is required, the Party holding the information must use its reasonable endeavours to obtain the consent of that third person.
 - b) After this Agreement comes into force a Party must use its best endeavours not to enter into any contract which would prevent it from making information available to the other Party unless the contract includes a term which permits the contracting Party to make the information available if directed to do so by the Commission.
- 4.7. All communication information and such other relevant information must be kept by both Parties for a period of three (3) years unless otherwise agreed in writing for the purposes of verification and audit.

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- 4.8. The Parties further agree that the information provided for the purpose of this Agreement shall be subject to the Confidentiality Agreement as set out in **Condition 8**.

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CONDITION 5 – BILLING AND SETTLEMENT

5.1. Billing

5.1.1.

- a) In respect of any Charge due from a Party, the invoicing Party (“**Invoicing Party**”) shall raise the Invoice for amount due for the supply of Facilities and Services except for:
 - i. subject to **Condition 6.1 of Section V of the Terms and Conditions for Regulated Facilities and Services**, voice announcements at switches which are limited to:-
 - (A) the number is not in service;
 - (B) bulk change announcement;
 - (C) subscriber set is not switched on/active;
 - (D) subscriber set is out of range; or
 - (E) any other related voice announcement at exchanges (which are not chargeable) to be mutually agreed in writing by the Operators.
- b) Unless otherwise agreed in writing, the Invoicing Party shall invoice in writing or in electronic form (as requested by the Party receiving the Invoice (“**Invoiced Party**”)), on an Operator-to-Operator basis, within thirty (30) days from the end of the Billing Period for amounts due in respect of the supply of Facilities and Services during the Billing Period. The Invoicing Party shall provide with each Invoice, such information as may be reasonably necessary for the Invoiced Party to verify the rates and charges specified in the Invoice. In addition, the Invoiced Party may request, in writing, for the billing report to be provided by the Invoicing Party in an electronic format.
- c) The Invoicing Party shall provide the Invoiced Party at the Invoiced Party’s written request, with an aggregated summary of billings for access to the Facilities and/or Services provided to the Invoiced Party in monthly tranches.
- d) The Parties shall, from time to time, inform each other of the mailing address and the department to which the Invoice should be sent to and also their respective bank account details for the purposes of enabling the other Party to make payment. All Invoices shall be delivered by hand or post (either registered mail or courier) or email.
- e) The billing period for the purpose of invoicing shall be in 30 days, unless otherwise agreed with the Access Seeker or as stated in **Part B, Terms and Conditions for Regulated Facilities and/or Services** of this PCSB RAO.

5.1.2.

- a) If the Invoicing Party is unable to submit an Invoice for actual charges for any network facilities and/or network services supplied in a Billing Period, then the Invoicing Party may issue to the Invoiced Party an Invoice for a provisional amount (“**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 Facilities and/or Services, the Invoicing Party may issue a provisional Invoice up to the full value of the amount based on the most recent Invoice. The Invoiced Party 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 Invoiced Party shall treat the Provisional Amount as the actual Invoice.

- b) The Invoicing Party may invoice the Invoiced Party for the Provisional Amount for a period of not more than three (3) successive Billing Periods.

5.1.3.

- a) If the actual amount for a particular Billing Period is higher than the Provisional Amount for the Billing Period, then the Invoiced Party will pay in full such difference (free of interest) within thirty (30) days from the receipt of the invoice to the Invoicing Party.
- b) If the actual amount for a particular Billing Period is lower than the Provisional Amount for the same Billing Period, the Invoicing Party will reimburse in full such difference free of interest within thirty (30) days from the receipt of the invoice to the Invoiced Party. Such payment must be forwarded to the Invoiced Party together with the relevant monthly statement.

5.1.4. Where appropriate, any taxes (including goods and service tax, sales and service tax, as applicable), duties or other imposts (as at the date of this Agreement or imposed after the date of this Agreement) shall be added to all or any Charges under this Agreement and be paid by the Party responsible for making such payment.

5.2. Terms of Payment

5.2.1.

- a) The Invoiced Party must pay any amount due and owing to the Invoicing Party on the Due Date unless otherwise agreed in writing by both Parties.
- b) The Invoiced Party to whom any Facilities and/or Service is provided under this Agreement must pay the Invoicing Party the applicable rates and charges, and on the terms and conditions set out or referred to, as the case may be, in this Agreement.

5.2.2. All Payments:

- a) must be paid by electronic transfer to the Invoicing Party or by cheque to the nominated account(s) of the Invoicing Party;
- b) must be accompanied by such information which is reasonably required by the Invoicing Party to properly allocate payments received, failing which the Invoicing Party shall have the absolute discretion to allocate payments received to any amounts due and payable; and

- c) unless otherwise agreed by the Parties, shall not be subject to any set-offs except where the Invoiced Party is in liquidation or at least three (3) invoices have been issued and such Invoices have not been paid (excluding disputed amounts which a Party is authorised to withhold in accordance with **Condition 12.5.5**).

5.2.3.

- a) Subject to **Condition 5.2.3(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.

5.2.4. It is hereby expressly agreed that the Invoicing Party is entitled to the payment of interest without prejudice to any other rights of the Invoicing Party. Interest on due and unpaid amounts is payable (as well as before judgment and after judgement) at the rate of two percent (2%) per annum above Malayan Banking Berhad Base Rate (BR) calculated daily from the Due Date until the date of actual payment. Payments which are overdue by more than sixty (60) days will bear interest at the rate of three percent (3%) per annum above BR (as well before judgment and after judgement) calculated from the Due Date until the date of receipt by the Invoicing Party of full payment. Further, the BR rate to be used shall be the published rate prevailing on the date of payment. For clarification, Invoicing Party shall not charge interest on an amount which is disputed by Invoiced Operator in good faith.

5.2.5. Where interest in respect of any due and unpaid amount is due to the Invoicing Party under **Condition 5.2.4**, the Invoicing Party may add the amount of such interest to its next invoice.

5.2.6. If the Invoicing Party discovers an error in an invoice given to the Invoiced Party under this **Condition 5**, it must notify the Invoiced Party. The Invoicing Party which made the error must make the necessary adjustment to correct that error (including adjusting any interest erroneously charged) in its next Invoice.

5.2.7. The Invoicing Party may include omitted or miscalculated Charges from an Invoice at a later date provided that the Invoicing Party is able to substantiate the Charges to the Invoiced Party and the inclusion or amendment is made within three (3) months from the end of the Billing Period for the Facilities and Services provided. For the avoidance of doubt, in the event the Invoicing Party fails, neglects, or omits to submit an omitted or miscalculated Charge in a later invoice, or fails, neglects or omits to submit an invoice for any Charges within the time period specified in this Condition, then the Party shall be deemed to have waived and/or forfeited its right to make any further claims on the said omitted Charge.

5.2.8. Notwithstanding anything to the contrary, the Invoiced Party shall be entitled to deduct or withhold such taxes, duties, levies, or such other sums imposed by such governmental authorities ("said taxes") from any sum or sums due to the Invoicing

Party in the event the Invoiced Party is required by law to pay the said taxes for and on behalf of the Invoicing Operator.

5.3. Billing Disputes

- 5.3.1. Where there is a Billing Dispute, the Parties shall comply with the dispute resolution procedures in **Condition 12**.
- 5.3.2. For the avoidance of doubt, the Invoiced Party shall not use the dispute resolution procedure in **Condition 12** to avoid or delay payment due to the Invoicing Party where there is no genuine dispute.

5.4. Security Sum

- 5.4.1. PCSB shall not impose any security requirements on an Access Seeker unless PCSB determines, acting reasonably, that the Access Seeker presents a credit risk and that imposing the security requirement will materially reduce or remove that risk.
- 5.4.2. PCSB shall ensure that the amount of security imposed on the Access Seeker in its security policy, commensurate with:
 - (a) A commercially reasonable estimate of the charges that will be incurred by the Access Seeker:
 - i. For Facilities and/or Services with a minimum period of access, a maximum of 6 months for those Facilities and/or Services; and
 - ii. For Facilities and/or Services without a minimum period of access, a single Billing Period for those Facilities and/or Services
 - b) in an Access Agreement; the creditworthiness of the Access Seeker (including prior payment records of the Access Seeker); and
 - c) The Security Sum previously provided by the Access Seeker.
- 5.4.3. The Access Seeker shall have deposited or procured the deposit of the Security Sum as security for the performance of all the Access Seeker's obligation under this Agreement, unless otherwise waived in writing by PCSB.
- 5.4.4. The amount of the initial Security Sum shall be based on the Minimum Value calculated over a ninety (90) day period commencing from (the Effective Date or any other date wherein the Security Sum is to be imposed by PCSB subject to **Condition 5.4.5 (a)**. For the purpose of clarification, the Security Sum does not relieve the Access Seeker from its obligations to pay amounts to PCSB as they become due and payable, nor does it constitute a waiver of PCSB's right to suspend, disconnect, or terminate the relevant Facilities and/or Services due to non-payment of any sums due or payable to PCSB.

5.4.5.

- a) PCSB shall be entitled to revise the Security Sum on the occurrence of any of the following events: -
- (i) A maximum of once in any twelve (12) month period;
 - (ii) where, in the opinion of PCSB, the amount of the Security Sum is less than the Minimum Value calculated over a ninety (90) day period determined by the Access Seeker;
 - (iii) where, in the opinion of PCSB, there is a material change in circumstances in relation to the Access Seeker's creditworthiness. In such cases, PCSB may request for additional security in addition to the Minimum Value to sufficiently and reasonably mitigate its risk in providing the Facilities and 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;
 - (iv) upon the provisioning of new or additional Facilities and/or Services to the Access Seeker, to ensure that Security Sum is equivalent to the Minimum Value after taking into consideration the estimated value of new or additional Facilities and/or Services provided or to be provided over a ninety (90) day period; or
 - (v) there is a change in the methodology of determining the Security Sum.
- b) Where the amount of the Security Sum is, at any time, less than the Minimum Value (including when a demand has been made by PCSB) calculated over a ninety (90) period determined by the Access Provider, the Access Seeker shall within twenty one (21) Business Days from the written request of PCSB, deposit a new security equivalent to the Minimum Value.

5.4.6

- a) The Security Sum deposited by the Access Seeker with PCSB and any interest thereon, shall only be used for the purposes set out in **Condition 5.4.2**. PCSB may at its discretion call upon or deduct the Security Sum at any time after the due date (other than that due to disputes in good faith) subject to **Condition 5.4.5(i)** or upon a breach of any of the Access Seeker's obligation.
- b) Upon termination of this Agreement: -
- (i) the Security Sum deposited with the Access Provider 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 all other undisputed amounts payable by the Access Seeker to PCSB have been paid; and
 - (ii) PCSB shall immediately in writing unconditionally waive its rights under any guarantee provided as Security Sum in respect of future performance of this Agreement by the Access Seeker (if any), since this Agreement has been terminated. However, the guarantee shall remain in full force in

respect of any antecedent breaches under this Agreement or in respect of any undisputed amounts payable by the Access Seeker to PCSB as at the date of termination;

without prejudice to the rights and remedies of PCSB under this Agreement (including but not limited to the right to claim for any or all amounts due and payable under this Agreement and/or to call upon the Security Sum) and/or under the law.

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CONDITION 6 – INTELLECTUAL PROPERTY RIGHTS

- 6.1. All right, title, and interest in and to any:
- a) Intellectual Property (in relation to matters which are the subject of this Agreement) developed or to be developed vests in the Party who develop that Intellectual Property or for whom that Intellectual Property was developed by a third person; and
 - b) improvements to or adaptations, versions, or modifications of Intellectual Property (in relation to matters which are the subject of this Agreement) vest in the Party who developed that Intellectual Property or on behalf of whom that Intellectual Property was developed.
- 6.2. The Parties will negotiate arrangements (including in respect of title) concerning Intellectual Property jointly developed in the course of performing or otherwise in connection with this Agreement.
- 6.3. Each Party shall licence to the other Party on a royalty-free basis, all Intellectual Property rights necessary for the on-going operation of this Agreement and this interoperability of the Parties' Networks but shall be subject to any relevant third-party licences. The Parties agree that such Intellectual Property rights accorded to them shall only be used for purposes of this Agreement and shall terminate upon termination of this Agreement unless otherwise agreed in writing.
- 6.4. Each Party ("**Indemnifying Party**") indemnifies the other Party ("**Innocent Party**") against all liability or loss arising directly from, and all reasonable costs, charges and expenses incurred by the Innocent Party in connection with any claim, action, suit or demand alleging infringement of the rights of a third party arising from use by the Innocent Party of Intellectual Property disclosed or licensed by the Indemnifying Party under this Agreement. This indemnification will represent the only remedy and form of compensation available to the Innocent Party in relation to the infringement of Intellectual Property licensed or disclosed by the Indemnifying Party under this Agreement.
- 6.5. A Party shall only use such Intellectual Property and information provided by another Party for the purposes of providing or acquiring access to requested Facilities and/or Services. A Party must not use such Intellectual Property or information for the development or marketing of other communications services or Equipment by that Party, its own divisions, subsidiaries, partners, or other entities in which it has a direct or indirect equity, contractual or other interest, or third parties.

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CONDITION 7 – PROVISION OF FACILITIES AND SERVICES

- 7.1. The Access Seeker shall not use any Facilities and/or Services provided by PCSB and shall ensure that its Customers shall not use the Access Seeker' service provided by means of PCSB'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. The Parties acknowledge and agree that, subject to the quality of standards stipulated in this Agreement, neither Party has any 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.
- 7.3.
- a) PCSB has no control whatsoever over the information, images or other content transmitted through its Network. As such, PCSB shall not be responsible for the content of any communication conveyed by making use of its Facilities and/or Services.
 - b) The Access Seeker has no control whatsoever over the information, images or other content transmitted through its Network save and except for information, imaged or other content created or owned by the Access Seeker. As such, the Access Seeker shall not be responsible for the content of any communications conveyed by making use of its Facilities and/or Services save and except for the content of any communications created or owned by the Access Seeker.
- 7.4. Save and except as expressly stipulated in this Agreement, PCSB does not warrant that the Facilities and/or Services will meet the Access Seeker' 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.
- 7.5. The Access Seeker shall only offer its services to its Customers under its own brand without any use of, or reference to PCSB's brands. The Access Seeker agrees not to offer any service under any brand, including any trademark, trade name or company name, of PCSB unless the use of the brand(s) of PCSB is explicitly provided for under this Agreement or as agreed by PCSB.
- 7.6. The Access Seeker shall ensure that any equipment connected to PCSB's Network by the Access Seeker' Customers complies with the requirements specified by PCSB and are type approved.

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CONDITION 8 – CONFIDENTIALITY OBLIGATION

- 8.1. Each Party shall keep confidential all Confidential Information of the other Party which:
- (a) is disclosed, communicated, or delivered to it by a Party pursuant to this Agreement; or
 - (b) comes to its knowledge or into its possession in connection with this Agreement, in accordance with the Confidentiality Agreement.
- 8.2. The Parties agree that the terms and conditions of this Agreement shall be kept confidential in accordance with the Confidentiality Agreement in Annexure 1. For the purpose of this Agreement, the term “Confidential Information” shall have the same meaning defined in the Confidentiality Agreement.
- 8.3. All Confidential Information disclosed or communicated by one Party to the other Party or obtained by one Party from the other Party in connection with this Agreement including but not limited to the business and operations of a Party and the terms of this Agreement shall be treated as Confidential Information unless the information:
- a) is or become publicly available through no fault of the receiving Party;
 - b) which the receiving Party can prove was in its possession or known to it prior to its receipt from the disclosing Party without a duty of confidentiality;
 - c) is or was rightfully received by the receiving Party from a third party without a duty of confidentiality being owed by the receiving Party to the third party, except where the receiving Party has knowledge that the third party has obtained that information either directly or indirectly as a result of a breach of any duty of confidence owed to the disclosing Party; or
 - d) is independently developed by the receiving Party without the use of the Confidential Information.
- 8.4. Each Party’s Confidential Information shall be held in strict confidence by the other Party, using no lesser security measures and degree of care as it uses to protect its own Confidential Information. In any event, the security measures and the degree of care it uses shall, as a minimum, comply with the standards imposed by the applicable laws including the Personal Data Protection Act 2010. The receiving Party shall further ensure that the Confidential Information is secured from unauthorised access from internal and external parties and that all Confidential Information used, stored and/or processed shall be free from virus, malware or other malicious codes.
- 8.5. Neither Party shall publicise or announce the execution of this Agreement or otherwise disclose the terms thereof without the prior written consent of the other save and except where its disclosure becomes mandatory pursuant to any laws or any acts of authority or is for the purposes of court proceedings in which case **Condition 8.4** shall apply.
- 8.6. The Confidential Information shall not be used, copied, reproduced, distributed or disclosed by the receiving Party for any purpose except that:

- a) it may be disclosed to its employees or its advisers strictly on a need to know basis to implement or perform this Agreement provided that its employees and advisers are subject to and maintains the confidentiality obligations under this Agreement; and/or
 - b) its disclosure becomes mandatory pursuant to any laws or any acts of authority or rules of any stock exchange or is for the purposes of court proceedings.
- 8.7. Where the receiving Party is required to disclose any Confidential Information pursuant to any laws or any acts of authority or rules of any stock exchange, or is for the purposes of court proceedings, the receiving Party:
 - a) shall where practicable and lawful give one (1) Business Day's notice to disclosing Party that it is required to disclose the Confidential Information so that the disclosing Party has an opportunity to protect the confidentiality of its Confidential Information; and
 - b) provides the disclosing Party with a copy of the Confidential Information that the receiving Party is required to disclose.
- 8.8. Upon the expiry or termination of this Agreement, the receiving Party shall promptly return to the disclosing Party or, where instructed, destroy Confidential Information of the disclosing Party at its own cost and immediately cease using all such Confidential Information. Where required by the disclosing Party, the receiving Party shall provide to the disclosing Party a written undertaking confirming that it has fully complied with the requirements of this **Condition 8.6** and that it is not in possession or control of any of the disclosing Party's Confidential Information.
- 8.9. The receiving Party shall ensure that each of its personnel and advisers to whom the Confidential Information of the disclosing Party is disclosed will strictly comply with the confidentiality obligations under this **Condition 8**.
- 8.10. Each Party shall comply with all applicable privacy and personal data protection laws and regulations. Each Party may be required to provide to the other Party personal data (as defined in the Personal Data Protection Act 2010) of third parties (including but not limited to the Party's contact persons and employees) as part of and/or for the performance of this Agreement. Each Party represents and warrants that it has and will comply with any applicable laws to provide notices to or obtain consents from any such individuals to allow sharing of their personal data with the other Party and/or their employees or agents to facilitate the performance of this Agreement and any other ancillary matters related to the performance of this Agreement including but not limited to the disclosure of their personal data to any other third parties on a need to know basis.
- 8.11. The obligations of the receiving Party in this **Condition 8** shall survive the termination or expiry of this Agreement.

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CONDITION 9 - LIABILITY AND INDEMNITY

9.1. General Principle

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

9.2. Insurance

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

- a) Worker's Compensation and/or Social Security Insurance and/or Employer's Liability Insurance and/or other insurance with statutory limits as required by the laws of Malaysia to provide for payment to its employees employed on or in connection with the work covered by this Agreement and/or their dependants; and
- b) Comprehensive General Liability Insurance or Public Liability Insurance of an amount which is not more than 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 this Agreement resulting in bodily injury and/or personal injury including death and property damage of a Party which shall arise out of or in consequence of any acts or omission of the other Party.

9.3. Damage Property

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

9.4. Death and Personal Injury

Subject to **Condition 9.6.2**, the defaulting Party shall be absolutely liable for, and hereby indemnifies the other Party from and against all costs, expenses and claims in respect of

all injuries to, including the death of any and all employees of the other Party arising out of any act or omission of the defaulting Party, its servants or agent.

9.5. Third Person Indemnity

Subject to **Condition 9.6.2**, the defaulting Party shall indemnify and hold the other Party safe and harmless from and against all costs, expenses and claims in respect of: -

- a) all injuries to, including death of; and/or
- b) loss of or damage to property of,

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

9.6. Liability

9.6.1. Neither Party excludes liability for death or personal injury attributable to its own negligence or the negligence of its servants and agents.

9.6.2. Subject to **Conditions 6.4 and 9.5**, a Party shall not be liable to the other Party or any other third party and shall not indemnify the other Party for any claims, proceedings or actions brought or made by a third party against the other Party, howsoever arising, including but not limited to:

- a) the lack of or loss or interruption or any delays to access, interconnection transmission or otherwise; and
- b) any claims, proceedings or actions brought or made against the other Party by any person pursuant to a contractual relationship with the other Party.

9.7. Exclusion of warranty

9.7.1. Except as expressly set out in this Agreement, all representations, conditions and warranties (whether express or implied, statutory or otherwise) including but not limited to any implied warranty of merchantability, implied warranty of fitness for a particular purpose, implied warranty of non-infringement and implied warranty arising out of the course of dealing, custom or usage of trade with respect to any service provided by either Party are expressly negative and excluded. The warranties set forth in this Agreement are the only warranties made by each Party and will not be enlarged or diminished without that Party's approval.

9.7.2. In no event will either Party be liable to the other Party or any other person for indirect loss of profits, loss of business, use of data or special, exemplary, indirect, incidental, consequential or punitive damages of any kind for any reason, including, without limitation, the breach of this Agreement or any termination of this Agreement,

whether such liability is asserted on the basis of contract, tort (including negligence and strict liability) or otherwise, even if either Party has been advised of the possibility of such damages. The essential purpose of this provision is to limit the potential liability of each Party arising out of this Agreement.

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CONDITION 10 – TERMINATION AND SUSPENSION

10.1. This Agreement shall only take effect on the Effective Date and shall remain in force until the termination of this Agreement.

10.2.

- a) A Party ("**Notifying Party**") may terminate this Agreement or part thereof if:
- (i) the other Party ("**Defaulting Party**") fails to remedy a breach (which is capable of remedy) of a material obligation under this Agreement (including but not limited to the events specified in **Condition 10.3(a)(iii) to (vi)**) within **thirty (30) days** of receiving a notice of breach from the Notifying Party;
 - (ii) a winding up order has been made against the Defaulting Party and the order remains or will remain in effect for a continuous period of ninety (90) days;
 - (iii) an order is made or an effective resolution is passed, for the reconstruction and amalgamation of the Defaulting Party or otherwise under **Sections 366 to 368** of the Companies Act 2016 or any other similar action or proceeding under any other law and the order or resolution remains or will remain in effect for a continuous period of sixty (60) days;
 - (iv) a receiver, receiver and manager, official manager, provisional liquidator, liquidator, or like official is appointed over the whole or a substantial part of the undertaking and property of the Defaulting Party;
 - (v) a holder of an encumbrance takes possession of the whole or any substantial part of the undertaking and property of the Defaulting Party;
 - (vi) the Defaulting Party fails to remedy breaches (which are capable of remedy) of any laws, regulations, rules or standards which has a material adverse effect on the Notifying Party or this Agreement or the provision of Facilities and/or Services, within thirty (30) days of receiving a notice of breach from the Notifying Party; or
 - (vii) a Force Majeure, substantially and adversely affecting the ability of a Party to perform its obligations to the other Party under this Agreement, continues for a consecutive period of ninety (90) days. However, Notifying Party may not give notice under this **Condition 10.2** unless the Notifying Party has:
 - (a) negotiated or endeavoured to negotiate in good faith with the other Party to remedy the Force Majeure with the purpose of amending the terms of this Agreement to enable this Agreement to remain in full force and effect notwithstanding such inability to so perform; and
 - (b) has failed to reach any Agreement within thirty (30) days from the commencement of negotiations.
- b) Upon the occurrence of the events set out in **Condition 10.2** above or where a breach is incapable of remedy, and subject to the provision of **Condition 10.4** below, the Notifying Party may terminate this Agreement by issuing a termination notice to the Defaulting Party/other Party (in the case of Force Majeure) and this Agreement shall terminate in accordance with the terms of the termination notice.

10.3.

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

10.4.

- a) Where the Notifying Party seeks to terminate this Agreement (or part thereof) or suspend, to the extent necessary, access to Facilities and/or Services on any grounds including those specified in:-
- (i) **Conditions 10.2 (a)(i) to (vi)** with respect to termination; and/or
 - (ii) **Conditions 10.3 (a)(i) to (vi)** with respect to suspension

the Notifying Party shall first notify the Commission in writing of ("Notice to the Commission") of the action that the Notifying Party proposes to take and the reasons why it considers such action is appropriate. The Commission may invite the Defaulting Party to make submissions to the Commission regarding the proposed termination or suspension. The Notifying Party:

- (A) shall only give effect to the proposed termination or suspension with the Commission's written consent and subject to any time delay or conditions which the Commission may specify (if any). In this respect, the Commission shall respond to the Notifying Party's notice within ten (10) Business Days or such other period that the Commission considers reasonable;
- (B) must not give effect to the proposed termination or suspension unless the Notifying Party has received written consent from the Commission to such termination or suspension; and
- (C) subject to such conditions and/or requirements for the Access Seeker to comply as maybe determined by PCSB including shall take all steps practicable to minimise disruptions and inconvenience to the Customers of the Access Seeker, including the provision of security requirements, with a reasonable period to make alternative arrangements prior to the suspension or termination of this Agreement, or access to Facilities and/or Services provided under it.

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

- (i) terminate this Agreement (or part thereof); or
- (ii) suspend access to the Facilities and/or Services,

The Notifying Party may, issue:

- (A) a termination notice immediately to the Defaulting Party (with a copy of the said notice to be provided to the Commission on the same day) and this Agreement shall terminate in accordance with the terms of the notice; or
- (B) a suspension notice, with reasons, to the Defaulting Party

- (1) immediately where the suspension is due to any of the events under **Condition 10.3(a)(iii), Condition 10.3(a)(iv) and Condition 10.3(a)(v)**; or
- (2) with five (5) Business Days' notice where the suspension is due to events under **Condition 10.3(a)(i), Condition 10.3(a)(ii), and/or Condition 10.3(a)(vi).**

(with a copy of the said notice to be provided to the Commission on the same day) and the access to the Facilities and/or Services shall be suspended immediately or after the expiry of the five (5) Business Days period (as the case may be) in accordance with the terms of the notice.

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

10.6. In the event the Notifying Party suspends access to Facilities and/or Services by reason of the Defaulting Party's failures set out in **Condition 10.3**, the Notifying Party must reinstate access to Facilities and/or Services upon the Defaulting Party remedying its failure or the direction of the Commission. Reconnection fee shall be imposed by the Notifying Party to the Defaulting Party due to suspension of the Facilities and/or Services.

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

- (a) a Party's Licence(s) is terminated, and the Party is not immediately granted another Licence(s) of that type (where a License of that type or another Licence is required);
or
- (b) there are any changes in law or regulation which renders this Agreement or access to any Facilities and/or Services unlawful,

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

10.8. In the event that any government or state authority or owner or person having control over the Facilities and/or Services directs or terminates or requires PCSB not to use the infrastructure for whatsoever reason, such that PCSB is not able to provide the Facilities and/or Services to the Access Seeker, PCSB shall, notwithstanding the minimum contractual period, terminate the affected Facilities and/or Services by providing thirty (30) days prior written notice to the Access Seeker. The Parties agree that the remedies set out in this **Condition 10** shall be the only remedy for the Access Seeker. PCSB 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, PCSB will use its reasonable endeavours to offer the Access Seeker other suitable network facilities and/or services subject to availability.

10.9. Notwithstanding anything to the contrary, in the event a Party breaches any of its obligations under this Agreement, the other Party shall, without prejudice to any of its rights and remedies under this Agreement and under law, have the absolute discretion to immediately seek urgent interlocutory action which shall include but not be limited to:-

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

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

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

- a) a Party ("**Requesting Party**") gives the other Party written notice requesting the other Party to carry out necessary disconnection works and to return any equipment or facilities of the Requesting Party or a third person installed by or for the requesting Party; and
- b) the other Party has failed to comply with the request, the Requesting Party may enter the premises of the other Party on reasonable notice for the purposes of carrying out any necessary disconnection works and repossessing any such equipment and facilities. The other Party on whose premises such equipment or facilities were installed is responsible for compensating the requesting Party for any such equipment or facility which is not delivered up in good condition (fair wear and tear excepted) and for making good all the damage to the requesting Party's premises, if the equipment or facilities of the other Party are in the requesting Party's premises or under the requesting Party's care. The other Party shall indemnify the requesting Party in respect of any damage thereby caused to the premises, equipment and facilities of or under the care of the requesting Party.

10.11. Upon termination of this Agreement or part thereof:

- a) subject to **Condition 10.11 (b)** below, PCSB shall refund to the Access Seeker within sixty (60) days all amounts paid in advance in respect of Facilities and/or Services to the extent that the amount (or part of the amount calculated on a pro-rata basis) relate to the period after the effective date of termination; and
- b) The Access Seeker shall immediately pay all amounts due to PCSB for the provision of Facilities and/or Services prior to and up to termination (save for disputed amounts which the Access Seeker is entitled to withhold under **Condition 12.5.5**).

For the avoidance of doubt, PCSB shall be entitled to claim for all Charges arising during an applicable minimum contractual period provided under this Agreement notwithstanding that the provision of Facilities and/or Services was terminated prior to the expiry of the applicable minimum period provided that:

- (i) such charges must be reduced to reflect any cost savings to PCSB from not having to supply the Facilities and/or Services to the extent that they have been terminated or suspended; and
- (ii) PCSB must use reasonable endeavours to mitigate its cost of termination or suspension and maximise cost savings under **Condition 10.11(b)(i)**.

Where the provision of Services is terminated due to Force Majeure, the minimum charge for Services affected by the Force Majeure shall not be applicable.

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

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CONDITION 11 – REVIEW

11.1. Subject to **Condition 11.3**, if: -

- a) the Minister issues a direction or determination relating to the subject matter of this Agreement;
- b) the Commission issues a direction or determination relating to the subject matter of this Agreement;
- c) there are any amendment, changes or modifications to the Act, its subsidiary legislation and the instruments issued there under including but not limited to the MSA Determination, the Access List Determination and the Ministerial Direction on Access Pricing which relates to the subject matter of this Agreement;
- d) enactment of new laws and regulations which relates to the subject matter of this Agreement;
- e) the registration, determination, promulgation, issue, amendment or replacement of any industry code with which a Party is required or obliged to comply;
- f) if a condition of a Party's Licence is amended or deleted or a new condition is imposed which relates to this Agreement; or
- g) by agreement of each of the Parties,

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

11.2. If after the date hereof,

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

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

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

11.4.

- a) Subject to Commission approval and/or further direction, if a Regulated Facility and/or Service is removed from the Access List or becomes a non-regulated facility or service pursuant to a revocation or an amendment to the Access List Determination:

- (i) PCSB may, at its discretion and by giving notice to the Access Seeker:

- (A) terminate or withdraw that network facility or network service; or
 - (B) vary or modify the terms and conditions pertaining to that Facilities and/or Services subject to mutual agreement provided always that the Parties shall, within fourteen (14) days from the date of PCSB's notice, first discuss the variation or modification which PCSB propose to adopt ("initial meeting"). Thereafter, if the Parties fail to agree on the amended terms and conditions within forty-five (45) days from the initial meeting or such other time as may be mutually agreed in writing by the Parties, then PCSB shall be entitled to terminate or withdraw that Facilities and/or Services under **Condition 11.4(a)(i)(A)** above. In such a case, the notice period referred to in Condition 11.4(c), shall commence from the date of PCSB's notice to vary the terms. Nothing in this **Condition 11.4(a)(i)(B)** shall prevent the Access Seeker from terminating the affected Facilities and/or Services at any time in accordance with **Condition 11.4(a)(ii)(A)**.

- b) If :

- (i) A non-regulated facility and/or Service pursuant to an amendment to the Access List Determination; or
 - (ii) where there is a variation or amendment to the Access List Determination's service description of a Regulated Facility and/or Service,

conditions pertaining to that Facilities and/or Services subject to mutual agreement provided always that the Parties shall, within fourteen (14) days, from the date of the written notice by the notifying Party, first discuss the variation or modification proposed to be adopted ("preliminary meeting"). Thereafter, if the Parties fail to agree on the amended terms and conditions within one hundred and twenty (120) days from the preliminary meeting or such other time as may be mutually agreed in writing by the Parties, then either Party may initiate the dispute resolution procedures in **Condition 12**. Nothing in this **Condition 11.4(b)** shall prevent the Access Seeker from terminating the affected Facilities and/or Services at any time, without penalty, by giving PCSB three (3) months' written notice.

- c) The notice given pursuant to **Condition 11.4(a)(i)(A)**, shall be:

- (i) the period of time between the time of giving notice and the time at which PCSB is proposing to no longer provide the network facility or network service to itself or other access seekers; or
 - (ii) twelve (12) months,

whichever is the earlier,

- d) The notice given pursuant to **Condition 11.4(a)(i)(A)** must state any alternative network facility or network service that may be available to be provided by PCSB to the Access Seeker and the terms and conditions of such alternative arrangement.
- e) The amended terms and conditions agreed between the Parties shall take retrospective effect from the date the relevant Commission's determination takes effect (or where none is specified, the date of the Commission's determination) unless otherwise agreed.

11.5. For the avoidance of doubt:

- a) the variation of this Agreement pursuant to **Condition 11.4** shall not be subject to the approval process required under **Condition 13.8(b)**; and
- b) the provisions of this Agreement remain in full force and effect during any negotiations conducted under this **Condition 11** until commencement of an Agreement replacing or amending this Agreement.

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CONDITION 12 – DISPUTE RESOLUTION PROCESS

12.1. Introduction

12.1.1. Subject to **Condition 12.2.3**, PCSB and the Access Seeker shall adopt and comply with these Dispute Resolution Procedures in relation to any dispute which may arise between the Access Seeker and PCSB in relation to or in connection with the supply of Facilities and/or Services and/or in relation to the terms and conditions of this Agreement (“**Access Dispute**”).

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

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

12.1.3. An Access Dispute between the Parties regarding any matter dealt with under this Agreement shall first be attempted to be resolved by good faith negotiation between the Parties in accordance with this Agreement. If the Parties to the Dispute cannot or otherwise fail to reach an Agreement, the Parties shall always be entitled to seek resolution of the Access Dispute by the Commission in accordance with **Section 151** of the Act, and the Commission will decide the Access Dispute if it is satisfied that:

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

PCSB shall not prevent the Access Seeker from notifying an Access Dispute to the Commission in accordance with the Act.

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

12.2. General

- 12.2.1. Until expiry of the Dispute Resolution Procedures set out herein, a Party may not commence court proceedings relating to that Access Dispute, other than an application for purposes set out in **Condition 13.2.2**. Nothing in this **Condition 12.2.1** shall be construed as ousting the jurisdiction of any court.
- 12.2.2. A Party shall ensure that its representatives acting in relation to an Access Dispute are of sufficient seniority and have authority to settle an access dispute on behalf of the Party. At the commencement of the Access Dispute resolution procedure, each Party must notify the other Party of the scope of the authority of each of their representatives. If in the course of the dispute resolution procedures it is identified that the matters to be resolved are outside the initial term of reference for which authority was given to a representative, a Party may require that those matters be referred to more senior officers of that Party who have authority to settle those matters.
- 12.2.3. During the Access Dispute and any dispute resolution process invoked in accordance with this **Condition 12**, PCSB and the Access Seeker must continue to fulfil their obligations under this Agreement between themselves.
- 12.2.4. Subject to **Condition 12.2.5**, the Parties shall exchange information of a type described in this Agreement during the course of, and to facilitate, resolution of such Access Dispute.
- 12.2.5. Confidential information of a Party which is disclosed, and any other oral or written submissions made by a Party or a Party's representatives during the course of any dispute resolution process will be subject to the confidentiality restrictions contained in the Confidentiality Agreement and this Agreement.
- 12.2.6. A Party must not use information obtained under **Condition 12.2.4** or described in **Condition 12.2.5** for any purpose other than to resolve the dispute.
- 12.2.7. Subject to Chapter 7 of Part V of the Act, an arbitrator of an Access Dispute (including a Technical Expert (as hereinafter defined) or the Commission, in accordance with this **Condition 12**) may decide not to determine the Access 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 Access Dispute.
- 12.2.8. The costs of the arbitration are to be shared equally between the Parties, unless the arbitrator of the Access Dispute has decided not to determine the said Access Dispute in accordance with **Condition 12.2.7**. If an arbitrator decides not to determine the Access Dispute, the Party that initiated the Access Dispute must pay the costs of the arbitration including the other Party's costs thereto.

12.3. Interconnect Steering Group

- 12.3.1 In the first instance the Access Seeker and PCSB should attempt to resolve the Access Dispute between themselves. Either party may give written notice ("**Notice**") to the other Party ("**Receiving Party**") stating its intention to form, within ten (10) Business Days, an Interconnect Steering Group ("**ISG**") and outline the details of the Access Dispute.
- 12.3.2 PCSB and the Access Seeker shall form the ISG within ten (10) Business Days, to fulfil the requirements of **subsection 12.3.1** above. The ISG shall comprise of representatives of the Parties, and be headed by a person who holds a position that is at least equivalent to the Chief Officer or Executive Vice President of PCSB.
- 12.3.3 The Parties shall provide for:
- (a) subject areas to be dealt with by the ISG;
 - (b) equal representation by the Access Seeker and PCSB;
 - (c) chairmanship and administrative functions of the working group to be shared equally; and
 - (d) formal notification procedures to the ISG.
- 12.3.4 PCSB and the Access Seeker shall use reasonable endeavours to attempt to settle the Access Dispute in the working group for a period of no longer than thirty (30) Business Days from the date of the Notice unless otherwise agreed by the Parties, subject always to a party's right to seek urgent interlocutory relief.
- 12.3.5 In the event that the Parties cannot resolve the Access dispute between themselves within twenty (20) Business Days, or after any agreed time extension has expired, either Party may notify the other Party that it wishes to refer the issue to:
- (a) to the extent the issues in dispute are technical in nature, to a Technical Expert in accordance with **Condition 12.4** ; or
 - (b) to the Commission for final arbitration.
- 12.3.6 The ISG to which an issue has been raised will meet within ten (10) Business Days of the receipt by the Receiving Party of the Notice under **subsection 12.3.1**. If the ISG fails to meet or has not been formed within ten (10) Business Days of the receipt by the Receiving Party of the Notice, either Party may refer the Dispute:
- (a) to the extent the issues in dispute are technical in nature, to a Technical Expert (in accordance with **section 5**); or
 - (b) to the Commission for final arbitration.

12.4. Use of a Technical Expert

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

("Technical Expert")

- 12.4.4. If the Parties fail to appoint a Technical Expert within ten (10) Business Days of the notice to refer a dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.
- 12.4.5. When relying on the services of a Technical Expert, the following procedures will apply to the dispute resolution procedure of the Technical Expert:
 - a) the Parties will present written submission to the Technical Expert and each other within fifteen (15) Business Days of the appointment of the Technical Expert; and
 - b) each Party may respond to the other Party's submission in writing within fifteen (15) Business Days from the date of the other Party's submission. No further submissions in reply shall be made except with the Technical Expert's approval.
- 12.4.6. A Technical Expert hearing will be within fifteen (15) Business Days of the last written submission unless:
 - a) a Party requests for and the other Party agrees that the use of the Technical Expert be by documents only; or
 - b) failing agreement of the Parties, the Technical Expert decides within five (5) Business Days of the last written submission that the use of the Technical Expert be by documents only.
- 12.4.7. Should a Technical Expert hearing procedure be held, each Party will have the opportunity of making an oral submission. This process will be conducted in private between the Parties and the said Technical Expert.

- 12.4.8. The procedure for hearing technical disputes will be determined by the Technical Expert (including number and duration of oral submissions by the Parties) but in any case, the Technical Expert's hearing will last no longer than three (3) Business Days.
- 12.4.9. The Technical Expert will not have the power to appoint any other experts.
- 12.4.10. The Technical Expert will deliver his award within fifteen (15) Business Days of the conclusion of the hearing or of the last written submission where the arbitration is by documents only. A failure to comply with the time frame in this **Condition 12.4.10** does not invalidate the Technical Expert's award.
- 12.4.11. Every dispute referred to a Technical Expert will be considered separately so that time limits for each dispute are complied with.
- 12.4.12. The Technical Expert's decision will be final and binding on the Parties (in the absence of manifest error of fact or law).
- 12.4.13. For the avoidance of doubt, an Access Dispute shall not be referred to the Commission once it has been referred to a Technical Expert. The Technical Expert shall be the one determining the Access Dispute.

12.5. Billing dispute resolution

- 12.5.1. An Invoicing Party shall allow the Invoiced Party to dispute an Invoice prepared by the Invoicing Party if in case of any other Facilities and/or services, the Invoiced Party notifies the Invoicing Party in writing within thirty (30) Business Days after the date of receipt of such Invoice. If the Invoiced Party fails to dispute an Invoice within the specified time period above, the Invoiced Party is deemed to have accepted the Invoice.
- 12.5.2. Unless otherwise agreed in writing, a Billing Dispute may only arise where the Invoiced Party has reasonable grounds to believe that an error has arisen from one of the following circumstances:
 - a) the Invoicing Party's Billing System is, or has been, defective or inaccurate which are the subject of the dispute;
 - b) there is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Invoiced Party's Billing System;
 - c) there is, or has been, a fraud perpetrated by the Invoicing Party; or
 - d) the Invoicing Party has made some other error in the calculation of the Charges which are the subject of the Billing Dispute.
- 12.5.3. All Billing Dispute Notices given under this **Condition 12.5** must specify;
 - a) the reasons for which the Invoiced Party disputes the Invoice;

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- 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.
 - d) evidence in the form of a report, indicating the relevant traffic data which is in dispute.
- 12.5.4. Subject to **Condition 12.5.3**, a Party 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 the Invoicing Party will pay in full such difference and interest, calculated in accordance with **Condition 5.2.4**, within fourteen (14) Business days from the date of settlement of Dispute, as documented by the Parties or such other date as agreed between the Parties. The interest shall be payable by the relevant Party from the payment date of the disputed amount to the date of actual payment of the differential amount.
- 12.5.5. Notwithstanding **Condition 12.6.4**, if the Parties are not able to settle a Billing Dispute within the time periods specified in **Condition 12.6.7**, a Party may withhold payment of amounts disputed in good faith for all subsequent Invoices issued by the Invoicing Party. The Parties agree that disputed amounts withheld in good faith at the Due Date shall not be subject to late payment interest provided that if the dispute is resolved between the Parties in writing against the Invoiced Party, then the Invoiced Party shall pay interest (calculated in accordance with **Condition 5.2.4**) on the outstanding amounts due to the Invoicing Party. The interest shall be payable within fourteen (14) days from the settlement of the Dispute, as documented by the Parties or such other date as agreed between the Parties. Interest shall be calculated from the Due Date until date of actual payment of the outstanding amount.
- 12.5.6. The Parties agree to use their reasonable endeavours to promptly resolve any Billing Dispute notified under this **Condition 12.5**.
- 12.5.7. If the Parties are unable to resolve any Billing Dispute within thirty (30) calendar days (or such other period as the Parties may agree) from the date on which the Billing Dispute Notice is received, either Party may seek the consent of the other Party to extend the period for resolution of the Billing Dispute stating the exceptional reasons for such extension. The other Party is, however, under no obligation to agree to such extension.

- 12.5.8. To the extent that a Billing Dispute notified under this section involves a Billing Dispute with an international correspondent of the Invoicing Party, the Dispute Resolution Procedures shall be suspended for a reasonable period of time pending resolution of the Billing Dispute with that international correspondent. As a general rule, the period of suspension will not exceed four (4) months. However, the parties shall recognise that some Billing Disputes with international correspondents may take longer to resolve, in which case the Invoicing Party must promptly inform the Invoiced Party of the likely period required for resolution.
- 12.5.9. Once the negotiation period under **Condition 12.5.6** (including any extension agreed) and any suspension period have expired, the Billing Dispute may be referred to the procedure described in **Condition 12.5.8** ("Billing Dispute Escalation Procedure").
- 12.5.10. The Party may refer a Billing Dispute to the Billing Dispute Escalation Procedure under this **Condition 12.5.8** by notifying the other Party's Billing Representative. Each of the Parties shall then appoint a designated representative that has authority to settle the Billing Dispute, and that is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute. The specific format for such discussions will be left to the discretion of the designated representatives however all reasonable requests for relevant information made by one Party to the other Party shall be honoured.
- 12.5.11. Once any Billing Dispute has been resolved to the parties' satisfaction, any sum to be paid or repaid shall be paid by the relevant party within ten (10) Business Days from the date of resolution of the Billing Dispute.
- 12.5.12. Although it is the good faith intention of the Parties to use the billing dispute resolution procedures to the fullest extent to try to solve Billing Disputes, nothing in this Agreement shall prevent either Party from pursuing any other remedy in law or equity that may be available to them if a Billing Dispute cannot be resolved to their satisfaction. A Party may request a joint investigation of Invoice discrepancies after that Party has conducted a comprehensive internal investigation, including an examination of its own Billing System. Prior to commencement of the joint investigation, the Parties must agree on the terms of the joint investigation, including:
- (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 calls to the other party's Network.

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- 12.5.13. 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 Party. The Billing Representatives nominated by each Party shall by their Billing Representative at the ISG meetings.
- 12.5.14. Either Party may at any time nominate another Billing Representative, provided that ten (10) Business Days prior notification of such appointment is given.
- 12.5.15. If the Parties are unable to resolve any Billing Dispute after exhausting the Billing Dispute Escalation Procedure, either Party may refer the Billing Dispute to the Commission for resolution under Chapter 7 of Part V of the Act.

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CONDITION 13 – GENERAL PROVISIONS

13.1. Force Majeure

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

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

then that obligation is suspended insofar as it is affected by, and during the continuance of the Force Majeure.

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

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

13.2. Governing Law

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

13.2.2. Parties agree to observe and comply with all laws, by-laws, rules and regulations including any amendments which are now in force or which may hereafter be enacted.

13.2.3. In the event of:

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

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

13.3. Operators to Act in Good Faith

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

13.4. Costs and Expenses

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

13.5. Relationship of the Parties

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

13.6. Surviving Obligations

Termination or expiration in whole or in part of this Agreement does not affect those Conditions (including, without limitation, **Conditions 6, 8, 9, 10.6, 10.9 and 12**) which by their nature survive termination or expiry.

13.7. Relationship with Third Persons

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

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

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

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

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

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

13.8. Variation

- a) A variation of any part of this Agreement is valid if, and only if, made between and in writing subscribed by the Parties and that the variation in respect of Regulated Facilities and Services is registered with the Commission in accordance with the Act.
- b) Subject to **Condition 13.8 (a)**, where the Parties agree to materially vary this Agreement or access to its Facilities and/or Services, the Parties shall inform the Commission in writing of the action the Parties proposes to take and the reasons why such action is appropriate. This Agreement or access to Facilities and/or Services shall not be varied until such reasonable time and on such reasonable conditions as the Commission may legally specify.
- c) In this **Condition 13.8**, a reference to a variation includes a reference to an addition, deletion, amendment, modification, alteration or other variation.

13.9. Assignment

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

13.10. Remedies Cumulative

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

- a) cumulative; and
- b) not exclusive of the rights, powers or remedies provided by law independent of this Agreement.

13.11. Notices

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

- a) must be in writing.
- b) must be left at the address of the addressee, or sent by ordinary post, registered post or licensed courier to the address of the addressee; and
- c) if intended for or originating from the Access Seeker shall be addressed to or issued by the Access Seeker, as the case may be.

The address and facsimile number of each Party is:

PR1MA COMMUNICATIONS SDN. BHD.:

Attention: Mohd Hamidi Hassan, Head of Section, Product Management
Address: PR1MA Communications Sdn. Bhd., 9th Floor, Block F, No.2 Jalan PJU
1A/7A, Oasis Square, Oasis Damansara, 47301 Petaling Jaya,
Selangor
Email: hamidi.hassan@pr1ma.my

The Access Seeker:

Attention:
Address:
Email:

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

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

- a) in the case of A.R registered post, on the third Business Day after posting; and
- b) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicated that the facsimile was sent in its entirety to the facsimile number of the recipient;
- c) in the case of an email, upon transmission of the email provided there is no notification of error or failure in transmission is received by the sender, if sent before and
- d) in the case of a communication left at the address of the addressee or licensed courier, at the time the communication was so left.

13.11.4. Notwithstanding anything to the contrary in this **Condition 13.11**, notification by way of email shall not be applicable to or valid with respect to any legal notices, claims, demands, suits, actions and/or proceedings.

13.12. Waiver

- a) A provision of or right under this Agreement may not be waived except in writing signed by the non-defaulting Party or Parties to be bound.
- b) Unless otherwise stated herein, no failure or delay on the part of any Party in exercising any rights hereunder shall operate as a waiver thereof nor shall any single or partial exercise of such right preclude any other or further exercise of any other right hereunder provided however that nothing in this condition shall extend time or be construed to extend time for the performance of any right or obligation under this Agreement if a time period is imposed for the performance of such right or obligation.

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

13.13. Entire Agreement

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

13.14. Severability

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

- a) will be:
 - (i) read down to the extent necessary so that it is legal and enforceable; or
 - (ii) severed (if it cannot be read down in accordance with paragraph (i)); and
- b) will not affect the continued operation of the remaining provisions of this Agreement.

13.15. Time of the Essence

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

13.16. Anti-Bribery and Integrity

Each Party agrees that, in connection with this Agreement, it shall:

- a) strictly comply with laws and regulations relating to anti-corruption including but not limited to the Malaysian Anti-Corruption Commission Act 2009 (“**MACCA**”);
- b) not engage in any action or omission which may violate laws and regulations relating to anti-corruption including but not limited to the MACCA throughout the term of this Agreement; and
- c) take all measures to prevent corrupt practices, unfair means, and illegal activities at all times throughout the term of this Agreement.

13.17. Personal Data

- 13.17.1. The Parties agree to comply and have adequate security measures in place to ensure compliance at all times with the provisions and obligations contained in all applicable laws and regulations in Malaysia, including but not limited to the Personal Data Protection Act 2010 (PDPA 2010), its subsidiary legislation and associated code of practice (Data Protection Legislation) as amended from time to time in order to

collect, use, process, record, hold, store, share and/or disclose any or all personal data related to the performance and obligations under this Agreement.

13.17.2. The Parties shall implement adequate technical and organizational security to protect the personal data from any loss, misuse, unauthorised or accidental access, or disclosure alteration or destruction.

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DATE THIS DAY OF 2025

BETWEEN

PR1MA COMMUNICATIONS SDN. BHD.

(Company Registration No.: 201401044100 (1120287 – D))

(“PCSB”)

AND

COMPANY NAME

(Company Registration No.: XXXXXXXXXXXX (XXXXXXX-X)

(“XXX”)

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT is made on the _____ day of _____ 2025 (“**Agreement**”)

BETWEEN

PR1MA COMMUNICATIONS SDN. BHD. (Company Registration No.: 201401044100 (1120287 – D)), a company incorporated under the laws of Malaysia with its registered office at 9th Floor, Block F, No. 2, Jalan PJU 1A/7A, Oasis Square, Oasis Damansara, 47301 Petaling Jaya, Selangor Darul Ehsan (hereinafter referred to as (“**PCSB**”) of the first part;

AND

COMPANY NAME (Company Registration No.: XXXXXXXXXXXX (XXXXXXXX-X)) a company incorporated under the laws of Malaysia with its registered office at _____ (hereinafter referred to as (“**XXX**”) of the second part.

PCSB and **XXX** shall hereinafter be collectively referred to as “Parties” and individually referred to as “Party”, as the context may require.

WHEREAS

- A. The Parties are desirous to explore mutual business opportunities and negotiations in relation to the Access List Determination and Section 5.3.8 of the MSA Determination issued by the Commission (“Purpose”) with each other during which there may be disclosure of Confidential Information (as hereinafter defined) by one of the Parties (“the Disclosing Party”) to the other Party (the “Receiving Party”).
- B. The Parties acknowledge that there is a commercial need to regulate how such Confidential Information is to be treated while in the possession or control of the Receiving Party so as to protect the interest and proprietary rights of the Disclosing Party. Each Party shall determine in its sole discretion, the information, and materials to be disclosed to the other Party.
- C. For this reason, the Parties hereto have agreed to execute this Agreement which shall govern and dictate inter alia the use, release, disclosure and/or dissemination of such Confidential Information agreed herein.

NOW THEREFORE it is agreed as follows:

1. DEFINITIONS

The following words and phrases shall have the following meanings unless the context otherwise requires:

Access Agreement means an agreement (including all supplementals and/or amendments thereto) entered into between PCSB and the Access Seeker whereby PCSB agrees to provide the network facilities and/or network services to the Access Seeker in accordance with the terms therein contained and which shall be lodged with the Commission in accordance with the Act.

Access List Determination means Commission Determination on Access List (Determination No. 6 of 2021) which contains the list of Facilities and Services determined by the Commission under Chapter 3 of Part VI of the Act.

Access Provider means:

- (a) network facilities provider who owns or provides Facilities listed in Access List Determination; or
- (b) network service provider who provides Services listed in the Access List Determination; and
- (c) who is a licensee as defined in the Act;

For the purpose of this Agreement, **Access Provider** means **PR1MA Communications Sdn. Bhd. ("PCSB")**;

Access Seeker means

- (a) a network facilities provider, network services provider, application 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 or service or is being provided with facilities and/or services.

Act means the Communications and Multimedia Act 1998 (as amended).

Affiliate in respect of a Party, means any company or legal entity that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under

	common control with, the Party specified. "Control" means the direct or indirect ownership of more than 50% percent of the voting rights in a company or other legal entity;
Commission	means the Malaysian Communications and Multimedia Commission established under the Malaysian Communications and Multimedia Commission Act 1998 (as amended).
Confidential Information	<p>means:</p> <p>(i) all data or information provided by the Disclosing Party to the Receiving Party in documentary or other tangible or intangible form whether it is clearly marked "confidential" or not</p> <p>(ii) if the information is furnished verbally/orally or visually confirmed in writing as confidential by the Disclosing Party to the Receiving Party within thirty (30) days after such disclosure of the information (iii) in respect of information marked "confidential", any note, copy or tangible record of such information and (iv) any copy of the foregoing, whenever and however disclosed, in written, oral, digital, magnetic, photographic or such other forms which is confidential or proprietary or intended by its nature to be such, including but not limited to:</p> <p>(a) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method;</p> <p>(b) any concepts, samples, reports, data, know-how, works-in-progress, designs, drawings, photographs, development tools, specifications, software programs, source code, object code, flow charts, and databases;</p> <p>(c) any marketing strategies, plans, financial information, or projections, operations, sales estimates, business plans and performance results relating to the Discloser's past, present or future business activities, or those of its affiliates, subsidiaries and affiliated companies;</p> <p>(d) trade secrets; plans for products or services and customer or supplier lists;</p>

- (e) any other information that should reasonably be recognized as Confidential Information by the Disclosing Party.

Confidential Information does not include information which:

- (a) is already in the public domain or after the date of this Agreement, enters the public domain through no fault of the Receiving Party;
- (b) is or becomes available to the Receiving Party from a third party lawfully in possession of such information and who has the lawful power to disclose such information to the Receiving Party on a non-confidential basis;
- (c) can be shown by contemporaneous records of the Receiving Party to have been known to the Receiving Party at the time it is received pursuant to this Agreement;
- (d) can be shown by contemporaneous records of the Receiving Party to have been independently developed by the Receiving Party;
- (e) is agreed by both Parties to be not confidential;
- (f) is required by law or any governmental or other regulatory authority to be disclosed; or
- (g) is approved for public release by the Disclosing Party.

Disclosing Party means the party from whom the Confidential Information originates and is disclosed to the Receiving Party

Effective Date means the date of this Agreement

MSA Determination means the Commission Determination on the Mandatory Standard on Access (Determination No. 1 of 2022) as amended or superseded by the Commission from time to time.

Receiving Party means the party to whom the Confidential Information is given or disclosed.

Representatives means the officers, employees, directors, agents, financiers, advisors and consultants of a Party.

“Reference Access Offer” or “RAO”

means the reference access offer issued by PCSB pursuant to the MSA Determination and as modified from time to time.

2. OBLIGATIONS

2.1 In consideration of the disclosure of such Confidential Information by the Disclosing Party to the Receiving Party, the Receiving Party agrees and undertakes (and shall procure from its Representatives and Affiliate):

- a) to use such Confidential Information only for the Purpose during the term of this Agreement;
- b) to take proper and use all reasonable degree of care to maintain in strict confidence the confidentiality of such Confidential Information and not disclose the same to any third party without the prior written approval of the Disclosing Party;
- c) to permit access to such Confidential Information on a need-to-know basis only to its Representatives and Affiliate, as is necessary for the Purpose subject to Clause 3.1 below and provided that such individuals are bound by an enforceable obligation of confidentiality;
- d) to ensure and procure that none of its officers, employees, directors, agents, financiers, advisors and consultants will do any act, matter or thing which, if done by Receiving Party, would constitute a breach of the Receiving Party’s obligations under the terms of this Agreement;
- e) to refrain the Receiving Party from making copies of such Confidential Information without prior written notice from the Disclosing Party for the Purpose;
- f) Confidential Information is and remains the sole and absolute property and right of the Disclosing Party; and
- g) to immediately notify the Disclosing Party in writing of any misuse or misappropriation of any Confidential Information which may come to the Receiving Party’s attention.

2.2 The obligations of the Receiving Party shall not apply to any Confidential Information which is required to be disclosed pursuant to any request or order of any court, competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body or if it is legally compelled to do so by any judicial or administrative body.

2.3 The Receiving Party shall, to the extent legally permissible provide the Disclosing Party with prompt written notice of such proceedings or requests so that the Disclosing Party is provided with a reasonable opportunity to seek, without limitation, the appropriate protective order or other confidential treatment of the information required to be disclosed. In any event, the Receiving Party will disclose only that portion of such Confidential

Information which it is required to disclose and will exercise best efforts to seek confidentiality treatment of such Confidential Information by the requesting authority.

2.4 The Receiving Party must, within ten (10) days from the receipt of a written request made by the Disclosing Party or completion of the Purpose:

- a) promptly cease all use of such Confidential Information; and
- b) promptly return all such Confidential Information, personal data as defined in the Personal Data Protection Act 2010 ("PDPA") and any other material containing or reflecting any information in the Confidential Information including all copies or reproductions of the same (if any) or (at the Disclosing Party's option) promptly destroy all such Confidential Information, personal data as defined in the PDPA and other material containing the Confidential Information with all the copies or reproductions (if any) and provide to the Disclosing Party a certificate of such destruction signed by the authorised Representative of the Receiving Party supervising such destruction.

2.5 The Parties acknowledge that in respect of any information disclosed by either of them further to this Agreement:

- a) no license is granted to the Receiving Party; and
- b) no license or right arises whether deemed, implied by, by way of estoppels or otherwise.

2.6 Where it is necessary for the Purpose for the Receiving Party to share such Confidential Information with a third party, the Receiving Party shall discuss and agree with the Disclosing Party, prior to such disclosure, the terms and conditions relating to the disclosure to the said third party. The terms and conditions shall be recorded in a written instrument and signed by both Parties. The Disclosing Party may request for the third party to sign a confidentiality agreement in favour of the Disclosing Party containing substantially the same terms as contained herein and shall deliver a copy of the same to the Disclosing Party.

2.7 The Receiving Party shall immediately notify the Disclosing Party of any unauthorized use or disclosure of any of its Confidential Information it becomes aware of.

3. RESPONSIBILITY FOR DISCLOSURE

3.1 Prior to making any disclosure of such Confidential Information as permitted under the above Clause 2.1, the Receiving Party shall procure that such persons are made aware (in advance of the disclosure) of the terms of this Agreement and procure that such persons are bound by professional confidentiality or subject to confidentiality obligation no less onerous than those contained in the above Clauses 2 and 4.

3.2 The Receiving Party shall ensure that any person to whom disclosure of Confidential Information is made under the above Clause 2.1(c) complies with the terms of this Agreement as though

it were a party hereto. The Receiving Party shall be liable to the Disclosing Party for any such non-compliance by any such person.

- 3.3 Confidential Information is disclosed "as is" without any representation or warranty as to the accuracy or otherwise, except that if a Party through fraudulent intent, willful misconduct, or gross negligence in the disclosure of false or inaccurate information causes the other Party a direct and documented monetary loss, then the Disclosing Party will be liable for said loss.
- 3.4 Where the Confidential Information disclosed includes personal data as defined in the Personal Data Protection Act 2010 ("PDPA"), the Receiving Party agrees to comply with all data protection provisions as stated therein and the General Consumer Code of Practice for the Communications and Multimedia Industry Malaysia, which shall include any amendment(s), variation(s) or replacement(s) thereof.
- 3.5 Pursuant to PDPA, consent from the data subject (i.e. the individual to whom any applicable personal data relates) must be obtained before the data subject's personal data may be collected and processed by the Receiving Party. The Receiving Party shall rely on the Disclosing Party to ensure that all necessary consents have been duly obtained from the data subject to ensure compliance with the PDPA.

4. ANNOUNCEMENTS

- 4.1 No Party shall make any public announcement or issue any circular relating to this Agreement without the prior written approval of the other Party.
- 4.2 The Receiving Party shall not, without the Disclosing Party's prior written consent, reveal to any person other than as permitted under this Agreement or otherwise announce that the Purpose is (or was) under consideration, that negotiations or discussions are (or were) taking place between the Receiving Party and the Disclosing Party, the status or progress of such negotiations (including termination of negotiations) or that Confidential Information has been provided.
- 4.3 The restrictions in the above Clauses 4.1 and 4.2 shall not apply if, and to the extent that, an announcement is required by any applicable law, rule, or regulation by any competent judicial, governmental, supervisory or regulatory body (including without limitation, any securities exchange), provided that the Receiving Party shall, to the extent reasonably practicable and permitted by such law, rule, regulation or judicial, governmental, supervisory or regulatory body, first consult and co-operate with the Disclosing Party on the proposed form, timing, nature and purpose of the announcement.

5. EQUITABLE REMEDIES

- 5.1 Without prejudice to any other rights or remedies that any Party may have, the Receiving Party acknowledges and agrees that damages would not be an adequate remedy for any breach of the provisions of this Agreement. The Receiving Party acknowledges without proof of actual damages that injunctive relief, specific performance, or other equitable relief in

favour of the Disclosing Party is an appropriate and necessary remedy for breach of the terms of this Agreement. However, those remedies will not be exclusive remedies for any breach of this Agreement but will be in addition to all other remedies available at law or in equity.

- 5.2 The Receiving Party agrees to indemnify the Disclosing Party, its directors, officers, employees, and/or agents for any costs, claims, demands, liabilities, and expenses of whatever nature that such party may incur arising directly out of a breach of the Receiving Party's obligations under this Agreement, save and except where such costs, claims, demands, liabilities and expenses of whatever nature are incurred or arising as a result of fraud, gross negligence or wilful default. For purposes of this Clause, the Receiving Party in breach of its obligations under this Agreement agree to take all reasonable steps to mitigate any such loss and liabilities incurred or arising as a result of its breach.
- 5.3 No failure or delay in exercising any right, power, or privilege under this Agreement shall operate as a waiver of it, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise of it or of any other right, power, or privilege under this Agreement or otherwise. No modification to this Agreement or any waiver granted by the Disclosing Party in respect of any action taken by the Receiving Party, or its advisers shall be effective unless agreed in writing by the Disclosing Party.
- 5.4 Nothing contained in this Agreement shall be construed as prohibiting the Disclosing Party from pursuing any other remedies available to it. However, no Party shall be liable for any special, punitive, indirect nor consequential loss or damages resulting from or arising out of any breach of this Agreement, including, without limitation, loss of profit or business interruptions, however, caused.
- 5.5 Notwithstanding any other provisions to the contrary in this Agreement, neither Party shall be liable to the other Party for any loss of profits, loss of business, loss of revenue, damage to goodwill or similar losses, anticipated savings, loss of use, and any punitive, indirect, or consequential loss or damage.

6. INTELLECTUAL PROPERTY

- 6.1 The Disclosing Party shall retain all ownership, copyright, and other intellectual property rights in its Confidential Information, and everything developed, designed or created by the Disclosing Party without using the other Party's Confidential Information including systems, methodologies, software, know-how and working papers. The Disclosing Party also retains all ownership, copyright, and other intellectual property rights in all reports, written advice or other materials provided by them to the Receiving Party. Nothing in this Agreement is intended to grant any rights to the Receiving Party under any patent, trademark, or copyright, nor shall this Agreement grant the Receiving Party any rights in or to the Disclosing Party's Confidential

Information solely for the purposes of determining whether to enter into the proposed business relationship with the Disclosing Party.

7. NO REPRESENTATION OR WARRANTY

- 7.1 Each Party will not make any representation with respect to and does not warrant the accuracy, adequacy, or completeness of any Confidential Information, but will furnish such Confidential Information in good faith.
- 7.2 Each Party will not be deemed to have any liability to the other Party for any use of the Confidential Information save and except as provided in Clause 3.3 of this Agreement.

8. ANTI-BRIBERY AND INTEGRITY

- 8.1 Each Party agrees that, in connection with this Agreement, it shall:
- (a) strictly comply with applicable Malaysian laws and regulations relating to anti-corruption including but not limited to the Malaysian Anti-Corruption Commission Act 2009 ("MACCA");
 - (b) not engage in any action or omission which may violate laws and regulations relating to anti-corruption including but not limited to the MACCA throughout the term of this Agreement; and
 - (c) take all necessary measures to prevent corrupt practices, unfair means, and illegal activities at all times throughout the term of this Agreement.

9. MISCELLANEOUS

- 9.1 This Agreement shall become effective from the Effective Date and shall continue for a period of **two (2) years**. Upon termination or expiration of this Agreement, the confidentiality obligations of the Receiving Party under this Agreement shall survive for a period of two (2) year. This Agreement may be terminated by either Party by giving the other Party thirty (30) days prior written notice at which time any obligation to exchange Confidential Information will cease within fourteen (14) days.
- 9.2 In the event of termination of this Agreement for whatsoever reason, all materials, documents, and media (and all copies or reproductions thereof) containing any portion of the Confidential Information must promptly be returned or destroyed in accordance with Clause 2.3(b).
- 9.3 The Receiving Party acknowledges that due to the proprietary and competitively-sensitive nature of the Confidential Information of the Disclosing Party, the Disclosing Party would be irreparably harmed by any breach or threatened breach of the confidentiality obligations under this Agreement by the Receiving Party, and that monetary damages would be insufficient to remedy such actual or threatened breach and that the Disclosing Party may be entitled to injunctive or other relief as the circumstances may require.
- 9.4 The Parties hereby agree that this Agreement shall be governed by and construed in accordance with the laws of Malaysia and each Party submits to the exclusive jurisdiction of the Malaysian courts.

- 9.5 If a dispute arises between the Parties ("Dispute"), the Parties agree to negotiate in good faith to resolve the Dispute. If the Dispute has not been resolved by negotiation within a period of thirty (30) days (both Parties may mutually agree to an enlargement of this time period if so required) from the date the Dispute arises, such Dispute shall be referred to the courts of Malaysia for resolution.
- 9.6 No delay by the Parties in exercising any right, power or remedy under this Agreement shall operate as a waiver or acquiescence thereof nor shall it restrict or affect the Parties' right or powers under this Agreement. No waiver of any term or condition to this Agreement shall be effective unless made in writing.
- 9.7 Both Parties warrant that they have the right to enter into this Agreement and have taken all corporate and other actions necessary to enter into and perform their obligations under this Agreement.
- 9.8 This Agreement is the entire agreement between the Parties and supersedes any and all prior or contemporaneous representations, agreements and promises, written or oral, between the Parties, regarding the subject matter of this Agreement.
- 9.9 Each Party enters into this Agreement as an independent entity and nothing in this Agreement may be construed as creating a relationship of employment, partnership, joint venture, agency or otherwise.
- 9.10 Any notice, demands, or requests required to be given hereunder shall be properly given if sent by hand or registered post to the addresses or by way of e-mail as stated in Appendix 1 or such other address as may be notified from time to time and shall be deemed delivered upon expiry of five (5) days from the date of posting. Any change of address of one Party shall be communicated to the other Party.
- 9.11 The Parties reserve the right to reject with written notice, all or any proposals and/or terminate discussions and negotiations in connection with the Purpose at any time before the execution of the final definitive agreement.
- 9.12 If any provision of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, that provision shall (insofar as it is illegal, invalid, or unenforceable) be given no effect and shall be deemed not to be included in this Agreement, but that shall not affect the legality, validity or enforceability of any other provision of this Agreement.
- 9.13 The terms of this Agreement may not be varied or terminated without the prior written consent of the Parties.
- 9.14 This Agreement shall be binding upon and ensure for the benefit of the undersigned Parties, their successors, and permitted assigns provided that this Agreement may not be assigned without the written consent of all of the Parties.
- 9.15 Each Party shall bear their own legal and other costs incurred in relation to the preparation, negotiation, and execution of this Agreement and all documents contemplated by it (except where this Agreement or those other documents expressly provides to the contrary). The stamp duty in respect of this Agreement shall be borne equally by both Parties.

9.16 Neither Party may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party without the prior written consent of the other Party.

9.17 Time wherever mentioned in this Agreement shall be of the essence.

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IN WITNESS WHEREOF, the Parties hereto have caused their authorised representatives to place their signatures hereto and executed this Agreement on the day and year first above written.

SIGNED by)
)
for and on behalf of)
PR1MA COMMUNICATIONS SDN. BHD.

in the presence of:

.....

SIGNED by)
)
for and on behalf of)
XXXX Name:
Designation:

in the presence of:

.....

Name:
Designation:

APPENDIX 1 - REPRESENTATIVES OF THE PARTIES

The representatives of the Parties with responsibility for the administration of this Agreement are:

To: **PR1MA COMMUNICATIONS SDN. BHD.**

Postal address: 9th Floor, Block F, No. 2, Jalan PJU 1A/7A, Oasis Square, Oasis Damansara,
47301 Petaling Jaya, Selangor Darul Ehsan

Telephone: 03 - 7495 9888

Telefax: 03 - 7840 0268

Attention: Mafiz Seth, Chief Executive Officer

To: **XXX**

Postal address:

Telephone:

Telefax:

Email:

Attention:

TERMS AND CONDITIONS FOR TECHNICAL MATTERS

SECTION I – OPERATIONAL PROCEDURES

- 1.1. The Parties shall comply with the operational procedures and methods, to be agreed in writing between the Parties within **thirty (30)** days from the date of this Agreement or such other date to be mutually agreed between the Parties, in relation to:
 - a) the planning and provisioning of the relevant Facilities or Services;
 - b) 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 Parties' Networks are adequately protected from harm;
 - c) test procedures and other technical and operational matters relating to the provision of Facilities or Services by PCSB to the Access Seeker;
 - d) the handling of Customer operations; and
 - e) such other matters as the Parties may agree.
- 1.2. Where relevant, the detailed procedures and/or contents pertaining to matters set out in Sections II to VII shall be documented in the technical and implementation manual or the operations and maintenance manual, as the case may be.
- 1.3. In the event of any inconsistency between the agreed operational procedures and the terms of this Agreement, the terms of this Agreement shall prevail.
- 1.4. Where this Agreement and the documents referred to in this Section I do not cover any technical and implementation standards, the Operators may, upon mutual agreement, use ITU-T standards and/or any quality standards determined by the Commission.

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SECTION II – FORECASTING

1. General

- 1.1. Section II sets out forecasting terms and procedures that are applicable in relation to the provision of Facilities and/or Services.
- 1.2. Subject to **Subsection 1.4** and **Subsection 2.2** below, PCSB may require that the Access Seeker provide Forecasts in good faith with regards to a certain period of supply of access to Facilities and/or Services in accordance with this Section II, of this RAO.
- 1.3. The access seeker may request preliminary information from PCSB about the availability and capacity of its Facilities and/or Services to the extent the Access Seeker requires such information to provide Forecasts.
- 1.4. Subject to **Subsection 2.2** below, PCSB shall not require the Access Seeker to provide Forecasts that are legally binding on the Access Seeker, except to the extent that PCSB is permitted to recover cost and expenses as set out in **Subsection 2.12** below.
- 1.5. PCSB must not request an Access Seeker to provide Forecast that contains
 - a) Any information that is/or would allow PCSB to infer any non-permitted information listed under **Section 5.4.16** of MSA ; or
 - b) Any information that identifies or would enable the identification of Customers or particular services of the Access Seeker unless otherwise mutually agreed by the Parties.

2. Forecasting Obligations

2.1. Forecasting Requirements

- 2.1.1. The Access Seeker shall meet the requirements of forecasting process to the extent that it enables PCSB to plan for the expected need for the facilities and/or services in order to carry the forecast traffic and conform to the agreed Grade of Service Standards to be mutually agreed between the Parties.
- 2.1.2. The Access Seeker and PCSB shall discuss in good faith the planning and design of the relevant part of the respective networks and the dimensioning of Network Capacity to carry traffic within the Party's Network.

2.2. Confirmation of Forecast

If PCSB, acting reasonably will incur significant cost in ensuring that access can be provided in accordance with a Forecast, PCSB may request the Access Seeker to confirm the relevant Forecast and the Access Seeker shall within seven (7) Business Day, upon receipt of PCSB's request, confirm the Forecast. Once confirmed, the Forecast is deemed to be an

Order for the purpose of this RAO and Section III of the Terms and Conditions for Technical Matters beginning from **Condition 2.2** thereof, will apply.

2.3. Forecast Request

PCSB may request the Access Seeker to provide, with a sufficient level of detail to enable PCSB to carry out network planning and provisioning, the following information ("**Forecast Information**"):

- a) the Facilities and/or Services in respect of which Forecast is required;
- b) the total period covered by each Forecast, which period:
 - (i) shall be determined having regard to PCSB's own planning and provisioning cycles and the forecasting requirements which apply to the Access Seeker's own business units in using the relevant Facilities and/or Services;
 - (ii) shall be the shorter of the period set out in the Service Specific Obligations specified in the MSA and the period of forecasting which PCSB provides to itself for network planning and provisioning purposes.
- c) the intervals or units of time to be used in making the Forecast, which shall be the shorter of the period set out in the relevant service specific obligations and the intervals of time in which PCSB provides forecasting to itself;
- d) the network area or operational area to which Forecasts shall relate, which area shall correspond to that which PCSB uses for its own Network planning and provisioning;
- e) the frequency with which a Forecast must be updated, or further Forecast made in accordance with the MSA Determination which shall be the shorter of the period set out in the relevant service specific obligations and the length of time after which PCSB provides itself with the updated or further Forecasts; and
- f) such other information that PCSB reasonably requires in order to provide access to Facilities and/or Services requested by the Access Seeker.

2.4. Forecast Provision

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

2.5. Use of Forecast Information

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

- a) PCSB's wholesale or interconnection group; or

- b) that part of the network engineering group of PCSB responsible for interconnection or access,

for the purpose of responding to and planning for the Forecast and related Orders. PCSB must maintain records that indicate which persons are provided with access to Forecast Information and, on request from the Commission, provide a copy of such records certified by the authorised representative of PCSB.

2.6. Distribution of Forecast Information

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

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

2.7. Time for Response

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

- a) If, PCSB considers that the Forecast does not comply with the Forecast Request, to specify in that notice the additional information which the Access Seeker is to provide to comply with the Forecast Request and PCSB will not require such information to be provided sooner than four (4) weeks after such a notice or;
- b) If, PCSB considers that the Forecast does comply with the Forecast request, to specify in that notice that the Forecast is provisionally accepted subject to verification of the details of the Forecast and matters set out in **Conditions 2.8(a) to 2.8(d)** below.

2.8 Reasons for rejection

PCSB may only reject a Forecast following provisional acceptance where PCSB reasonably believes that the Forecast is inaccurate or there is insufficient capacity having regards to:

- a) total current usage of the Services and/or Facilities by PCSB and all Access Seekers;
- b) the current rate of growth of the Access Seeker's usage of the Services and/or Facilities;
- c) the current rate of growth of total usage of the Services and/or Facilities by PCSB and all Access Seekers; and
- d) subject to **Condition 2.30 and Condition 2.31** of Section III Terms and Conditions for Technical Matters, the amount of capacity in the Services and/or Facilities that

PCSB currently has available and can reasonably provision for the Access Seeker over the Forecast period, which must be at least equivalent to that which PCSB can reasonably provision for itself.

2.9 Time for acceptance or rejection

PCSB must give notice of any acceptance or rejection ('**Rejection Notice**') of a Forecast to the Access Seeker;

- a) Within fifteen (15) Business Days of Receipt of the relevant Forecast and
- b) Such notice of rejection must specify:
 - (i) the grounds on which PCSB rejects the Forecast in accordance with **Condition 2.10**, at a sufficient level of detail to enable the Access Seeker to understand the basis of the rejection and to undertake its own re-assessment of the Forecast;
 - (ii) an offer to meet within five (5) Business Days of the Rejection Notice of the Forecast to discuss the reasons for rejection and alternative methods of compliance. The meeting shall take place between PCSB and the Access Seeker if the offer is accepted by the Access Seeker.

2.10 Reconsideration by the Access Seeker

PCSB must allow an Access Seeker to reconsider its forecast following a Rejection Notice and allow the Access Seeker,, within twenty-one (21) Business Days of receipt of the Rejection Notice either:

- a) To confirm its rejected Forecast, and explain why the Accesss seeker considers that PCSB is obliged to accept the Forecast; or
- to submit a new Forecast which the Access Seeker regards as meeting PCSB's concerns

2.11 Reconsideration by PCSB

PCSB shall reconsider any re-submitted or amended Forecast provided pursuant to **Condition 2.12**. In such an event, **Conditions 2.7 to 2.10** shall re-apply.

2.12 Recovery for over-Forecasting

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

- a) The relevant portion of the Forecast that was not met by the Access Seeker does not relate to a Non-Binding Forecast Period;
- b) such costs and expenses were reasonably and necessarily incurred by PCSB;

- c) PCSB reasonably seeks to mitigate its loss (including through its own usage) provided PCSB shall not be required to do so for any greater period than the relevant Forecast period;
- d) PCSB only recovers from the Access Seeker less than seventy-five percent (75%) of such costs and expenses which could not be mitigated under **Condition 2.12(c)** above.

2.13 Meeting Forecasts

Subject to **Conditions 2.7 and 2.8**, PCSB must carry out network planning in order to enable Forecasts to be met. If the Access Seeker has confirmed a Forecast, it will be binding on the Access Seeker.

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SECTION III – ORDERING AND PROVISIONING

1. General

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

2. Ordering and Provisioning Obligations

2.1. Contact Point or Mechanism

PCSB shall designate and notify an Access Seeker of one or more of the following:

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

2.2. Order Content

- 2.2.1. The Access Seeker may place firm Orders for Facilities and/or Services from time to time.
- 2.2.2. Prior to access being provided, PCSB may require the Access Seeker to provide it with an Order which outlines the Access Seeker's access requirements. PCSB may request the Access Seeker to provide, at a level of detail (sufficient for planning and provisioning), the following in an Order for access to Facilities and/or Services:
 - a) the Facilities and/or Services to which access is requested;
 - b) a requested date and time for delivery;
 - c) the detailed address of the location of the points of delivery and location maps, if necessary;
 - d) Equipment of the Access Seeker to be used in connection with the Order, to the extent it may adversely affect PCSB's Network;
 - e) the configuration of the requested Facilities and/or Services;
 - f) contact person and telephone number;
 - g) such other information that PCSB reasonably requires in order for it to provision access to the Facilities and/or Services as requested by the Access Seeker, provided that such information shall not include any information which:
 - i. PCSB does not require from itself for similar provisioning;
 - ii. identifies, or which enables the identification of, a Customer or services of the Access Seeker; or

iii. is non-permitted information under **subsection 5.4.16** of this Standard.

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

2.3. Use of Ordering Information

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

- a) PCSB's wholesale or interconnection group; and
- b) that part of the Network engineering group of PCSB responsible for interconnection,

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

2.4. Treatment for Order and Service Qualifications

PCSB shall: -

- a) establish a single queue for Orders and Service Qualification for a given type of Facility and/or Service, whether those Orders and Service Qualifications are required for itself or any access seekers;
- b) give the equivalent priority to the handling of all Orders and Service Qualifications in each queue; and
- c) otherwise treat all Orders and Service Qualifications in each queue in compliance with its queuing policy established under **Condition 2.28** of this Agreement.

2.5. Acknowledgement of Receipt

PCSB shall acknowledge receipt of the Order, in writing (or any other material or electronic from agreed by the parties), with the timelines set out below:

Facilities and/or Service	Acknowledgement Timelines
Infrastructure Sharing	Two (2) Business Days from the date of receipt of the Order
Network Co-Location Service	
Duct and Manhole Access	

2.6. Notice of Receipt

PCSB must include in its Notice of Receipt the following information:

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

2.7. Further Information

The Access Seeker has a period of up to ten (10) Business Days after a request for additional information to provide PCSB with such additional reasonable information that is reasonably necessary to clarify an Order.

2.8. Service Qualifications

PCSB shall make Service Qualifications available to the Access Seeker prior to placing Orders if such pre-Order Service Qualifications are undertaken for a given Facility and/or Service by PCSB for itself. PCSB shall only require post-Order Service Qualifications if:

- a) no pre-Order Services Qualification has been completed in accordance with the process to be developed under **Condition 3** of the General Terms and Conditions;
- b) PCSB reasonably requires information from such post-Order Service Qualifications which is not readily available, for example in its Operational Support Systems; and
- c) PCSB notifies the Access Seeker that the post-Order Service Qualifications are necessary (together with the reasons for needing to take such Service Qualifications) at the time of providing (and as specified in) PCSB's Notice of Receipt under **Condition 2.6** or, if further information has been requested under **Condition 2.7**, within two (2) Business Days upon the expiry of the period in **Condition 2.7**.

For clarification, an Access Seeker may also seek the consent of PCSB to perform Service Qualification on its own, and such consent must not be unreasonably withheld.

2.9. Commencement and Completion of Service Qualifications

PCSB shall commence a Service Qualification on the date of issuing a Notice of Receipt (or where governmental approval is required to perform the Service Qualification, on the date such approval has been granted) and complete and notify the Access Seeker of the result of any Service Qualification within the shorter of:

- a) fifteen (15) Business Days after the date of the Notice of Receipt (or where governmental approval is required, on the date such approval has been granted); and
- b) the time within which PCSB performs and notifies the result of an equivalent Service Qualification undertaken for itself; and

where there is a delay in the commencement and/or completion of the Service Qualification, and the delay is caused by either the Access Seeker or by a third party that is not acting under PCSB's direction or control:

- a) PCSB shall notify the Access Seeker of the delay to the delivery date as soon as practicable after the Access Provider becomes aware of it;
- b) PCSB and Access Seeker must work together to minimise the delay;
- c) the delivery date shall be extended for a further period as reasonably necessary, and PCSB shall promptly notify the Access Seeker of the revised completion date.

If the relevant Facilities and/or Services available to PCSB are below the capacity required to provide the relevant Facilities and/or Services to the Access Seeker, PCSB shall notify the Access Seeker, at the same time as providing notice under paragraph 5.7.9(a), of the available capacity and timeframe for the fulfilment of the Order at the available capacity and (if relevant) with such augmentation as may be required to fulfil the Order as submitted.

2.10. Withdrawal of Order following Service Qualifications

Subject to such reasonable charge as may be imposed by PCSB (based on necessary cost incurred by PCSB), PCSB shall permit the Access Seeker to withdraw its Order (irrespective of whether the Access Provider has accepted the Order or not) before the earlier of:

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

2.11. Acceptance Obligation

PCSB must use its reasonable efforts to accept and fulfil Orders from the Access Seeker for Services and Facilities pursuant to Section II.

2.12. Time for Acceptance or Rejection

2.12.1 PCSB must notify the Access Seeker that the Order is accepted or rejected by or within the shorter of:

- the timeframe within which it accepts or rejects equivalent Orders for itself; or
- the specified timeframe set out below for the purposes of this **Condition 2.12**:

Type of Facilities and/or Services	Timeframe
Infrastructure Sharing	<p>within Ten (10) Business Days after:</p> <ol style="list-style-type: none"> issuing the notice of receipt of the Order, where there is no post Order Service Qualification; or providing the Access Seeker with the result of post-Order Service Qualification, where there is post-Order Service Qualification
Network Co-Location Service	
Duct and Manhole Access	

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

2.13. Notice of Acceptance

PCSB's Notice of Acceptance to the Access Seeker must contain the following information:

- a) the delivery date or activation date (as applicable), which must be the date that is requested by the Access Seeker, or if that date cannot be met by PCSB, then no later than:
 - (i) the indicative delivery timeframe or activation timeframe set out below for the purpose of this **Condition 2.13**; or

Type of Facilities and/or Services	Timeframe
Infrastructure Sharing	Ten (10) Business Days from the Notice of Acceptance or confirmation of the Order or the date the wayleave or governmental authority approval is obtained (as applicable)
Network Co-Location Service	
Duct and Manhole Access	

- (ii) the period taken by PCSB to deliver, or activate, such Facilities and/or Services for itself,
whichever is shorter

- b) the date when civil works (if any) are intended to commence;
- c) the charges applicable to fulfil the Order, including without limitation additional works such as internal wiring, right of way, land rental, local authority permits and third-party deposits;
- d) such information as is reasonably necessary for the Access Seeker to benefit from access to the Facilities and/or Services; and
- e) the validity period, which shall be a period that is not shorter than three (3) months commencing from the date of the Notice of Acceptance ("**Validity Period**").

2.14. Commencement of delivery timeframes

2.14.1. The applicable delivery timeframe for an Order, as determined under Condition (a), shall commence from the following date, as applicable:

- a) where the Access Seeker's confirmation of an Order is required under **Condition 2.15**, the date the Access Seeker confirms the Order in accordance with **Condition 2.15**;
- b) where the Access Seeker's confirmation of an Order is not required under **Condition 2.15**, from the start of Validity Period; or
- c) where way-leave and/or governmental authority approval is required in relation to an Order, the date on which last of the requisite way-leave and/or governmental authority approval has been obtained.

PCSB is not required to commence work on an Order unless and until all requisite way-leave and/or governmental authority approval has been obtained. PCSB will inform the Access Seeker of the requisite way-leave and/or governmental authority approvals which PCSB is required to obtain to commence the Order.

2.14.2. Where a delay in the delivery of an Order is caused by the Access Seeker or by any government authority or agency or third party (not within the control of the Parties), the delivery date specified in the confirmed Order or indicative delivery time set out above shall be extended for a further period as may be reasonably required by PCSB.

2.14.3. Where an Order has been confirmed by the Access Seeker in accordance with **Condition 2.15**, The Access Seeker may request for a change in the delivery dates of the Facilities and/or Services Ordered subject to PCSB first agreeing in writing to the same.

2.15. The Access Seeker Confirmation

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

2.15.2. Where the Access Seeker's confirmation is required for PCSB to proceed with fulfilling an Order as provided for under **Condition 2.15.1** above, PCSB shall permit the Access Seeker to provide its confirmation within the Validity Period and shall not provision the Order until the confirmation is received. Upon receipt of such confirmation, PCSB shall fulfill the Order in accordance with the Notice of Acceptance subject to **Condition 2.15.3**.

2.15.3. Notwithstanding anything to the contrary, in the event the necessary:

- a) governmental authority or agency's approval; and/or
- b) way-leave from third parties,

to fulfil the Order is not obtained, within six (6) months from the date of the Access Seeker's confirmation of the Order pursuant to **Condition 2.15**, either Party may, without liability, cancel the Order at any time by giving written notice to the other Party.

2.16. Estimated Charges

2.16.1. If the notice of acceptance provided by PCSB under **Condition 2.13** contains estimates of charges (e.g. based on time and materials) for a specific scope of works:

- a) PCSB shall not exceed the estimate without providing the Access Seeker with a written notice prior to exceeding the estimate that:
 - (i) the estimate will likely be exceeded;
 - (ii) an explanation of the reasons for exceeding the estimate; and
 - (iii) a further estimate of the charges for the work necessary to fulfil the Order;
- b) PCSB shall permit the Access Seeker to withdraw the Order without penalty within ten (10) Business Days of the notice given by PCSB under **Condition 2.16.1(a)** if the revised estimate in that notice exceeds the original estimate by more than ten percent (10%); If the Access Seeker fails to withdraw the Order within the said time period, the Access Seeker is deemed to have accepted the revised estimated charges and shall be liable for the revised estimated charges.
- c) where the actual cost incurred by PCSB exceeds an estimate or revised estimate for a specific scope of work provided by PCSB due to:
 - (i) information or facts provided by the Access Seeker which are inaccurate or erroneous or not disclosed by the Access Seeker; or
 - (ii) a change in the scope of work by the Access Seeker,

The Access Seeker shall be obliged to pay PCSB for the actual cost incurred (but in no other circumstances); and

- d) PCSB shall commence work after the Access Seeker confirms that it is agreeable to the estimate or revised estimate or revised estimate, whereby such confirmation is to be provided by the Access Seeker within the timeframe set out in **Condition 2.13(e)** or **Condition 2.16.1(b)** of this Agreement.

2.17. Reasons for Rejection

PCSB may only reject an Order from the Access Seeker where:

- a) subject to **Condition 3.5.2** of the General Terms and Conditions, it is not technically feasible to provide access to the Services or Facilities requested by the Access Seeker;
- b) subject to **Condition 3.5.3** of the General Terms and Conditions, PCSB has insufficient capacity to provide the requested Services or Facilities;
- c) subject to **Condition 2.19**, the Order is in excess of agreed Forecast levels;
- d) the Order or variation request duplicates an Order awaiting fulfilment;
- e) there are reasonable grounds to believe that the Access Seeker would fail to a material extent, to comply with the terms and conditions of this Agreement and such concern cannot be addressed to PCSB's satisfaction, acting reasonably (e.g. through the application of a security requirement in accordance with this Agreement); or
- f) there are reasonable grounds to believe that the Access Seeker would fail, in connection with the supply of the Facilities and/or Services to protect the integrity of a Network or the safety of individuals working on, or using services supplied by means of, a Network or Equipment and such concern cannot be addressed to PCSB's satisfaction, acting reasonably (e.g. through the application of reasonable security or escorted access requirements).

2.18. Notice of Rejection

PCSB's notice of rejection of an Order to the Access Seeker must:

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

2.19. Order in Excess of Forecast

Notwithstanding **Condition 2.17(b)**, PCSB must use its reasonable efforts to provide sufficient capacity to enable PCSB to accept and fulfil Orders from the Access Seeker for Services and/or Facilities or both which are in excess of the relevant Forecast. The Access Provider is only required to do so if, after meeting the Forecast requirements of other access seekers and itself, there is available capacity or PCSB could readily upgrade existing capacity. PCSB shall allocate the available capacity on a non-discriminatory basis to meet the over Forecast requirements of all access seekers and itself, other Parties and its own business units. PCSB is not required to supply Services and/or Facilities in excess of Forecast, if despite adopting any reasonable improvements (including upgrading capacity), this would cause a material degradation in the quality of Facilities and/or Services provided to all access seekers and/or itself. For clarification when carrying out its

obligations under this **Condition 2.19**, PCSB may have regard to its obligations under **Condition 3.20** of the General Terms and Conditions.

2.20. Required Extra Capacity

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

2.21. Delivery Dates

Subject to **Condition 2.14**, PCSB shall deliver the Order for the Facilities and/or Services by the delivery date or activation date (as applicable) as specified in the Notice of Acceptance or the extended delivery date (if any) as determined in accordance with **Condition 2.23**.

2.22. Early Delivery Dates

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

2.23. Delayed Delivery Dates

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

- a) the delay is caused by PCSB or by a third party, that is not acting under PCSB's direction or control:
 - (i) PCSB shall notify the Access Seeker of the delay to the delivery date, together with the reasons for the delay, as soon as practicable after PCSB becomes aware of the possible delay;
 - (ii) PCSB shall permit the Access Seeker to cancel the Order without penalty if the delay is longer than the equivalent time period for delivery of the Facility and/or Service; and
 - (iii) the delivery date shall be extended for a further period as reasonably necessary, and PCSB shall promptly notify the Access Seeker of the revised delivery date; or

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

2.24. Cancellation and Variation of Orders

- 2.24.1. Subject to **Condition 2.25**, the Access Seeker may cancel or vary an Order at any time provided that PCSB has not issued any purchase orders for any work in relation to the Order. Where a purchase order has been issued, the Access Seeker is not allowed to cancel or vary an Order unless otherwise agreed by PCSB .
- 2.24.2. If the Access Seeker wishes to change an Order already issued but not yet implemented, then the Access Seeker should issue a formal amendment to the original Order indicating:
 - a) original order reference number;
 - b) original route, quantity, locations and ready for testing date;
 - c) new requirements; and
 - d) Order identified as “Amendment”.
- 2.24.3. PCSB will then respond to whether the changes can be accommodated in the original time scale or propose a new delivery date.

2.25. Cancellation or Variation Penalty

- 2.25.1. Except where provided in this Agreement that cancellation of an Order is to be at no penalty:
 - a) PCSB may impose a charge for the cancellation or variation of the Order; and
 - b) the charge which the Access Seeker is required to pay shall not exceed the lesser of the following amounts:
 - (i) the sum of costs necessarily incurred by PCSB which is directly attributable to the cancellation or variation; or
 - (ii) an amount equal to the sum of charges that would have been payable by the Access Seeker in the six (6) months immediately following the cancellation or variation had the Order not been cancelled or varied and reduced to the extent that those costs have been mitigated, or would have been mitigated had PCSB used its best endeavours to do so. Notwithstanding the foregoing and to the extent that PCSB is not able, using its best endeavours, to mitigate its losses in relation to ordered Facilities and Services which have yet to be installed or activated, PCSB shall be entitled to charge and the Access Seeker shall pay the charges for the minimum

period required for certain Facilities and Services in accordance with this Agreement.

2.25.2. Where a cancellation charge is payable, the Access Seeker may opt to withdraw the cancellation and proceed with the Order with a prior fourteen days (14) written notice to the Access Provider.

2.26. Testing and Provisioning

PCSB :

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

2.27. Resource charge

PCSB:

- a) may charge the Access Seeker a one-off fee, to be determined by reference to the costs incurred by PCSB, for allocation of manpower and other resources to enable PCSB to test and fulfil an Order for new Facilities and/or Services, provided that such one-off fee is reasonably justified by PCSB, to the Access Seeker as necessary for PCSB to provide the requested Facilities and/or Services;
- b) Must specify the methodology and unit rates (including any potential or contingent unit rates) for calculating any fees under **Condition 2.27(a)** above and its RAO. PCSB may reasonably require that information be subject to a confidentiality agreement; and
- c) Must specify the methodology and unit rates (including any potential or contingent unit rates) for calculating any fees under **Condition 2.27(a)** above that have not been included in its RAO. PCSB may reasonably require that information be subject to a confidentiality agreement.

2.28. Queuing Policy

PCSB shall establish and maintain a queuing policy for each Facility and/or Service which:

- a) shall be non-discriminatory;
- b) shall be applied to Orders and Service Qualifications of the Access Seeker and Orders and Service Qualifications for itself for the same or similar Facilities and/or Services, and shall treat the Orders and Service Qualifications of the Access Seeker on an

equivalent basis to that which PCSB treats Orders and Service Qualifications for itself for the same or similar Facilities and/or Services; and

- c) shall seek to maximise the efficiency of its ordering and provisioning process.

2.29. Acceptance on Queue

PCSB shall promptly notify the Access Seeker at the time of providing an acknowledgement of receipt of the Order under **Condition 2.5**, of their acceptance of, and position in, PCSB's queue.

2.30. Constrained Capacity

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

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

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

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

2.31. Capacity Allocation Policy

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

- a) shall on request be disclosed, free of charge, to the Access Seeker upon execution into the Access Agreement, the Commission upon Effective Date and each time it is amended;
- b) shall set out the principles in accordance with which PCSB shall determine how to allocate capacity between its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest and any other Parties, in circumstances where the amount of capacity available is less than the aggregate of capacity required by PCSB's own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest, and the other Party;
- c) shall:
 - (i) be fair and reasonable;

- (ii) be consistent, so far as practicable, with PCSB's general duty of non-discrimination in accordance with **subsection 149(2)** of the Act;
 - (iii) treat the requirements of the Access Seeker on an equivalent basis to the requirements of PCSB's own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest; and
 - (iv) Allocate the available capacity in the relevant Facilities and/or Services in proportion to each Party's Forecast and/or Order requirements; and
- d) shall set out PCSB's plans to expand their capacity over time (if any), where such information must be provided to the Access Seeker on a non-discriminatory basis in terms of its content and frequency of updates.

2.32. Late Delivery

If PCSB fails to meet the delivery date or any extended delivery date notified to the Access Seeker in accordance with **Condition 2.23**, except where such failure has been caused solely by the Access Seeker's delay, caused by a delay or lack of authorization by governmental and/or regulatory bodies and/or caused by a third party, that PCSB shall, without limitation to any other rights the Access Seeker may have under this Agreement or law, provide a rebate to the affected Access Seeker. The rebate shall be for an amount equivalent to the recurring charges payable for access to the Facilities and/or Services for the period of PCSB's delay. The rebates may only be used by the Access Seeker for future Invoices for the same Service or Facility only. If PCSB alleges that a failure has been caused solely by the Access Seeker's delay or lack of authorisation by a third party, PCSB shall have the burden of demonstrating:

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

2.33. Decommissioning Obligations

2.33.1. Decommissioning Notice

Except where PCSB is required to vacate a site where a Facility and/or Service which relies on PCSB's use of that site, as a result of a third party landlord's notice (under an arm's length tenancy agreement) or a local authority's notice, PCSB must provide no less than six (6) months' notice in writing to all relevant Access Seekers prior to the decommissioning of any Facilities and/or Services which rely on PCSB's use of that site.

2.33.2. Cooperation

PCSB must cooperate and negotiate with all relevant Access Seekers in relation to the timetable for decommissioning of the relevant Facilities and/or Services.

2.33.3. Alternative Arrangements

PCSB which notifies and Access Seeker of its intention to decommission any other Facilities and/or Services shall provide to the Access Seeker access to alternative Facilities and/or Services on terms and conditions and at a recurring charge which are not disadvantageous to the Access Seeker, relative to the terms and conditions and recurring charge applicable in respect of Facilities and/or Services that are proposed to be decommissioned, for a period that is not less than three (3) years from the date of decommissioning.

2.33.4. Decommissioned Facilities and/or Services Compensation

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

- a) Moving the Access Seeker's Equipment from the decommissioned Facilities to alternative Facilities offered in accordance with **Condition 2.33.3**; or
- b) Re-arranging Equipment to connect to alternative Services offered in accordance with **Condition 2.33.3** above.

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SECTION IV –NETWORK CHANGE

1. General

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

2. Network Change Obligations

2.1 Scope

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

2.2 Types of Changes

The following types of proposed Network Changes are within the scope of **Condition 2.1**:

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

e) any enhancement by the Notifying Party of the feature, functions or capabilities of the Facilities or Services to which the Recipient Party has access, which enhancement the Notifying Party proposes to make available either:

- (i) to itself; or
- (ii) to any other Party ("**Functionality Change**").

(collectively, "**Relevant Changes**").

2.3 Notification of Change

If a Notifying Party proposed to make a Relevant Change to its Network, services or procedures, the Notifying Party shall provide the Recipient Party with notice in writing ("Change Notice") of:

- a) the nature, effect, technical details and potential impact on the Recipient Party's Network and the expected completion date of the proposed Relevant Change, described at a sufficient level of detail to enable the other Party to identify and begin planning such changes as may be necessary or desirable for the Recipient Party to make to its Network, services or procedures in consequence of the Relevant Change; and
- b) a date, which shall be no later than ten (10) Business Day from the date of the notice under this Condition, on which representatives of the Notifying Party will be available to discuss with representatives of the Recipient Party the proposed Relevant Change and the changes that may be necessary or desirable for the Recipient Party to make to its network, services or procedures in consequence of the Relevant Change, as soon as reasonably practicable and, in any event with not less than the relevant notice period set out in the table below:

Relevant Change	Notice Period
Interface Change	3 Months
Other Network Change	3 Months
Facility and/or Service Change	3 Months
OSS Change	3 Months
Functionality Change	3 Months

2.4 Post-notification procedures

The Notifying Party shall:

- a) meet with representatives of the Recipient Party in the date set out in the Change Notice or as soon as practicable thereafter (but no later than the notice period set out in the table in **Condition 2.3**), for the purpose of discussing the Relevant Change and any changes that may be necessary or desirable for the Recipient Party to make to its Network, services or procedures in consequence of the Relevant Changes;

- b) provide any additional information reasonably requested by the Recipient Party no later than ten (10) Business Days after the Recipient Party's request for such additional information; and
- c) take reasonable account of concerns raised and proposal made by the Recipient Party to minimize any adverse impact of the Relevant Changes on the Recipient Party and revise the Change Notice accordingly.

2.5 Testing

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

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

2.6 Testing failure

Subject to the Recipient Party having co-operated with the Notifying Party in relation to the conduct of tests under **Condition 2.5**, if such tests:

- a) are not accepted by ten (10) Business Days prior to the date when the Notifying Party proposes to effect the Relevant Changes; or
- b) do not provide reasonable assurance of the continued proper operation and compatibility of the Parties' respective Networks, services and procedures, the Notifying Party must postpone implementation of the Relevant Changes. The period of postponement will be for a period until a successful solution is implemented but such period shall not be shorter than the period necessary to allow the Parties to repeat the steps in **Conditions 2.3 to 2.5**.

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SECTION V – NETWORK FACILITIES ACCESS AND CO-LOCATION

1. General

1.1 Section V sets out the terms and procedure for Facilities Access and co-location.

2. Facilities Access - General Procedures

2.1 The Facilities Access will be for a fixed period and the period may vary depending on the type of facilities/premises provided.

2.2 The Parties may agree from time to time on such further terms of Facilities Access for different types of facilities/ premises. Such terms of Facilities Access for different types of facilities will be set having regard to such matters as inter alia:

- a) the reasonable life span of the Facilities or Equipment on PCSB's standard planning horizons;
 - b) the reasonable life span of the Access Seeker' Facilities or Equipment which it installs within or attaches to or uses in conjunction with the Facilities to which access is provided, or the Access Seeker' standard planning horizons; and
- the type of Facilities or Equipment available to the Access Seeker.

3. Types of Network Co-Location Services

3.1 The Network Co-Location Service is a Facility and/or Service which comprise:

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

4. Network Facilities Access and Co-Location

4.1 Inspection and Site Survey

PCSB shall allow nominated employees or contractors of the Access Seeker to physically inspect a network premise and/or facility of PCSB during normal business hours provided that:

- a) The Access Seeker has provided no less than five (5) Business Days' notice of its request to perform a physical inspection and details of its nominees; and

- b) the nominations made by the Access Seeker are reasonable, having regard to the position of each person and the number of persons nominated.

4.2 Physical Access

Subject to PCSB's process and procedures, PCSB shall allow the Access Seeker, its employees and contractors to physically access PCSB's Network facilities/premises for the purposes of installing, commissioning, modifying, maintaining, decommissioning and removing its Equipment and have physical control over the Access Seeker's Equipment located at such network facilities, twenty-four (24) hours a day, seven (7) days a week subject to the terms and conditions of any tenancy agreement provided always that from 9.00 am to 5.00 pm on any Business Day, the Access Seeker shall have physical access to PCSB's Network facilities for the purposes of installing, commissioning, modifying, maintaining, decommissioning and removing its Equipment.

4.3 Escorts

If PCSB determines that it is necessary to have an escort present when the Access Seeker's employees or contractors wish to enter onto PCSB's property, PCSB shall:

- a) make such escort service available at all times during ordinary business hours;
- b) subject to **Condition 4.3.1(d)**, provide immediate physical access to the Access Seeker for emergency maintenance requests, twenty-four (24) hours a day, seven (7) days a week provided always that the Access Seeker strictly complies with PCSB's site access procedures (e.g. work permit approval);
- c) subject to **Condition 4.3.1(d)**, provide physical access at the time requested by the Access Seeker for planned maintenance requests on the shorter of:
 - (i) two (2) Business Days' notice for manned sites and five (5) Business Days' notice for unmanned sites; and
 - (ii) the period of notice which PCSB requires from itself when providing itself with physical access for planned maintenance;
- d) for both planned and emergency maintenance requests at unmanned sites only, have its escort arrive within the shorter of:
 - (i) thirty (30) minutes of time required by the Access Seeker pursuant to **Condition 4.3.1(b) or 4.3.1(c)** (as applicable) plus a reasonable window to allow for travel time (which must be estimated in an operations and maintenance manual given to the Access Seeker, or estimated at the time of responding to the Access Seeker's physical access request); and
 - (ii) the period of time it requires for its escorts to arrive for planned and emergency maintenance at unmanned sites; and
- e) bear the cost of such escort service.

Escort may only be required by PCSB as set out above only if PCSB requires an escort of its own contractors, subsidiaries and partners.

4.4 Absence of Escort

- 4.4.1 For the purposes of **Condition 4.3**, if an escort does not arrive at PCSB's property within thirty (30) minutes of the scheduled commencement of the visit by the Access Seeker, the Access Seeker's staff may proceed to enter PCSB's property without an escort subject to the security requirements of PCSB and the terms and conditions of any tenancy Agreement. The Access Seeker shall provide PCSB with a written report (in a form and at a level of detail as may be specified by PCSB) as to the works and/or activities undertaken by the Access Seeker and/or his employees, contractors, and agents within two (2) Business Days after the site visit.
- 4.4.2 Notwithstanding **Condition 4.3**, if the tenancy Agreement requires that the Access Seeker be escorted by PCSB in order to gain physical access to PCSB's network facility, PCSB shall escort the Access Seeker.

4.5 Site Register

- 4.5.1 The Access Seeker must establish and maintain a register of all persons who visit PCSB's property, which must be made available for inspection by PCSB, upon request.
- 4.5.2 If the Access Seeker does not maintain or properly maintain a site register, PCSB may prohibit any representatives of the Access Seeker from entering the premises.

4.6 Preparatory Work by the Access Seeker

- 4.6.1 If preparatory work is necessary for the purposes of allowing the Access Seeker to obtain access to PCSB's network facilities/premises, PCSB shall permit the Access Seeker's employees or contractors to perform such preparatory work if the Access Seeker satisfies PCSB (acting reasonably and in accordance with the guidelines referred to below) that such employees or contractors have the necessary qualifications. The policy and guidelines pertaining to the necessary qualifications of employees and contractors who will be permitted to perform preparatory work under this **Condition 4.6** may be obtained from PCSB. The policy and guidelines must be applied in a non-discriminatory manner to the personnel of PCSB and the Access Seeker who perform similar functions.
- 4.6.2 If the Parties agree that PCSB shall carry out the preparatory work on behalf of the Access Seeker, then PCSB shall undertake the preparatory work and the Access Seeker shall furnish all necessary and sufficient co-operation to PCSB to complete the preparatory work. The Access Seeker agrees to pay PCSB for undertaking the preparatory work.

4.7 Preparatory Work by PCSB

- 4.7.1 If PCSB agrees to perform preparatory work and does so on the basis of an estimated charge (e.g. based on a time and materials basis) for a specific scope of work:
- a) PCSB shall not exceed the estimate without providing the Access Seeker with prior written notice that:
 - (i) the estimate will likely be exceeded; and
 - (ii) a further estimate of the charges for the work necessary to complete the preparatory work;
 - b) PCSB shall permit the Access Seeker to withdraw the request for preparatory work without penalty if the revised estimate exceeds the original estimate by more than ten percent (10%) of the original estimate within fourteen (14) days of the notice given by PCSB under **Condition 4.7.1(a)**.
- 4.7.2 Notwithstanding **Condition 4.7.1**, where the actual cost incurred by PCSB exceeds an estimate or revised estimate for a specific scope of works provided by PCSB due to information or facts which are inaccurate or erroneous, or which were not disclosed or provided by the Access Seeker, or due to a change in the scope of work by the Access Seeker, the Access Seeker shall be obliged to pay PCSB for the actual cost incurred.
- 4.7.3 PCSB shall not be obliged to commence work until the Access Seeker has confirmed in writing that the Access Seeker is agreeable to the estimate or revised estimate for a specific scope of works provided by PCSB.

4.8 Delays

If PCSB agrees to perform preparatory work and PCSB is or is likely to be unable to perform such work within the agreed timeframe, PCSB shall:

- a) notify the Access Seeker of the delay to a delivery date, together with the reasons for the delay, as soon as practicable after PCSB becomes aware of the possible delay;
- b) permit the Access Seeker to cancel the preparatory work without penalty if the delay is longer than fourteen (14) days; and
- c) compensate the Access Seeker for the reasonable costs it has incurred as a result of delay, subject to the Access Seeker using reasonable endeavours to mitigate those costs.

4.9 Utilities and ancillary Services

If PCSB has permitted access or physical co-location at a particular location or network facilities PCSB must, where the relevant utilities and ancillary services are within PCSB's control, ensure that all necessary utilities and ancillary services are provided to enable the

Access Seeker to benefit from such access or co-location to the same extent that PCSB provides to itself, including but not limited to:

- a) Access to roads;
- b) access to land;
- c) power, including the provision of back-up power;
- d) environmental services (including but not limited to heat, light, ventilation and air-conditioning, fire protection);
- e) security, taking care to ensure that its agents, representatives or sub-contractors do not damage any Equipment, and keeping the location secure and protected from vandalism or theft; and
- f) site maintenance.

4.10 Security Caging

PCSB shall not require the use of cages or similar structures to physically segregate Equipment to be located at or on network facilities of PCSB.

4.11 Equipment Allowance

Subject to any restrictions under any tenancy Agreement, PCSB shall permit the Access Seeker to locate Equipment on or at PCSB's network facilities which is necessary for the purposes of obtaining the benefit of access to the Services and Facilities provided in accordance with this Agreement, including but not limited to multi-functional Equipment which may also be used for purposes other those specified in this **Condition 4.11**. Where restrictions in the tenancy Agreement prohibits the Access Seeker from locating its Equipment at PCSB's facilities/premises, PCSB:

- a) shall use best endeavours to obtain the consent of the landlord for the Access Seeker to locate its Equipment at PCSB's facilities/premises; and
- b) may at its own discretion offer an alternative premise and/or facility where the Access Seeker is permitted to locate its Equipment.

4.12 Marking

The Parties will mark or label their Equipment in such a manner that they can be easily identified as the Equipment of the Party.

4.13 Maintenance

PCSB shall permit and do all the things reasonably necessary to allow the Access Seeker to maintain its Equipment at or on the network facilities/premises to which access has been granted. This includes the provision of physical access.

4.14 Extensions

- 4.14.1 Subject to all necessary permits, consents and approvals required by law being obtained, PCSB shall reasonably permit the Access Seeker, at the Access Seeker, cost, to extend network facilities/premises of PCSB as may reasonably be required to meet the Access Seeker's requirements in the circumstances and to the extent technically feasible.
- 4.14.2 Prior to any extension works being carried out, the Access Seeker shall submit a written proposal to PCSB detailing the works to be carried out and the impact of such works on PCSB's Network.
- 4.14.3 If PCSB agrees or disagrees with the proposal, PCSB will notify the Access Seeker of the same. If PCSB disagrees with the proposal, the Access Seeker may request for a meeting with PCSB to discuss amendments to the Access Seeker's proposal. The Access Seeker shall be responsible for all works carried out.

4.15 Cost

The utility and ancillary costs in respect of the network facilities/premises as contemplated in **Condition 4.9** shall be apportioned (in accordance with fair and equitable principles) against the utility and ancillary costs charged to other access seekers at the relevant location. Where there are no other access seekers at the relevant location, the apportionment shall be done in good faith between the Parties in accordance with fair and equitable principles.

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SECTION VI– OPERATIONS AND MAINTENANCE

1. General

- 1.1 Section VI sets out the operations and maintenance terms and procedures that are applicable in relation to the provision of Facilities and/or Services.

2. Operations and Maintenance Obligations

2.1 Operations & Maintenance Standard & Procedure

- 2.1.1 The Parties shall take such reasonable steps within its respective Networks to facilitate end-to-end connection of communications across each other's Network in accordance with agreed operations and maintenance standards.
- 2.1.2 Where this Agreement and the documents referred to in Section I do not cover any operations and maintenance standards, the Operators may use ITU-T standards.
- 2.1.3 The Parties shall ensure that the operations and maintenance standards and procedures used in the respective Network do not adversely affect the operations of each other's Networks.
- 2.1.4 Each Party shall be responsible for the operations and maintenance of its own Facilities and Services.
- 2.1.5 Each Party shall on its own establish the recommended maintenance procedures for maintaining and servicing its own Facilities and Services.
- 2.1.6 The Parties will take all necessary precautions to avoid causing damage to the equipment and premises of the other Party when such facilities are placed in the same co-located space.

2.2 Fault reporting system & Fault Management

- 2.2.1 The Parties will co-operate to enable each other to meet the terms of their respective Licences and to fulfill their obligations under this Agreement and to provide communications services to their Customers.
- 2.2.2 The Parties will manage their Networks to minimise disruption to services and, in the event of interruption or failure of any service, will restore those services in accordance with the target times set out in **Condition 2.12**.
- 2.2.3 Each Party shall establish and maintain a fault reporting service that allow Customers who are directly connected to the Network of that Party and to whom that Party supplies services (inter alia), to report faults relating to any Network or support system.

2.2.4 Each Party must manage, notify and correct faults arising in its Network which affect the provision of any communications service by the other Party:

- a) as it would in the ordinary course for similar faults affecting the provision of communications services by it;
- b) in accordance with the fault notification procedures and the principles of priority of repair of faults documented in this Section VI and the documents referred to in Section I; and
- c) in accordance with any service quality standards mutually agreed and/or determined by the Commission.

2.2.5 Each Party will use its best endeavour to determine faults on its own Network and establish the nature of the fault by carrying out thorough tests on its Network. If such tests prove that the fault is genuine and not residing on its own Network, then the Party will report this fault to the other Party's fault reporting centre.

2.3 Customer Notification

The Parties will advise all its Customers to report all faults to its own fault reporting service. If the fault concerns the service of the other Party, the Party may promptly inform the other Party's Network Operation Centre ("**NOC**") of the reported fault.

2.4 Cross-referral

If a Customer reports a fault to a Party:

- a) when the Customer is directly connected to another Party; and
- b) which clearly relates to a Network or support system of another Party,

that Party must promptly inform the other Party of the reported fault, or refer that Customer to the other Party's fault reporting service.

2.5 Network Fault Responsibility

2.5.1 The Party in whose Network the fault occurs is responsible for rectifying it and restoring services including for the purpose of restoring the supply of Facilities and/or Services which are used in another Party's Network.

2.5.2 Each Party will be responsible for its own fault management escalation procedures and shall offer full assistance for interconnection faults.

2.5.3 Where a Party ("**First Party**") notifies the other Party that there is a fault in Facilities and/or Services provided by the other Party and the other Party discovers upon investigation that the fault is due to a fault in the First Party Network or the Customer premises equipment of the First Party's Customer, the other Party shall be entitled to charge the First Party reasonable cost incurred for investigating and attending to such

fault report/notification. The other Party shall provide evidence that the faults reside in the First Party's Network or the customer premises equipment of the other Party's Customer.

2.6 Major Inter-working faults

If a major fault occurs which affects a communication that crosses or is to cross both Party's Networks, initial responsibility for identifying the fault rests with the Party who first becomes aware of the fault.

2.7 Faults affecting other Network or Equipment

If a Party identifies a fault occurring in its Network or with its network facilities which may have an adverse effect on the other Party's Network, network facilities, network services or Equipment, the first-mentioned Operator must promptly inform the other Party of:

- a) the existence of the fault;
- b) the actions being taken by the first mentioned Party to restore service and to further identify and rectify the fault; and
- c) the outcome of those actions.

2.8 Bear Own Cost

Each Party is responsible for establishing and maintaining a fault reporting service at its own cost irrespective of the location of the fault.

2.9 Fault Priority

Each Party shall give priority to faults in the following order:

- a) the highest service loss impact in terms of the number of Customers affected;
- b) those which have been reported on previous occasions and have re-occurred; and
- c) All other faults.

2.10 Fault Rectification

Each Party shall rectify faults on a non-discriminatory basis.

2.11 Target times

Each Party shall respond to and rectify faults within the lesser of:

- a) timeframes set out in a relevant service specific obligation under Part A, Terms and Conditions for Regulated Facilities and/or Services of this Agreement or, if there is no such timeframe, the response timeframes, progress update frequencies and rectification timeframes set out in the table below;

- b) timeframes which will result in compliance by all affected Parties with any applicable mandatory standards that apply to service availability and restoration; and
- c) timeframes equivalent to that which PCSB provides to itself.

Priority Level	Fault Type	Response Time	Progress Update Frequency	Rectification Timeframe
Level 1	1. Major switch outage 2. Transmission bearer total outage 3. Route blocking > 30% 4. Major signaling problem > 50% per route basis 5. Major routing issues	Within 1 hour	Every 1 hour	4 hours
Level 2	1. Minor switch outage 2. Minor routing issue 3. Minor signaling problems 4. Route blocking 10% -30%	Within 4 hours	Every 4 hours	24 hours
Level 3	1. Faults affecting single or small number of Customers 2. Route blocking <10%	Within 24 hours	Every 24 hours	72hours
Level 4	1. Remote Congestion 2. External Technical Irregularities (ETI) 3. Other performance related issues	Within 48 hours	Every 48 hours	14 days

Explanatory Notes to **Condition 2.12:**

- a) All faults reported shall be ascribed with a “Priority Level” as set out in the above table for response, progress update frequency and rectification purposes and the Parties involved shall cooperate with one another to achieve the given time targets based on the severity of the fault reported.
- b) Some of the common “Fault Types” are listed as example in the above table.
- c) “Response Time” refers to the time for the Party whose Network or service is faulty to respond to and appropriately attend to the fault. Response Times are to be measured from either the time the fault is notified by the Access Seeker or from the time when PCSB first becomes aware of the Fault, whichever is the earlier.
- d) “Rectification Time” refers to the time taken by the Party to rectify a fault service and is determined by the period between the reporting of a fault to the respective interconnect fault reporting centre (IFRC) of the Party and the rectification of the faulty service.
- e) “Progress Update Frequency” means the frequency at which the affected Party may call the Party responsible for restoring the fault to obtain a verbal progress update.
- f) The Restoration Time shall be measured each month as “Mean Time to Restore” or “MTTR” and means the average Restoration Time it takes to restore a fault over a twelve (12) month rolling period.

The MTTR shall be discussed for tracking purposes at service review meetings.

2.12 Planned Maintenance

2.12.1 If a Party (“Maintenance Party”) intends to undertake planned maintenance which may affect the other Party Network, Facilities and/or Services, the Maintenance Party must:

- a) provide at least the greater of the time which it notifies its own Customers and ten (10) Business Days’ notice of the planned maintenance;
- b) use its reasonable endeavours to minimise any disruption to the carriage of communications that crosses or would cross both Parties’ Networks, and which are caused by the maintenance or re-routing; and
- c) where the Parties agree that it is practicable, provide alternative routing or carriage at no additional cost to the other Party.

2.12.2 Where the planned maintenance is not restored to full service within the expected duration, the additional outage time shall be regarded as unplanned maintenance occasioned by a planned maintenance and the procedure dealing with unplanned outage shall apply. The initial notice of the unplanned outage may be given verbally provided that it is followed by a written notice as soon as possible but no later than twenty four (24) hours after the verbal notice.

2.13 Planned Maintenance Windows

A Party shall undertake planned maintenance within windows of time agreed with other Party, and where the windows of time for such planned maintenance have the least effect on end-users.

2.14 Emergency maintenance

If the Maintenance Party needs to undertake emergency maintenance which may affect the other Party network, the Maintenance Party must:

- a) provide at least twenty-four (24) hours’ notice of the emergency maintenance. In such case, the Maintenance Party shall provide verbal notification upon sending the written notice;
- b) use its reasonable endeavours to minimize any disruption to the carriage of communications which cross or are to cross both Parties’ Networks, and which are caused by the maintenance or re-routing; and
- c) where practicable and agreed by the Parties, provide alternative routing or carriage at no additional cost to the other Party.

2.15 Hours of fault and rectification

Both Parties shall maintain a twenty-four (24) hours a day, seven (7) days a week Network Operation Centre to which all faults relevant to the proper functioning of the Facilities and/or Services and complaints are reported.

2.16 Complaints Handling

The Parties must report all interconnection and access outages that relate to Networks, Facilities and/or Services to the other Party relevant fault reporting and rectification service.

3. Service Review

- 3.1 The Parties shall hold meetings monthly or mutually agreed intervals to review the performance of interconnection between the Parties's Network and mutually exchanged operational information. In addition, the Parties shall discuss at the meetings, any other inter-working issue that arise. The information provided in such reports is confidential information and subject to the confidentiality obligations under this Agreement.

4. Maintenance of Equipment and/or Shared Sites

- 4.1 Each Party shall be responsible for inter alia:
- a) maintaining its Equipment in good working condition;
 - b) maintaining the Equipment and/or shared sites in a tidy and safe condition;
 - c) ensuring that combustible material is not left in or around shared sites following maintenance works or other operations; and
 - d) take such other action as a reasonable prudent operator of such Equipment would take.

5. Business Contingency Plan

- 5.1 The Parties agree to discuss terms and conditions pertaining to business contingency plan for purposes of catering for major unplanned outages affecting either or both Parties' Networks.

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SECTION VII – OTHER TECHNICAL MATTERS

1. General

- 1.1 Section VII sets out the other technical matters and procedures that are applicable in relation to the provision of Facilities and Services.

2. Technical Obligation

2.1 Compliance

The Parties shall adhere to the relevant guidelines issued by the Commission from time to time to the extent that they have not been expressly revoked 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 Party is responsible for the safe operation of its Network and must take all reasonable and necessary steps to ensure that its Network, its Network operations and implementation of this Agreement:

- a) do not endanger the safety or health of the officers, employees, contractors, agents or Customers of the other Party; and
- b) do not damage, interfere with or cause any deterioration in the operation or impedes or interrupts the continuous use of the other Party's Network.

which measures shall be no less robust than the measures which the Party takes in respect of new facilities or Equipment incorporated into its own Network.

- 2.2.2 Each Party and must not do anything, or knowingly permit any third person to do anything, in relation to Network, network facilities, network services or Equipment which:

- a) cause interference to the communications services provided by the other Party; or
- b) materially obstructs, interrupts or impedes the continuous use or operation of, the Network, network facilities, network services or Equipment of another Party.

2.3 Prohibition of Tampering and Modification

A Party must not modify or take any action which would have the effect of modifying the operation of the Network of the other Party or take any action with respect to the other Party's Network without the other Party's permission.

2.4 Notice of Interference Rectification

If a Party (“**Notifying Party**”) notifies another Party that the other Party’s network, network facilities, network services or Equipment is causing interference to the Notifying Party’s network, network facilities, network services or Equipment:

- a) the other Party shall rectify the situation as soon as possible, and in any case, within twenty-four (24) hours of receiving notice from the Notifying Party, so that no interference is caused; or
- b) if the other Party is not able to locate the source of the interference within twenty four (24) hours under **Condition 2.4(a)**, the other Party shall promptly notify the Notifying Party, and both Parties shall meet as soon as possible, and in any case, within twenty four (24) hours of such notice and jointly examine each other’s network, network facilities, network services or Equipment to locate the source of the interference.

2.5 Handover Principles

Where Access Services are provided, a Party shall handover interconnected calls to the other Party on the basis requested by the Access Seeker, unless otherwise agreed. For clarification:

- a) for originating Access Services provided by PCSB, the Access Seeker may elect whether handover will be on a Near End Handover basis or on a Far End Handover basis subject to applicable charging.
- b) For terminating Access Services provided by PCSB, the Access Seeker may elect handover will be on a Near End Handover or on a Far End Handover basis subject to applicable charging.

2.6 Dummy CLIs

In all situations, a customer’s original CLI (including the CLI for International Inbound Traffic where the same is provided by the Foreign Party) must be routed by PCSB to the Access Seeker and, where applicable, by the Access Seeker to PCSB. 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 PCSB or PCSB’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 documents referred to in Section I.

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**TERMS AND CONDITIONS
FOR REGULATED
FACILITIES AND/OR SERVICES**

General

1. General

1.1 The General Terms and Conditions and the Terms and Conditions for Technical Matters shall also apply to these Regulated Facilities and/or Services subject to any modifications specified herein.

1.2 These Terms and Conditions for Regulated Facilities and/or Services must be lodged with the Commission in accordance with **Section 150** of the Act and shall only take effect upon lodgment.

1.3 These Terms and Conditions for Regulated Facilities and/or Services comprise of: -

- (a) **Part A – Service Description; and**
- (b) **Part B – Charging Principles and Charges.**

2. List of Regulated Facilities and/or Services

2.1 The list of Regulated Facilities and/or Service under this document are as follows:

Facilities / Services	Sections in Part A and B
Infrastructure Sharing	Section I
Network Co-Location Service	Section II
Duct and Manhole Access	Section III

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PART A
SERVICE DESCRIPTION

SECTION I – INFRASTRUCTURE SHARING

1. General

1.1 Section I of Part A sets out the terms and conditions which are applicable to Infrastructure Sharing

2. General Terms and Conditions

2.1 Infrastructure Sharing is a Facility and/or Service which comprises the following:

- a) provision of physical access, which refers to the provision of space (including rooftop space) at specified Facilities to enable the Access Seeker to install and maintain its own equipment; or
- b) provision access to in-building Common Antenna Systems and physical access to central equipment room.

2.2 Specified Facilities includes:

- a) towers and Associated Tower Sites; and
- b) any other Facility that supports, or has the capability to support the installation of mobile or fixed network equipment in, along or in close proximity to:
 - i. a street;
 - ii. a road;
 - iii. a path;
 - iv. a railway corridor;
 - v. a park; or
 - vi. such other outdoor area that may be accessed by members of the public.

2.3 Including but not limited to billboards, public transit shelters, poles, traffic light poles, bridges and road gantries owned by the Access Provider. Physical access includes power (including right-of-way for power installation by the Access Seker), environmental services (such as heat, light, ventilation and air-conditioning), security, site maintenance and access for the personnel of the Access Seeker.

2.4 For the purpose of **subsection 2.3**, Section II, Terms and Conditions for Technical Matters of this PCSB RAO, PCSB shall only request Forecasts where:

- a) the maximum period of time covered by Forecasts regarding Infrastructure Sharing is one (1) year, or as mutually agreed by the Parties;
- b) the minimum intervals or units of time to be used in Forecasts regarding Infrastructure Sharing is one (1) year; and

- c) the maximum frequency to update or to make further Forecasts regarding Infrastructure Sharing is once a year.

2.5 For the purposes of **subsection 2.5**, Section III, Terms and Conditions for Technical Matters of this PCSB RAO, the Access Provider shall acknowledge receipt of each Order for the Infrastructure Sharing within two (2) Business Days.

- a) Subject to any shorter timeframe required under **subsection 2.12**, Section III, Terms and Conditions for Technical Matters of this PCSB RAO, PCSB must notify an Access Seeker that an Order for the Infrastructure Sharing is accepted or rejected within ten (10) Business Days after issuing the Notice of Receipt of the Order.

2.6 For the purpose of subsection **2.13(a)**, Section III, Terms and Conditions for Technical Matters of this PCSB RAO, the indicative delivery timeframe for Infrastructure Sharing is:

- a) for ground-based towers and new sites, ninety (90) Business Days;
- b) for Common Antenna Systems in High Priority Areas:
 - (i) which are existing Common Antenna Systems, forty (40) Business Days; and
 - (ii) which are new Common Antenna Systems, one hundred and twenty (120) Business Days;
- c) for fixed telecommunications poles, ten (10) Business Days; and
- d) for all other structures (including street furniture), forty (40) Business Days.

For clarification, the indicative delivery timeframe in this **subsection 2.8** commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with **subsection 2.14**, Section III, Terms and Conditions for Technical Matters of this PCSB RAO. PCSB shall provide progress update of the site delivery to an Access Seeker on a monthly basis.

2.7 The Billing Cycle for Infrastructure Sharing will be one (1) year in advance for the first year and quarterly in advance for subsequent years.

2.8 Where required to fulfil an Order for Infrastructure Sharing of for the Access Seeker to perform operations or maintenance activities, PCSB shall allow an Access Seeker, its nominated employees and/or contractors to physically access PCSB's network facilities and the Access Seeker's Equipment, and to have physical control over the Access Seeker's Equipment located at such network facilities, at equivalent times and in accordance with equivalent processes and procedures as are applicable to itself.

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SECTION II – NETWORK CO-LOCATION

1. General

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

2. General Terms and Conditions

The Network Co-Location Service is a Facility and/or Service which comprises:

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

2.1 PCSB shall only request Forecast where:

- a) The maximum period of time covered by Forecast regarding network Co-Location Service is one (1) year;
- b) the minimum intervals or units of time to be used in Forecasts regarding Network Co-location Service is one (1) year; and
- c) the maximum frequency to update or to make further Forecasts regarding Network Co-location Service is once a year.

2.2 For the purposes of **subsection 2.5** of Section III, Terms and Conditions for Technical Matters of this RAO, PCSB shall acknowledge receipt of each Order for a Network Co-location Service within two (2) Business Days.

2.3 Subject to any shorter timeframe required under **subsection 2.12**, Section III, Terms and Conditions for Technical Matters of this RAO, PCSB must notify an Access Seeker that an Order for a Network Co-location Service is accepted or rejected within ten (10) Business Days after issuing the Notice of Receipt in respect of the Order.

2.4 For the purposes of **subsection 2.13(a)**, Section III, Terms and Conditions for Technical Matters of this RAO the indicative delivery timeframe for Network Co-location is twenty (20) Business Days. For clarification, the indicative delivery timeframe in this **subsection 2.4** commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with **subsection 2.14**, Section III, Terms and Conditions for Technical Matter of this RAO.

- 2.5 For the purposes of **Condition 5.1.1 (e)** General Terms and Conditions of this PCSB RAO between the Parties, the Billing Cycle for Network Co-location Service shall be one (1) year in advance for the first year and quarterly in advance for subsequent years.
- 2.6 PCSB shall allow nominated employees and/or contractors of a potential Access Seeker to physically inspect network facilities of PCSB during normal business hours provided that the Access Seeker has provided no less than five (5) Business Days' notice of its request to perform a physical inspection and details of its nominees.
- 2.7 Where PCSB provides a Network Co-location Service or for the Access Seeker to perform operations or maintenance activities, PCSB shall allow the Access Seeker, its nominated employees and/or contractors to physically access PCSB's network facilities and the Access Seeker's equipment, and to have physical control over the Access Seeker's equipment located at such network facilities, at equivalent times and in accordance with PCSB's equivalent processes and procedures. PCSB shall not prevent or restrict access to any network facility of site for reasons concerning national or operational security reasons and may only apply reasonable security procedures and processes.
- 2.8 The Access Seeker must establish and maintain a register of all person who visits PCSB's property on the Access Seeker's behalf, which must be made available for inspection by PCSB, upon request.
- 2.9 **Reservation of space:** PCSB shall not reserve space other than for its own current needs, its future needs (calculated by use of a reasonably projected rate of growth over two (2) years) and the needs of other Access Seekers who are currently occupying or have ordered space from PCSB.
- 2.10 **Allocation of space:** PCSB shall allocate space at each location where physical co-location is to be permitted in a non-discriminatory way and will treat other Access Seekers as it treats itself.
- 2.11 **No minimum space requirements:** PCSB shall not impose minimum space requirements on an Access Seeker.
- 2.12 **Notice of refusal:** If PCSB proposes to refuse, or refuses, a request for physical co-location from an Access Seeker on the basis of current or future needs of PCSB and/or the needs of other Access Seekers who are currently occupying or have ordered additional space from PCSB, it must also notify the Access Seeker and the Commission of:
- a) the space currently used by PCSB;
 - b) the amount of space reserved for PCSB's future need;
 - c) the space currently occupied by other Access Seekers;
 - d) the space ordered by other Access Seekers; and
 - e) the total amount of space potentially available but for the uses set out above.

3. Pre-requisites for Applying for Network Co-Location Services

3.1 General Pre-requisites for Network Co-Location

3.1.1 PCSB shall not be obliged to provide to the Access Seeker Network Co-Location at the designated sites ("**Designated Sites**") unless:

- a) PCSB:
 - (i) is the legal owner of the Designated Sites; or
 - (ii) has exclusive rights of use of the Designated Sites pursuant to a lease or tenancy agreement and PCSB has been granted the requisite approval by the owner or landlord of Designated Sites to permit the Access Seeker to use space for physical co-location in accordance with the terms herein contained.
- 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 Site, and
- d) that it is not technically infeasible to implement Network Co-Location at the Designated Site.

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 Parties, shall be for a fixed period of three (3) years unless a lesser period is stipulated by PCSB (where the Access Provider's right to use the Designated Site is less than three (3) years) and may be further renewed subject to the mutual agreement of the Parties. The Access Seeker shall within six (6) months prior to the expiry of the term of the Network Co-Location at the Designated Site notify PCSB in writing as to whether or not it wishes to renew the term of the Network Co-Location at the Designated Site. If the Access Seeker notifies PCSB that it wishes to renew the term of the Network Co-Location at a Designated Site but PCSB's lease or tenancy to use the land on which the Designated Site expires upon or will expire in the renewed term, PCSB shall, within one (1) month from the date of receipt of the Access Seeker written notice, inform the Access Seeker as to its intention to renew its lease or tenancy of the said land.

4.1.2 The term of the Network Co-Location shall commence on the date ("**Commencement Date**"):

- a) PCSB makes available for physical possession the co-located space ("**Co-Located Space**") at the Designated Site in accordance with the agreed specifications and PCSB has notified the Access Seeker in writing of the same; or

- b) the Access Seeker takes physical possession of the Co-located Space at the Designated Site,

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 PCSB or owner or any of the other access seekers in PCSB's Designated Site or owner any other buildings adjoining the Designated Site.
- 5.1.2 If the Access Seeker has not complied with **Condition 5.1.1**, the Access Seeker shall take the necessary rectification or remedial action to address any complaints made by PCSB or other access seekers in the Designated Site or owner or owner of the building adjoining 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 rights or interest whether under statute, common law, equity or any theory of law in any building, land, fixture, other structure or in or to the Designated Site.
- 5.1.4 Where the land on which the Designated Site is located is owned or controlled by a third party ("**Site Owner**") and PCSB's use of the Designated Site is pursuant to a tenancy or lease, PCSB 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 land on which the Designated Sites is located from the Site Owner unless PCSB 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 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.

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 PCSB'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 PCSB 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 damage to the original state and condition (fair wear and tear excepted) as specified in the notice in writing given by PCSB to the Access Seeker. Where applicable, PCSB may specify all necessary repairs or, where damage cannot be made good with repairs to the original state and condition, such replacements to be affected to the building, plant, facilities and equipment.

5.4.2 If the Access Seeker fails to affect the replacements and/or repairs within the time period stipulated in the notice (which period must be a reasonable time), PCSB 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 PCSB save where the replacements and/or repairs were due to the natural failure of the structure or due to PCSB.

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 PCSB'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 equipment, systems, cables, links and devices.

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

- 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 PCSB (and which rules and regulations equally apply to all access seekers and PCSB) from time to time and notified to the Access Seeker in writing. Provided Always that PCSB 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 PCSB 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 PCSB (the approval of which shall not be unreasonably withheld). Where PCSB 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 this Agreement.
- 5.7.2 Where the Access Seeker is permitted by PCSB 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 PCSB in providing access. The Access Seeker must notify PCSB of all persons with whom the Access Seeker has reached a co-location agreement within two (2) Business Days of reaching such agreement. 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 this Agreement including but not limited to provisions pertaining to the preservation of and the security of PCSB's Network Facilities and premises.

5.8 Payment of Quit Rents, Rates and Taxes

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

5.9 PCSB's Covenant

- 5.9.1 Where the infrastructure on the Designated Site were erected on or before 30 June 2003 and at the time being are undergoing the process of being regularised under the National Rationalization Exercise launched in 2003, PCSB does not warrant or represent that it has obtained all the necessary authorisation, approvals or permits from the relevant authorities (including Federal and State Government) to erect the

infrastructure on those Designated Site in which the Co-Located Space has been rented to the Access Seeker or use or occupy the land on those Designated Site.

5.9.2 In the event that:

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

such that the Access Seeker is not able to:

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

the Access Seeker and/or PCSB 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 Parties agree that the remedies set out in this Condition 5.9 shall be the only remedy against PCSB and PCSB 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, PCSB will use its reasonable endeavours to offer the Access Seeker other suitable Designated Sites.

- 5.9.3 Where PCSB 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, PCSB 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 Parties agree that the Access Seeker and/or PCSB may, notwithstanding the minimum term, terminate the Network Co-Location at the Co-Located Space without liability. The Parties agree that the remedies set out in this Condition 5.9 shall be the only remedy against PCSB and PCSB 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 PCSB.

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 PCSB's prior written approval, utilise the electricity supplied to PCSB at that premises provided that:
 - (i) PCSB 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 PCSB for all electricity charges utilised (and any other additional charges for back-up power) by the Access Seeker at the Co-Located Space, the charges of which shall be determined by PCSB; or
- b) where PCSB 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 registered and licensed by Energy Commission (Suruhanjaya Tenaga) at the Co-Located Space at the Designated Site.

5.11 To Permit PCSB to Enter and View Condition

Where the Co-Located Space is an enclosed or secured area, the Access Seeker shall permit PCSB and his agents, servants and contractors, to enter the Co-Located Space at all reasonable times and upon giving five (5) Business Days written notice for the purpose of viewing the state and condition thereof or for any other reasonable purpose. The Parties agree however, that in an emergency which poses a clear and imminent danger to public safety and/or PCSB or other access seekers equipment, PCSB 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 emergence situation. The Access Seeker shall have the option to provide an escort to PCSB, at its own cost, but PCSB 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 PCSB's and/or any of the other access seekers' equipment or services provided in or around the Co-Located Space;
- c) be electromagnetically compatible in accordance with the prescribed standards and shall not cause electromagnetic interference to PCSB's and/or any of the other access seekers' equipment or services provided in or around the Co-Located Space; and/or

- d) not be connected to any equipment belonging to PCSB without the written consent from PCSBr.

For the purposes of **Condition 5.12.1 (b) and (c)**, the Parties agree that where the Access Seeker's equipment causes frequency interference or electromagnetic interference to PCSB and/or other Access Seekers' equipment or services provided in or around the Co-Located Space, the provisions in **Condition 2.4** of Section VII of the Terms and Conditions for Technical Matters shall apply.

5.12.2 In the event that:

- a) the Access Seeker fails to fulfil its obligations under this **Condition 5.12.1**; 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 PCSB and/or other access seeker's facilities, equipment, device or system,

PCSB 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 Communications Services and shall not be permitted to install any other operator's equipment, system and/or devices on the Co-Located Space without the prior written approval of PCSB.

5.12.4 The Access Seeker shall not damage, tamper, modify, alter or handle any equipment, system or devices belonging to PCSB or any other access seeker in the Designated Site and/or the Co-Located Space without the prior written approval of PCSB 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 PCSB's Designated Site. 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 not install any electrical sockets, plugs or electrical power points or electrical motor or engine or appliances or make any additional plumbing connections on or to the Co-Located Space without obtaining the prior written consent of PCSB to the work plan.

5.14 Safety and Health and Security Procedures

5.14.1 Compliance with Occupational Safety and Health (OSH) Requirements

- a) The Access Seeker shall comply and shall always secure compliance by his personnel and agents during the term of the tenancy with the followings:
 - (i) Factories and Machinery Act, 1967 (if applicable);
 - (ii) Occupational Safety and Health Act, 1994;
 - (iii) all other relevant occupational safety and health requirements imposed by law including any subsequent amendments to or re-enactment of the said law;
 - (iv) any directives or order by PCSB or relevant authorities and/or superintending officer representative (SOR) relating to occupational safety and health requirements; and
 - (v) all guides, codes and recommendations issued or made by the government, professional or trade organization or other official or responsible organization relating to occupational safety and health.

The above are hereinafter collectively referred to as the **“OSH REQUIREMENT”**

- b) The Access Seeker shall take all necessary precautions to protect the environment, property and its own employees and any employees of PCSB and any third parties who are at any time directly or indirectly affected by the operations of the Access Seeker. Such precautions shall include but not limited to the provision of information on the equipment and substances to be used, hazards and risks involved in the performance of the works.
- c) Occupational Safety and Health (OSH) Measures
 - (i) The Access Seeker shall familiarize himself with the area of the site where the Works are to be performed and any operating units bordering the same and the hazards which might be encountered in carrying out the works for which he has contracted. The Access Seeker shall fully co-operate and comply with any directives from PCSB or any regulatory authority, should any of them consider there is hazard involved and request the Access Seeker thereafter to alter its mode of operations.
 - (ii) The Access Seeker shall be under an obligation to take all reasonable measures in relation to the type of works undertaken and shall conduct himself, manage his work force and carry out his operation in such a way as to comply at all times with obligations and duties under the OSH Requirements.
 - (iii) The Access Seeker shall ensure the usage of personal protective clothing and equipment whenever it is required and shall provide the Personal Protective Equipment (PPE) and Personal Protective Clothing at Access Seeker's own expense as required by its personnel to comply with the OSH Requirements. The PPE includes items such as safety helmet, safety boots, safety goggles

and other safety gadgets as prescribed in the OSHA. The Access Seeker shall also comply to any safety requirement from PCSB from time to time if any.

- (iv) The Access Seeker shall ensure that the tools and equipment, and other items used in the execution of the works are in a safe, sound and good condition and capable of performing the function for which they are intended.
- (v) No employees of the Access Seeker or any other persons engaged through the Access Seeker shall be assigned to work on site unless they are trained through the National Institute of Occupational Safety and Health (NIOSH) Program.

d) Site Accidents

- (i) The Access Seeker shall immediately report to PCSB any accidents, injuries or near misses arising from the execution of the Works, soonest possible within 24 hours from the time of occurrence.
- (ii) The Access Seeker shall furnish to PCSB full details of such accidents, injuries or near misses or other relevant information as may be required by PCSB within three (3) days after the occurrence.
- (iii) PCSB shall be entitled to carry out any investigations of such accidents, injuries or near misses. The Access Seeker shall render full assistance to PCSB for purposes of such investigations.

e) Non-Compliance of Occupational Safety and Health (OSH) Requirements

- (i) Without prejudice to the Access Seeker's obligations as set out herein, PCSB shall have the right at any time and from time to time to carry out occupational safety and health inspection and audit during performance of the works hereunder.
- (ii) If during the performance of works under this Agreement, PCSB informs the Access Seeker that it is in the opinion that the Access Seeker is conducting the works in such a way as to endanger Access Seeker and any persons engaged or employed by the Access Seeker, plant equipment or materials or environment, the Access Seeker shall promptly remedy that breach of occupational safety, health and environment provisions.
- (iii) PCSB may direct the Access Seeker to suspend the works until such time as the Access Seeker satisfies PCSB that the Works will be resumed in conformity with applicable occupational safety, health and environment provisions. During periods of suspension referred to above, PCSB shall not be liable to any cost or losses incurred by the Access Seeker.

5.14.2 The Access Seeker shall comply and cause its employees, agents and contractors to comply with all guidelines, rules and regulations issued by PCSB (and which rules and regulations equally apply to all access seekers) from time to time on site access and security procedures with respect to access to and use of the Co-Located Space. Further,

the Access Seeker shall undertake all such necessary measures to ensure the security of its Co-Located Space prevents unauthorised access to the Co-Located Space.

5.15 Exclusive Possession

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

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 PCSB 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 PCSB'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) always keep the Co-Location Space in a tidy and safe condition; 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 PCSB's and other access seeker's equipment and/or facilities, the Access Seeker must:

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

5.16.5 If the Access Seeker detects a fault, defect or problem in the Co-Location Space, it must notify PCSB 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 the Access Provider with all PCSB's fixtures and additions thereto in good and tenantable repair and condition (fair wear and tear excepted) 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 PCSB is to vacate the Designated Site in accordance with Condition 5.9, such reasonable grace period as may be specified by PCSB taking into consideration the time lines provided by the relevant authorities or the owner of the land / landlord to PCSB 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 PCSB to enable PCSB to comply with the requisite time lines,

to vacate the Co-Located Space, during which no monthly rental will be charged by PCSB. Should the equipment, system or devices not be removed within the grace period, PCSB 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;
- (ii) remove the cable, equipment, system and/or devices of the Access Seeker and the Access Seeker shall reimburse PCSB to the cost of removing the same; and
- (iii) without any liability to the Access Seeker, dispose of the equipment, system or devices in such manner as PCSB deems fit with a one (1) month's written notice. If the Access Seeker fails to settle any debt due, PCSB 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. PCSB 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 PCSB. 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 PCSB to own and maintain on its behalf.
- 6.2 The terms of Virtual Co-Location at a Designated shall be subject to terms and conditions (including the Charges thereof) to be mutually agreed on a case by case basis.

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SECTION III – DUCT AND MANHOLE ACCESS

1. General

1.1 This Section III of Part A set out the terms and conditions which are applicable to Duct and Manhole Access.

2. General Terms and Conditions

2.1 The Duct and Manhole Access is a Facility and/or Service which comprises provision of physical access to, at the Access Seeker's discretion, one or more of the following elements:

- a) Lead-In Ducts;
- b) Manholes, including any manholes associated with Lead-in Ducts; and
- c) sub-ducts where there is no room for the Access Seeker to install its own subducts.

2.2 Provision of physical access includes the provision of

- a) space at specified network Facilities to enable the Access Seeker to install and maintain its own lines, equipment and sub-ducts; and
- b) access for the personnel of the Access Seeker, including to the land upon which any Lead-in Ducts, subducts and manholes are situated; and
- c) provision of physical access in subparagraphs (i) to (ii) above will be subject to the security measures to be included in the Mandatory Standard on Access to mitigate security risk of PCSB.

2.3 For the purpose of **subsection 2.3**, Section II, Terms and Conditions for Technical Matters of this Agreement, PCSB shall only request Forecasts where:

- a) the maximum period of time covered by Forecasts regarding Duct and Manhole Access is one (1) year;
- b) the minimum intervals or units of time to be used in Forecasts regarding Duct and Manhole Access is one (1) year; and
- c) the maximum frequency to update or to make further Forecasts regarding Duct and Manhole Access is once a year.

2.4 For the purposes of **subsection 2.5**, Section III, Terms and Conditions for Technical Matters of this Agreement, PCSB shall acknowledge receipt of each Order for the Duct and Manhole Access within two (2) Business Days.

2.5 Subject to any shorter timeframe required under **subsection 2.12**, Section III, Terms and Conditions for Technical Matters, PCSB must notify the Access Seeker that an Order for the Duct and Manhole Access is accepted or rejected within ten (10) Business Days after:

- a) issuing the Notice of Receipt in respect of the Order, where PCSB did not undertake any post-Order Service Qualification for that Order under **subsection 2.8**, Section III, Terms and Conditions for Technical Matters of this Agreement; or
 - b) providing the Access Seeker with the result of post-Order Service Qualification under **subsection 2.9**, Section III, Terms and Conditions for Technical Matters of this Agreement, where PCSB has undertaken post-Order Service Qualification for that Order under **subsection 2.8**, Section III, Terms and Conditions for Technical Matters of this Agreement.
 - c) Subject to the distance and scale of the required infrastructure and obtaining relevant third-party authority approvals, the post-Order Service Qualification timeframe for Duct and Manhole Access is within the shorter of:
 - a. Twenty (20) Business Days after the date of the Notice of Receipt; and
 - b. The time within which PCSB performs and notifies the result of an equivalent Service Qualification undertaken for itself.
- 2.6 For the purpose of **subsection 2.13.1(a)**, Section III, Terms and Conditions for Technical Matters of this Agreement, the indicative delivery timeframe for Duct and Manhole Access less than 10km is ten (10) Business Days. For clarification, the indicative delivery timeframe in this **subsection 2.6** commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with **subsection 2.14**, Section III, Terms and Conditions for Technical Matters of this Agreement.
- 2.7 For the purpose of **Condition 5.1.1 (e)**, General Terms and Conditions of this Agreement, between the Parties, the Billing Period for Duct and Manhole Access will be one (1) year in advance for the first year and monthly in advance for subsequent years.
- 2.8 PCSB agrees to provide Duct and Manhole Access to the Access Seeker in accordance with the terms of this Agreement including the relevant Terms and Conditions for Technical Matters and the terms and conditions of this **Section I**.
- 2.9 The Access Seeker shall pay to PCSB for Duct and Manhole Access stated in this **Section II of Part A** provided by PCSB, Charges in accordance with the applicable provisions set out in **Section II of Part B** of this Agreement.
- 2.10 The other relevant information on the Duct and Manhole Access may be obtained from PCSB upon written request.

3. Pre-Requisites for applying Duct and Manhole Access

- 3.1 PCSB shall not be obliged to provide to the Access Seeker the Duct and Manhole Access unless:
- a) PCSB:
 - (i) is the owner of the Duct and Manhole; or

- (ii) has exclusive rights of use of the Duct and Manhole pursuant to a lease or tenancy agreement with the owner of the Duct and Manhole and PCSB has been granted the requisite approval by the owner of the said Duct and Manhole to permit the Access Seeker to use the Duct and Manhole;
- b) The Access Seeker has the appropriate license under the Act and its subsidiary legislation to operate the service and other approvals from relevant authorities, where required;
- c) there is sufficient space; and
- d) the Technical Proposal from the Access Seeker has been approved by PCSB.

4. Duration of Duct and Manhole Access

- 4.1 Duct and Manhole Access agreed between the Operators, shall be for a fixed period of three (3) years unless a lesser period is stipulated by PCSB (where PCSB's right to use the Duct and Manhole is less than three (3) years) and may be further renewed subject to the mutual agreement of the Parties. The Access Seeker shall within six (6) months prior to the expiry of the term of Duct and Manhole notify PCSB in writing as to whether or not it wishes to renew the term of the Duct and Manhole Access.
- 4.2 The term of the Duct and Manhole Access shall commence on the date ("**Start Date**"):
 - a) PCSB makes available for physical possession the Duct and Manhole space in accordance with the agreed specifications in the Technical Proposal and PCSB has notified the Access Seeker in writing of the same; or
 - b) The Access Seeker takes physical possession of the Duct and Manhole, whichever is the earlier.

5. Use of Duct and Manhole

- 5.1 The Access Seeker shall only use the Duct and Manhole for the sole purpose of providing communications 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 PCSB, or owner or any of the other access seekers.
- 5.2 If the Access Seeker has not complied with **Condition 5.1**, the Access Seeker shall take the necessary rectification or remedial action to address any complaints made by PCSB or other access seekers.
- 5.3 The Access Seeker shall not sub-let the Duct and Manhole without the prior written approval of PCSB.
- 5.4 PCSB shall not be responsible for any damage to the Access Seeker's fiber optic cable in the Duct and Manhole caused by fire, water leakage and/or by any other Force Majeure.

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- 5.5 The Access Seeker shall establish and maintain a register of all persons who visit the Sub-duct and Manhole Space on the Access Seeker's behalf, which must be made available for inspection upon request by PCSB.
- 5.6 The Access Seeker's right to use the Sub-duct and Manhole Space and the right of access does not entitle the Access Seeker to any proprietary rights or interest whether under statute, common law, equity or any theory of law in any building, land, fixture, or other structure.
- 5.7 All costs incurred by the Access Seeker's personnel and appointed contractor in performing the fibre cable pulling and installation in the sub-duct and manhole space is to be borne by the Access Seeker. Any access to the ducts and manholes shall require prior written approval from PCSB.
- 5.8 The fibre cable pulling and installation to be performed by the appointed contractor on behalf of the Access Seeker shall be done in accordance to the agreed technical specification document generated based on the site survey unless otherwise agreed in writing by both Parties.
- 5.9 The Access Seeker shall be fully responsible to obtain all necessary consents, permits, plans, drawings, approvals and licenses from third parties and governmental authorities or agencies for the installation works.
- 5.10 The Access Seeker shall further observe and perform and cause all its employees, independent contractors, agents or invitees to observe and perform all manuals, rules and regulations by PCSB as set out in the Manuals which may be amended by PCSB from time to time and notified to the Access Seeker in writing.
- 5.11 The Access Seeker shall ensure that all cables, equipment, system or devices on the Sub-duct and Manhole Space shall:
- a) be "Type-Approved" (to define) and comply with all relevant laws and regulations including obtaining the necessary licenses, permits and approvals;
 - b) not cause any interference to PCSB's and/or any other access seekers' equipment or services provided in or around the Sub-duct and Manhole Space; and/or
 - c) adhere to and have been tested in accordance with the international industry standard (such as the ITU-T Recommendation with Test Specifications G.652).
- 5.12 If:
- a) The Access Seeker fails to fulfil its obligations under this **Condition 5.7**; or
 - b) the cables, equipment, system or devices of the Access Seeker is or poses a threat or danger to the public health and safety or PCSB and/or other access seeker's facilities, equipment, device or system,

PCSB 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.

- 5.13 The Access Seeker shall only be permitted to install its fibre optic cable in the Sub-duct and Manhole Space for the provision of its services to their end users and shall not be permitted to install any other operator's cables, modify, alter or handle any cables or existing equipment belonging to PCSB or any other access seeker, on the Sub-duct and Manhole Space without the prior written approval of PCSB.
- 5.14 If a fault, defect or problem with the Access Seeker's cables at the Sub-duct and Manhole Space causes or may cause damage to the Sub-duct and Manhole Space and/or to PCSB's and other access seeker's equipment and/or facilities, the Access Seeker must:
- a) notify PCSB in writing as soon as practicable; and
 - b) repair the fault, defect or problem or take other appropriate corrective action immediately to PCSB's satisfaction.
- 5.15 If the Access Seeker detects a fault, defect or problem in the Sub-duct and Manhole Space, it must notify PCSB as soon as possible.
- 5.16 Upon completion of the installation or recovery work, the Access Seeker shall submit the relevant documentations containing information (before and after) of the work, location and the surrounding area of the installation work showing the modification of the existing underground infrastructure and placement of cable within the Sub-duct and Manhole Space, to PCSB.

6. Joint Survey

For the purposes of **subsection 2.8**, Section III, Terms and Conditions for Technical Matters, and subject to the timeframe specified under Subsection 2.9, Section III, Terms and Conditions for Technical Matters of this Agreement, a joint survey may be conducted by PCSB and the Access Seeker, along with surveyors, where necessary, to determine the availability of requested ducts and manholes at a particular area, provided that the scope of the survey be jointly decided, and any costs are necessarily incurred, itemized and agreed between the parties.

7. In addition to **subsection 2.31**, Section III, Terms and Conditions for Technical Matters, PCSB's Capacity Allocation Policy for Duct and Manhole Access shall set out the principles to be applied on an equivalent basis between itself and other Access Seekers, where:
- a) PCSB has already taken steps to optimise space by using the current available technology, including removing any unused cables;
 - b) PCSB shall determine the available space only after considering:
 - (i) The requirement for ducts and space in manhole for PCSB's then existing maintenance purpose; and

- (ii) The reservation of the ducts or sub-ducts for future use by PCSB or another Access Seeker, applicable on an equivalent basis upon receipt of an Order for:
 - (a) Twenty-four (24) months for use of critical government services, including in connection with government agencies, the military or the police; and
 - (b) Otherwise, four (4) months
- c) The allocation of available space shall be:
 - (i) On a first come, first-served basis;
 - (ii) Applicable to reserved capacity that is not used by either PCSB or an Access Seeker within the twenty-five (25) months or five (5) months (as the case may be) from the date of the Order; and
 - (iii) To the extent possible, based on efficient allocation principles to minimise space wastage.

8. Operational Manuals

8.1 PCSB shall establish operations and maintenance manuals which are made available to the Access Seeker (upon request) and with which Access Seekers must comply, containing reasonable processes and procedures relating to Duct and Manhole Access including but not limited to:

- a) Standard operating procedures, including quality control in connection with the performance of work within ducts and manholes;
- b) safety, security and occupational health and safety;
- c) laying, maintenance, restoration and removal of cables;
- d) entry to manholes; and
- e) sealing or closing of manholes.

8.2 PCSB's processes and procedures for Duct and Manhole Access shall:

- a) not be intentionally designed to deny or have the effect of denying or delaying the Access Seeker's access to ducts and manholes;
- b) not completely or substantially prohibit the Access Seeker from physically accessing ducts and manholes unless PCSB has been directed in writing to do so by the Government (in which case, PCSB shall notify the Commission); and
- c) be no more restrictive or onerous than the processes and procedures that PCSB imposes on its own personnel who physically access ducts and manholes.

8.3 PCSB shall allow the Access Seeker, its nominated employees and/or contractors to physically access PCSB's network facilities and the Access Seeker's Equipment, and to have physical control over the Access Seeker's Equipment located at the Sub-duct and Manhole Space for the Access Seeker to perform operations or maintenance activities. PCSB shall provide:

- a) immediate physical access for emergency maintenance requests, twenty-four (24) hours a day, seven (7) days a week; and
- b) physical access at the time requested for planned maintenance on the shorter of:
 - a. two (2) Business Days' notice for manned sites and five (5) Business Days' notice for unmanned sites; and
 - b. the period of notice which it requires from itself when providing itself with physical access for planned maintenance.

8.4 The Access Seeker shall on the expiration or termination of the Duct and Manhole Access, at its own cost and expense, remove all its cables, equipment, system and device which may have been installed by the Access Seeker and to peaceably and quietly make good the Sub-duct and Manhole Space to PCSB with all PCSB's fixtures and additions thereto in good and tenantable repair and condition (fair wear and tear excepted) in accordance with the covenants herein contained.

8.5 The Access Seeker shall be given a grace period of ten (10) Business Days effective from the expiry or termination of the Duct and Manhole Access to vacate the Sub-duct and Manhole Space, during which no monthly rental will be charged by PCSB. Should the cables, equipment, system or devices not be removed within the grace period, PCSB shall have the right to:

- a) charge for the use of the Sub-duct and Manhole Space at the rate of two (2) times the current rental or the cost of reinstatement as debt due and payable;
- b) remove the cable, equipment, system and/or devices of the Access Seeker and the Access Seeker shall reimburse PCSB to the cost of removing the same; and
- c) without any liability to the Access Seeker, dispose of the cable, equipment, system and/or devices in such manner as PCSB deems fit with a one (1) month's written notice. If The Access Seeker fails to settle any debt due, PCSB shall have a lien on the cables, equipment, system or devices and is entitled to retain such cables, equipment, system or devices or to sell the cables, 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. PCSB shall be entitled to set off the proceeds from the sale of the cables, equipment, system or devices against any and all debts due by the Access Seeker to PCSB. Any balance in the proceeds from the sale shall be returned to the Access Seeker.

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PART B
CHARGES AND CHARGING PRINCIPLES
SECTION I – INFRASTRUCTURE SHARING

1. General

- 1.1 Section I of Part B sets out the charges and the charging principles which would be applicable to Infrastructure Sharing unless otherwise expressly stated.

2. Charges and Charging Principles

- i) The terms and pricing of any Infrastructure Sharing service offered and / or supplied by PCSB shall be commercially negotiated and mutually agreed depending on the Access Seeker's requirement and additional cost that may be applicable.

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SECTION II – NETWORK CO-LOCATION SERVICE

1. General

- 1.1 Section II of Part B sets out the charges and the charging principles which would be applicable to Physical Co-location unless otherwise expressly stated.

2. Charges and Charging Principles

2.1 Rental and Other Charges by PCSB

- a) The terms and pricing of any Physical Co-Location offered and/or supplied by PCSB shall be commercially negotiated and agreed depending on the Access Seeker's requirement and additional cost that may be applicable.
- b) Rental charges for a particular Designated Site shall be fixed for the contract period. In the event that the Access Seeker wishes to renew the contract, PCSB reserves the right to revise the rental charges for the subsequent contract period by giving three (3) months' prior written notice of such change in the rental charges to the Access Seeker.
- c) In the event that there is an increase in the utility tariff / rates after the Effective Date of this Agreement, PCSB reserves the right to revise the utility charges by giving written notice to the Access Seeker reflecting the actual increase in the utility tariff/rates (without additional charges). For the avoidance of doubt, the revised utility charges shall also be applicable to any contract for the Designated Site that exist or is still subsisting at the time of the revision of the utility charges. The revised utility charges shall take effect on the date of the revision of the utility charges.
- d) For the purposes of clarification, all the other Network Co-Location Services not listed in Table below are negotiated charges.

2.2 Mode of Payment

- a) The Access Seeker shall pay to PCSB the recurring charges stated in **Condition 2.1** above for Physical Co-Location at PCSB's Designated Site monthly in advance within the first seven (7) days of the applicable month.
- b) The Access Seeker shall pay to PCSB for the one-time charges stated in **Condition 2.1** above within thirty (30) days from the date of receipt of the invoice.
- c) The Access Seeker agrees to pay PCSB the recurring charges for the whole three (3) year period irrespective of use of the Co-Located Space as the Access Seeker has committed to the minimum period of three (3) years (or such lesser period specified by PCSB, where PCSB lease or tenancy is less than three (3) years). The minimum three (3) year commitment period shall apply to every renewal of the Co-Located Space unless otherwise agreed between the Parties.
- d) The demand or acceptance of any payment by PCSB after default or breach by the Access Seeker does not prejudice the exercise by PCSB of the powers conferred upon PCSB under this Agreement and/or under law nor does it constitute an election by PCSB to exercise or not to exercise any of the rights, powers or privileges under this Agreement and/or under law.

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- e) All utility charges shall be paid monthly in advance.

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SECTION III – DUCT AND MANHOLE ACCESS

1. General

1.1 This Section III of Part B sets out the charges and the charging principles which would be applicable to Duct and Manhole Access.

2. Charges and Charging Principles

2.1 Rental and Other Charges

- a) The Duct and Manhole Access supplied by PCSB shall be subject to the Charges listed in Table A below. For the purpose of clarification, all the other Duct and Manhole Access not listed in Table A below are negotiated charges.
- b) Charges for a particular Duct and Manhole Access shall be fixed for the contract period. In the event that the Access Seeker wishes to renew the contract, PCSB reserves the right to revise the rental charges for the subsequent contract period by giving three (3) months prior written notice of such change in the charges to the Access Seeker.

2.2 Payment Method

- 2.2.1 The Access Seeker shall pay to PCSB the recurring charges rental stated in Condition 2.1 above ("**Rental**") for Duct and Manhole Access as follows:
 - a) For the first year, the first year's Rental charges shall be paid in advance on the Commencement Date; and
 - b) For subsequent years, a monthly advance shall be paid to the Access Provider
- 2.2.2 The Access Seeker **shall pay to PCSB the one-time charges** stated in **Condition 2.1 above within thirty (30) days** from the date of receipt of the invoice.
- 2.2.3 The Access Seeker agrees to pay PCSB the Rental recurring charges for the whole three (3) year period irrespective of use of the Ducts and Manhole Access as the Access Seeker has committed to the minimum period of three (3) years, or such lesser period specified by PCSB. This minimum three (3) year commitment period shall apply to every renewal of the Duct and Manhole Access unless otherwise agreed between the Parties.
- 2.2.4 The demand or acceptance of rental and any other payment by PCSB after default or breach by the Access Seeker does not prejudice the exercise by PCSB of the powers conferred upon PCSB in this RAO and/or under law nor does it constitute an election by PCSB to exercise or not to exercise any of the rights, powers or privileges under this RAO and/or under law.

Table A: Duct and Manhole Charges
One Time Charges

Type of Charges	Location	Charge
Site Survey	Peninsular	RM 1,500.00
	Sabah Zone	RM 3,500
	Sarawak Zone	RM 3,500
Site Preparation Work	Applicable to all location	To be undertaken by the Access Provider (if required)
Site Supervision Work	Applicable to all location	As mutually agreed, (if required)

Recurring Charges

Type of Charge	Ringgit Malaysia per km per month		
	2023	2024	2025 until a new MSAP Determination takes effect
25% of Lead-in Ducts and Manholes	121.53	123.87	126.27

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ACCESS/SERVICE REQUEST FORM			
All Sections below must be completed by the Access Seeker. The Form will be automatically voided if the Access Seeker fails to complete the required sections. All signatures and initials that are of the Access Seeker must be in its original form.			
REF NO:		DATE:	
SITE TYPE: [New Site / Existing Site] *Please Strikethrough			
PART A: ACCESS SEEKER and ACCESS SEEKER'S PARTICULARS			
Company Name			
Registration No.			
Registered Address			
City / Town / State			
Postal / Zip Code			
Country			
PART B: CONTACT PERSON'S PARTICULARS			
Name as per NRIC			
Designation			
Email address			
Mobile phone number			
Telephone number			
Fax number			
PART C: REQUEST PARTICULARS			
Site Name		Region	
State		Town / City	
PART D: FACILITIES / SERVICE OF REQUIRED ACCESS TO			
<input type="checkbox"/> Infrastructure Sharing			
i. Detailed description of Access Sought:			

ii. Expected ready for Service:			

iii. Additional information			

☐ Network Co-Location Service

iv. Detailed description of Access Sought:

v. Expected ready for Service:

vi. Additional information

☐ Duct and Manhole Access

i. Detailed description of Access Sought:

ii. Expected ready for Service:

iii. Additional information

☐ Other Services [Not applicable in PCSB's RAO]

i. Detailed description of Access Service Sought:

ii. Additional information:

**Note that other services not applicable in PCSB's RAO is subject to approval and commercial agreement.*

PART E: NEGOTIATE OR ACCEPT

A) Access Seeker wishes to:

- ☐ accept PCSB's RAO;
- ☐ negotiate amendments to the RAO;
- ☐ negotiate the Access Agreement on alternative terms.

B) List down in sufficient detail the information (if any) the Access Seeker reasonably requires PCSB to provide for the purpose of the negotiation.

PART F: REQUIRED DOCUMENT

1) Two (2) copies of a Non-Disclosure Agreement properly executed by the Access Seeker in the form prescribed by PCSB in accordance with this RAO.

2) Certified True Copy of the following document:

- A. Access Seeker's Company Profile
- B. Certificate of Incorporation/Registration
- C. Particular of Shareholders
- D. Particulars of Directors/Officers
- E. Type of Licenses in possession according to Communications and Multimedia Act 1998:
 - (i)
 - (ii)
 - (iii)
 - (iv)

PART G: CREDITWORTHINESS

In accordance with PCSB's requirement, as set out below:

- a) Solvency Statement issued pursuant to the Companies Act 2016; and
- b) Certified True Copy of the Access Seeker's most recently published Audited Financial Report.
- c) A certificate issued by its financial officer providing its currently known Quick Ratio.

PART H: INSURANCE

The type of insurance currently maintained:

i. Type of insurance

ii. Name of insurer

iii. Reference No

iv. Interests Insured

v. Parties Insured

vi. Amount Insured

vii. Validity

PART I: SECURITY

Type of security offered

i. Cash:

ii. Bond:

iii. Bank:

It is hereby acknowledged that the selected Access Seeker shall be deemed to have accessed and/or read the Personal Data Protection Notice which is available at <https://www.pr1macomm.my/personal-data-protection-notice/> and the Access Seeker agrees/consents to the same

Please select one:-

☐ We Accept that PCSB shall provide to us in accordance with the standard terms and conditions in this RAO

☐ We wish to negotiate the Access Agreement

ADDITIONAL REMARKS (IF ANY)

Issued by the abovenamed Access Seeker to PCSB on the date specified below by its authorized officer.

Name of Authorized Officer:

Designation:

Affix Company Stamp here

Date: