



**MSA Resources Sdn Bhd**  
**Reference Access Offer**  
**Version 2.3.1**  
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## Definitions and Interpretations

Access Agreement	: An Agreement entered into between Operators whereby the Access Provider provides access to an Access Seeker in accordance with the terms contained in such an agreement
Access List Determination	: Means the Commission Determination on Access List, Determination No. 2 of 2015 which contains the list of Facilities and Services determined by the Commission under Chapter 3 of Part VI of the Act
Access Provider	: (a) Network facilities provider who owns or provides Facilities listed in the Access List Determination (b) Network service provider who provides Services listed in the Access List Determination (c) Who is a licensee as defined in the Act
Access Request	: Request for access made by an Access Seeker under this RAO and containing information contained in section 5.1.3 of this RAO
Access Seeker	: A network facilities provider, a network services provider, an applications service provider or a content applications service provider who is a licensee as defined in the Act and who makes a written request for access to Facilities and/or Services
Access Service Provider	: The Operator to whose Network, a line is directly connected and over which Services are supplied, and may also be a Gaining Service Provider or a Releasing Service Provider
Billing Period	: The period over which the supply of access to Facilities and/or Services is measured for purposes of billing as contemplated in section 9.2 of this RAO, which shall be no more than one (1) month and in accordance with the relevant calendar month, unless otherwise agreed between the parties
Billing Cycle	: The monthly basis on which the Access Provider shall issue Invoice for the supply of access to Facilities and/or Services
Billing Representative	: Designated representative of either party who has the authority to settle a Billing Dispute
Business Day	: Means a day other than the following days: (a) A Saturday and Sunday; (b) In states where Friday is observed as a weekly holiday, a Thursday and Friday; or (c) A day which is lawfully observed as a national public holiday throughout Malaysia
Capacity Allocation Policy	: Principles in accordance of which Access Provider shall determine how to allocate capacity

Confidential Information	: All information, know-how, ideas, concepts, technology, manufacturing processes, industrial, marketing and commercial knowledge of a confidential nature (whether in tangible or intangible form) relating to or developed in connection with or in support of the business of the Disclosing Party but does not include: <ul style="list-style-type: none"> <li>(a) Information which is or becomes part of the public domain (other than through breach of an Access Agreement);</li> <li>(b) Information rightfully received by the Receiving Party from a third person without a duty of confidentiality being owed to the third person, except where the Receiving Party has knowledge that the third person has obtained the information either directly or indirectly as a result of a breach of any duty of confidence owed to the Disclosing Party;</li> <li>(c) Information which has been independently developed by the Receiving Party; or</li> <li>(d) Information required by law or the business rules of any stock exchange to be disclosed; provided that: <ul style="list-style-type: none"> <li>i. The Receiving Party gives twenty four (24) hours' notice to the Disclosing Party of the particular of the required disclosure; and</li> <li>ii. The Receiving Party provides the Disclosing Party with all assistance reasonably required by the Disclosing Operator (at the Disclosing Party's cost) to enable the Disclosing Party to take any steps available to it to prevent that disclosure or to ensure that it occurs subject to a reasonable obligation of confidence</li> </ul> </li> </ul>
Customer	: Means in relation to an Operator, a person having a contractual relationship with that Operator for the provision of communications by means of that Operator's Facilities and/or Services
Disclosure Obligations	: Obligations by all parties to respond to a request in good faith from the other party with any information that is reasonably necessary for negotiation
Disclosing Party	: Party disclosing the Confidential Information
Equipment	: Any equipment (hardware or software) or device which is part of or within a Network
Facilities	: Network facilities and/or other facilities which facilitate the provision of network services or applications services, including content applications services, as listed in the Access List Determination
Force Majeure	: An event or circumstance beyond the reasonable control of an Operator which affects the Operator's ability to perform

	its obligations under the MSA or under an Access Agreement
Forecast	: Means a forecast made by the Access Seeker
Forecast Information	: Has the meaning given to it in subsection 5.6.6 of the MSA
Forecast Request	: A request by the Access Provider for Forecast Information from the Access Seeker
Intellectual Property	: 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
Invoice	: Invoice for amounts due in respect of the supply of Facilities and/or Services during a Billing Period
MSA	: Commission Determination on the Mandatory Standard on Access, Determination No. 3 of 2016
Network	: Network facilities and/or network services comprising a system, or series of systems within Malaysia, that carries or is capable of carrying communications by means of guided or unguided electromagnetic energy or both, and in relation to an Operator, means so much of the network as is owned by the Operator
Notice of Acceptance	: The Access Providers notice of acceptance of an Order provided to the Access Seeker
Notice of Receipt	: Acknowledgement of receipt of the Order from an Access Seeker
Operator	: Has the meaning given to it in paragraph 3 of the Access List Determination
Order	: The Order which an Access Seeker must give to an Access Provider to obtain access to Facilities and/or Services
Point of Interface	: A point at or between network facilities which demarcates the Network of an Access Provider and Network of an Access Seeker and is the point at which a communication is transferred between those network facilities
Ready for Service (RFS) Date	: Date upon which the Facilities and/or Services requested by the Access Seeker is ready for handover
Receiving Party	: Party receiving the Confidential Information
Reference Access Offer (RAO)	: Has the meaning given to it in subsection 5.3.3 of the MSA

Rejection Notice : Notice of rejection made by an Access Provider in response to an Access Seeker's Forecast

Services : Network services and/or other services which facilitate the provision of network services or applications services, including content applications services

Service Activation Date : The date upon which Facilities and/or Services begin

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## Part 1: Introduction

MSA Resources Sdn Bhd ("**MSAR**") is a company incorporated in Malaysia with its registered business address at 23B, Jalan Padi Ria, Bandar Baru Uda, 81200 Johor Bahru.

MSA is a licensed individual network facilities provider under the Act. Pursuant thereto, MSA may offer network facilities in Peninsular Malaysia.

This Reference Access Offer ("**RAO**") sets out the terms and conditions under which MSA as the Access Provider shall provide Access Service to an Access Seeker. This RAO is not an offer to enter into a legally binding contract but merely a reference document that details the terms and conditions under which MSA as Access Provider is prepared to provide the Access Service to the Access Seeker by entering into an Access Agreement.

For services outside of the scope of this RAO, the terms and conditions thereof shall be negotiated separately between the parties.

Where relevant, the rights and obligations set out in the MSA requirement shall be applicable to this RAO.

This RAO may be amended from time to time and upon happening of such an event.

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THIS REFERENCE ACCESS OFFER is made by:

**MSA RESOURCES SDN BHD** (Company No: 463109-M) a company incorporated in Malaysia under the Companies Act 1965 and having its registered office at 23B, Jalan Padi Ria, Bandar Baru Uda, 81200 Johor Bahru

(Referred to hereunder as the “**Access Provider**”)

RECITALS Whereas:

- A. The Malaysian Communications and Multimedia Commission (the “Commission”) has published a Commission Determination on Access List - Determination No. 2 of 2015 and the Commission Determination on the Mandatory Standard on Access (Determination No. 3 of 2016) (collectively known as “**MSA**”).
- B. The MSA requires each Access Provider to prepare and maintain a Reference Access Offer (“**RAO**”) in relation to network facilities and/or network services listed in the Access List Determination which the Access Provider provides to itself or third parties and which contains terms and conditions which are consistent with the rights and obligations set out in the MSA.
- C. For the purposes of this RAO, the Access Provider is a licensed network facilities and network services provider (individual) under the Communications and Multimedia Act 1998 (“**the Act**”) that provides the terms and conditions in relation to network facilities and/or network services on the Access List which the Access Provider is required to do so by the Commission under the provisions of subsection 3.2 of the MSA.
- D. The Access Seeker is desirous to utilize of the network facilities and/or network services of the Access Provider and accordingly have been provided with this RAO by the Access Provider which detail the network facilities and/or network services provided by the Access Provider, and upon which any negotiations which may be had by the Access Seeker with the Access Provider pursuant to such network facilities and/or network services will be made.

### **Nature of the RAO**

It is hereby noted by the Access Seeker that this RAO is not a legally binding document but merely a reference document highlighting the terms and conditions on which the Access Provider is prepared to provide its network facilities and/or network services to the Access Seeker.

Accordingly, the Access Seeker shall enter into a written and duly executed Access Agreement with the Access Provider in order to utilize such network facilities and/or network services. It is further noted by the Access Seeker that the terms and conditions of the Access Agreement between itself and the Access Provider which may be entered in the future may also be subject to the negotiations between the Access Seeker and the Access Provider which may in part deviate from the terms and conditions noted in this RAO. However, any such deviation or alternatives agreed between the Access Provider and the Access Seeker shall not be of lesser terms than the minimum terms provided by the MSA.



The Access Provider may make changes to the RAO from time to time. If an Access Provider proposes to amend a RAO, the Access Provider must, no less than twenty (20) Business Days before Access Provider proposed to effect the changes, provide of copy of the amended RAO showing the proposed changes to the existing RAO, to:

- (a) All Access Seekers who are being provided with access to Facilities and/or Services under the existing RAO; and
- (b) All Access Seekers who have requested access to Facilities and/or Services under the existing RAO within the period of three (3) months prior to making of such amendments, excluding any such Access Seeker who has since indicated that it does not wish to proceed with its Access Request.

Upon expiry of the twenty (20) Business Days, the Access Provider will:

- (a) Make available the amended RAO on the Access Provider's publicly available website without delay (including updating its date and version number, both on the cover and on each page of the document); and
- (b) Provide the updated RAO to the Commission within ten (10) Business Days after being made available under paragraph (a) above

The Access Seeker is advised to verify with the Access Provider that they have the current version of the RAO.

### **Requirements for making an Access Request**

The Access Seeker hereby notes, acknowledges and represents to the Access Provider that in making the Access Request for the Access Provider's network facilities and/or network services, the Access Seeker is a:

- a) Network facilities provider; and/or
- b) Network services provider; and/or
- c) Applications service provider; and/or
- d) Content applications service provider

And is duly licensed under the Act to carry out its activities as a network facilities provider, network services provider, applications service provider and/or content applications service provider under the Act.

Notwithstanding the representation of the Access Seeker, the Access Provider reserves the right to conduct due diligence reviews on the Access Seeker in any matter the Access Provider may deem fit, and accordingly reserves the right to request the Access Seeker to produce its license(s) under the Act whether the license(s) is individual license or a class license under the Act.

## **Provision of Access**

It is hereby noted by the Access Seeker that the Access Provider only provides access to its network facilities and/or network services based on the Access List as briefly stated in the Preface that are explained in detail in the Access List of this RAO. The Access Provider is not obligated to provide any other network facilities and/or network services which are not contained in the Access List to the Access Seeker.

If the Access Seeker requires network facilities and/or network services that are not contained in the Access List prior to making its Access Request (see Obtaining Information from the Access Provider below).

Access Provider shall not refuse access to any Access Seeker except on grounds listed under section 5.4.11 of the MSA.

## **Obtaining Information from the Access Provider**

The Access Seeker is advised to obtain further information from the Access Provider for any other network facilities and/or network services that are not contained in the Access List or this RAO. The request for information is intended to assist the Access Seeker in preparing the Access Request.

Any such request of information by the Access Seeker must be accompanied by the following documents:

- i. The type of network facilities and/or network services desired;
- ii. Copy of the license under the Act (individual license or class license);
- iii. Form 9 (Certificate of Incorporation);
- iv. Form 13 (Certificate of Change of Name) – if any;
- v. Form of Annual Return;
- vi. Form 24 (Return of Allotment of Shares);
- vii. Form 44 (Notice of Situation of Registered Office and of Office Hours and Particulars of Changes);
- viii. Form 49 (Return giving Particulars in Register of Directors, Managers and Secretaries and changes of particulars);
- ix. Memorandum and Articles of Association;
- x. Board of Directors Resolution authorizing the Access Seeker to execution of the Confidentiality Agreement between the Access Provider and then the Access Seeker;
- xi. The specimen signatures, full names and identity card particulars of the persons authorized to execute the Confidentiality Agreement; and
- xii. Two (2) copies of the Confidentiality and Non-Disclosure Agreement (in the form made available by the Access Provider) duly executed by the authorized persons.

The required information will only be released by the Access Provider to the Access Seeker upon the Access Provider's receipt of the complete set of the required information in (i) – (xii) above.

## Information Required under the Access Request

These are the information required that to be provided by the Access Seeker under the Access Request:

- i. The name and contact details of the Access Seeker;
- ii. The network services or network facilities in respect of which access is sought;
- iii. Whether the Access Seeker wishes to accept the RAO or to negotiate an Access Agreement;
- iv. The ready for the service date(s) the Access Seeker reasonably requires;
- v. The names of personnel the Access Seeker nominates to represent the Access Seeker in the negotiations and, in respect of each of those personnel:
  - a. his or her contact details;
  - b. his or her job title;
  - c. details of his or her availability for the access negotiations;
- vi. The identity of the negotiating team leader (who must have the authority to make binding representations on behalf of the Access Seeker in relation to matters arising from the negotiations subject to final approval from the Access Seeker's Chief Executive Officer or Board of Directors, if required by the Access Seeker);
- vii. The information (if any) that the Access Seeker reasonably requires the Access Provider to provide for the purposes of the negotiations;
- viii. Two (2) copies of a Confidentiality and Non-Disclosure Agreement properly executed by the Access Seeker in the form prescribed by the Access Provider;
- ix. Creditworthiness information in accordance with the Access Provider's requirements;
- x. Security in accordance with the Access Provider's security requirements;
- xi. Insurance information in accordance with the Access Provider's insurance requirements; and
- xii. Such other information as the Access Provider may reasonably request.

## Availability of RAO

A copy of Access Provider's RAO will be made available to an Access Seeker:

- (a) On written request, at Access Provider's principal place of business; and
- (b) On Access Provider's website (<http://www.msar.tech/service/>)

## Notice

Any communications in respect of Access Provider's RAO should be made in writing to:

MSA Resources Sdn Bhd  
A-16-8 Menara UOA  
5, Jalan Bangsar Utama 1  
Bangsar  
59000 Kuala Lumpur

T: 03 2720 3040  
E: [info@msar.tech](mailto:info@msar.tech)

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## **Part 2: Access List**

The purpose of this section is to detail the Services provided by the Access Provider for the Access Seeker based on the Access List Determination and Access Pricing Principles released by the Commission pursuant to Section 55, 146 and 282 of the Communications and Multimedia Act 1988 (the Act).

The following Facilities and/or Services may be provided by Access Provider:

- (1) Duct and Manhole Access

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## **Part 3: Service Description**

### **3.1 General**

This Section sets out the terms and conditions that are applicable to the Facilities and/or Services that may be provided by Access Provider to the Access Seeker.

### **3.2 Commercial and Technical Obligations**

All commercial terms and conditions applicable to provision by Access Provider of the Facility and/or Service and the operational and technical requirements shall be specified in the Access Agreement.

### **3.3 Facility / Service Description**

#### **3.3.1 Duct and Manhole Access**

This part sets out the terms and conditions that are applicable to Duct and Manhole Access.

#### **3.3.2 General Terms and Conditions for Duct and Manhole Access**

- (a) Duct and Manhole Access is a Facility and/or Service that comprises the provision of physical access to:
  - a. Lead-In Ducts and associated manholes;
  - b. Mainline Ducts and associated manholes in areas in which Access Provider has exclusive rights to develop or maintain duct and manhole infrastructure, whether or not in combination with other Facilities and Services; and
  - c. Sub-ducts where there is no room for the Access Seeker to install its own sub-ducts.
- (b) Provision of physical access includes the provision of:
  - a. Space at specified network facilities to enable an Access Seeker to install and maintain its own lines, equipment and sub-ducts; and
  - b. Access for the personnel of the Access Seeker.
- (c) Exclusive rights to develop or maintain duct and manhole infrastructure includes exclusive rights in contracts, arrangements or understandings between Access Provider and any person.

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## **Part 4: Principles of Access**

### **4.1 Application of Access Provider's RAO**

#### **4.1.1 Application of Access Provider's RAO**

Access Provider's RAO sets out the terms and conditions upon which Access Seekers may access the Access Provider's Facilities and/or Services. Access Provider's RAO applies only to the Facilities and/or Services.

4.1.2 Access Provider's RAO applies only to the Access Facilities and/or Services listed in Part 2 of the Access Provider RAO.

4.1.3 The service description of the Access Facilities and/or Services is set out in Part 3 of the Access Provider RAO

4.1.4 The charges and charging principles for the Access Facilities and/or Services is set out in Part 16 of Access Provider RAO.

#### **4.2 Eligibility for Access to Facilities and/or Services**

4.2.1 Consistent with Government policy and Determination by the Commission (and its predecessor), an Access Seeker may only request for access to any or all of the network facilities or network services listed in the Access List which are set out in Access Provider's RAO where the Access Seeker has been granted:

- (i) A network facilities provider License and/or;
- (ii) A network service provider License and/or
- (iii) An applications service provider License and/or a content applications service provider License, and such Licenses are not limited or restricted from those detailed in the Communications and Multimedia (Licensing) Regulations 2000, as amended in any way:
  - (a) By reference to the type of network facilities, network services and/or content applications services that can be provided; and
  - (b) By geographical limitations to only specific area and/or areas in Malaysia to which the Access Seeker can provide such network facilities, network services and/or content applications services.

4.2.2 Consistent with Government policy and Determination by the Commissions (and its predecessor), where Access Provider provides the Access Seeker with access to the Facilities and/or Services, the charges for the requested Facilities and/or Services shall be negotiated and mutually agreed between the Operators in the Access Agreement subject to any mandatory standard on access pricing determined by the Commission.

### **4.3 Standard Access Obligations**

4.3.1 Access Provider shall, if requested to do so by an Access Seeker, supply the Access Service(s) to the Access Seeker on reasonable terms and conditions.

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

#### 4.3 Principles of non-discrimination

4.3.1 The access provided to the Access Seeker shall be consistent with:

- (a) Section 149(2) of the Act; and
- (b) The principles set out in the MSA Determination.

#### 4.4 Customer Principles

4.4.1 Access Provider shall observe and comply with the customer relationship principles set out in the MSA Determination.

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## **Part 5: Access Request Procedures**

### **5.1 Application for Access to Services**

5.1.1 Where an Access Seeker makes a request to Access Provider to supply Facilities and/or Services, the Access Seeker shall serve an Access Request on Access Provider.

5.1.2 The purpose of such Access Request is to provide Access Provider with sufficient information to assess the Access Seeker's request for the supply of Facilities and/or Services under Access Provider's RAO.

5.1.3 The Access Request must:

- (a) Contain the name and contact details of the Access Seeker;
- (b) Specify the Facilities and/or Services in respect of which access is sought;
- (c) Indicate whether the Access Seeker wishes to accept Access Provider's RAO or negotiate an Access Agreement;
- (d) Contain the information (if any) as set out in section 5.3.7 of the MSA Determination that the Access Seeker reasonably requires Access Provider to provide for the purposes of the access negotiations;
- (e) Contain two (2) copies of Confidentiality Agreement properly executed by the Access Seeker in the form prescribed by Access Provider;
- (f) Specify the type of communications licenses held by the Access Seeker and a copy of the license where a copy had not been previously provided;
- (g) Contain creditworthiness information as specified in this RAO;
- (h) Be accompanied by a security sum as specified in this RAO;
- (i) Contain insurance information as specified in this RAO;
- (j) Contain such other information that Access Provider may reasonably request.

### **5.2 Creditworthiness Information**

5.2.1 The Creditworthiness Information that is required to accompany an Access Request is limited to:

- (a) A letter, signed by the executive director of the Access Seeker, stating that the Access Seeker is not insolvent and is not under any external administration or under similar form of administration under any laws applicable to it in any jurisdiction;
- (b) A copy of the Access Seeker's most recently published audited balance sheet and audited profit and loss statement; and
- (c) Such other information as may be reasonably requested by Access Provider provided that such information are information which are publicly available.

5.2.2 An Access Provider may only request creditworthiness information from an Access Seeker:

- (a) If the Access Provider reasonably believes that the Access Seeker may not be able to meet any liabilities that may arise under the Access Agreement with the Access Seeker.

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

### 5.3 Security Sum

5.3.1 An Access Request shall be accompanied by a Security Sum. The security that may be given by the Access Seeker shall be in the form of a Bank Guarantee.

5.3.2 Access Provider is not obliged to consider entering into an Access Agreement with the Access Seeker pursuant to Access Provider's RAO until the Access Seeker has amongst other things, provided (at the Access Seeker's costs) to Access Provider such Security Sum.

#### 5.3.3 Security sum requirements:

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

### 5.4 Insurance Information

#### 5.4.1 An Access Request shall be accompanied by the following insurances:

- (a) Worker's Compensation and/or Social Security Insurance and/or Employer's Liability Insurance and/or other insurance with statutory limits as required by the laws of Malaysia to provide for payment to its employees or in connection with the work covered by the Access Agreement that may be entered and/or their dependents; and
- (b) Comprehensive General Liability Insurance of an amount which is not in excess of Ringgit Malaysia Twenty Million (RM 20,000,000) and not less than Ringgit Malaysia Five Million (RM 5,000,000) for any one claim or series of claims arising out of an accident or occurrence in connection with the Access Agreement that may be entered into resulting in bodily injury and/or personal injury including death and property damage of an Operator which shall arise out of or in consequence of any acts or omissions of the Other Operator. Such policy shall include contractual liability.

#### 5.4.2 An Access Provider shall ensure that any insurance that it requires an Access Seeker to have in place extends no further than the reasonable insurable interest that the circumstances require and shall not be permitted to require:

- a) insurance beyond that necessary for worker's compensation, social security, employer's liability insurance and insurance within statutory limits as required by the laws of Malaysia in respect of its employees employed in connection with the work covered by the Access Agreement that may be entered into; and
- b) comprehensive general liability insurance in excess of Ringgit Malaysia Twenty Million (RM20,000,000) for any one claim or series of claims arising out of an accident or occurrence in connection with the Access Agreement that may be entered into.

### 5.5 Processing of Access Request

#### 5.5.1 Acknowledgement of Receipt of Access Request

Access Provider shall within two (2) Business Days of receipt of the Access Request, inform the Access Seeker in writing that it has received the Access Request and either:

- (a) Request for additional information from the Access Seeker where there is a need for further information, prior to considering the Access Request. Access Provider shall comply with the MSA Determination when it requests for such additional information;
- (b) Indicate whether it is willing to provide access to Facilities and/or Services in accordance with Access Provider's RAO or if Access Provider is willing to proceed to negotiate amendments to the RAO or an Access Agreement on alternative terms

Subject to the additional information being received by Access Provider within ten (10) Business days from the date of request, Access Provider shall reconsider the Access Request in accordance with this Section upon receipt of such additional information.

### 5.6 Assessment of Access Request

#### 5.6.1 Reasons for Refusal

Without limiting any other grounds that may be relied upon under the Act, Access Provider may refuse to accept an Access Request for the supply of the Facilities and/or Services and accordingly may refuse to supply that Facilities and/or Services to the Access Seeker for any of the following reasons:

- (a) In Access Provider's reasonable opinion, the Access Seeker's Access Request was not made in good faith and Access Provider shall set out the basis on which the Access Request was not made in good faith;
- (b) In Access Provider's reasonable opinion, the Access Request does not contain the information reasonably required by Access Provider's RAO provided that Access Provider has sought the information from the Access Seeker under the above Section of Access Provider's RAO and has not received that information within ten (10) Business Days of making such a request;
- (c) Access Provider does not currently supply or provide access to the requested Facilities and/or Services to itself or to any third parties, except where the Access Seeker compensates Access Provider for the supply of access to such Facilities and/or Services;
- (d) It is not technically feasible to provide access to the requested Facilities and/or Services;
- (e) Access Provider has insufficient capacity or space to provide the requested Facilities and/or Services;
- (f) There are reasonable grounds in Access Provider's opinion to believe that the Access Seeker would 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 section 5.3
- (g) There are reasonable grounds in Access Provider's opinion to believe that the Access Seeker would fail, to a material extent, to comply with the terms and conditions applicable to the supply of the Facilities and/or Services;
- (h) There are reasonable grounds for Access Provider to refuse access in the national interest; or
- (j) The access is being sought to Facilities and/or Services which are not in the Access List Determination.

#### 5.7 Determination of technical infeasibility

Access Provider shall not refuse an Access Request on the grounds of technical infeasibility unless the Access Provider establishes that there are substantial technical or operational concerns preventing the fulfillment of the Access Request. Each of the following matters shall be taken into account in determining whether access is technically feasible:

- (a) Economic, accounting, billing, space or site concerns shall be disregarded by the Access Provider except space or site concerns may be taken into account in circumstances where there is no possibility of expanding the space available on the relevant site;
- (b) Any requirement for the Access Provider to modify its facilities or Equipment in order to meet the Access Request will not, on its own, mean that the access is not technically feasible;

- (c) If the Access Provider asserts that the meeting of the Access Request would have an adverse impact on network reliability, the Access Provider must provide evidence that provision of the requested Facilities and/or Services would result in a specific and significant adverse impact on network reliability;
- (d) The Access Provider must be able to demonstrate that it has considered and found not be technically feasible (in accordance with Subsection 5.7 of Part 5 of this RAO) improvements that would allow the Access Provider to meet the Access Request (in whole, or in part, and including for an interim period until any primary difficulties can be resolved).

## 5.8 Determination of capacity constraints

An Access Provider may only refuse an Access Request on the grounds that an Access Provider has insufficient capacity or space under paragraph 5.6.1(e) of the RAO where the Access Provider notifies the Commission in writing that it does not have sufficient capacity to meet the Access Request because the requisite capacity is:

- (a) Already carrying traffic to full capacity or near full capacity; or
- (b) Already reserved for future use by the Access Provider or another Access Seeker, where such future use shall commence not later than six (6) months from the date of the Access Request. If the reserved capacity is not subsequently used by the reserving party within seven (7) months from the date of the Access Request, the Access Provider must promptly inform the Access Seeker and, if required by the Access Seeker, re-consider the Access Request in accordance with the process set out in sections 5.5 and 5.6 of the RAO; and
- (c) In the case of both 5.8(a) and 5.8(b) of this RAO, the Access Provider is unable to expand capacity to meet the requirements of the Access Seeker's Access Request.

## 5.9 Assessment of the Access Seeker's ability to pay for supply of the Facilities and/or Services

5.9.1 Examples of reasonable grounds for Access Provider's belief as mentioned in Section 5.6.1(f) include evidence that the Access Seeker is not in the reasonable opinion of Access Provider creditworthy and such concern cannot be addressed through security requirement in accordance with section 5.3.

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

Examples of reasonable grounds for Access Provider's belief as mentioned in Section 5.6.1(g) include repeated failures by the Access Seeker to comply with the terms and conditions on which the same or similar access to Facilities and/or Services have been provided (whether or not by Access Provider).

## 5.9.3 Assessment of Creditworthiness

In determining the creditworthiness of the Access Seeker, Access Provider may have regard to, but is limited to the matters referred to in Section 5.2.

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

#### 5.10 Notification of Rejection to the Access Seeker

Where Access Provider rejects the Access Request, Access Provider shall:

- (a) Notify the Access Seeker in writing within ten (10) Business Days from receipt of the Access Request or additional information requested, as the case may be;
- (b) Provide reasons for rejection to the Access Seeker;
- (c) Provide the basis for Access Provider's rejection of the Access Request; and
- (d) Indicate a date and time, not later seven (7) Business Days from the date of the notice of rejection, at which representatives of Access Provider will be available to meet with representatives of the Access Seeker to discuss the rejection of the Access Request. At this meeting, the Access Seeker may request Access Provider to substantiate its reasons for refusal (and Access Provider shall do so), and if access has been refused on the basis of the grounds in:
  - (i) Section 5.6.1(b) of this RAO, the Access Provider must reassess the Access Seeker's original Access Request considering any supplementary information provided by the Access Seeker
  - (ii) Section 5.6.1(f) of this RAO, the Access Provider must identify the form of security requirement which would satisfy its concern that the Access Seeker may fail to make timely payment for the requested Facilities and/or Services, its reason for the security requirement and why it considers such concern cannot be addressed through section 5.3 of this RAO
  - (iii) Section 5.6.1(e) of this RAO, the Access Provider must identify when additional capacity or space is likely to be available

5.10.1 Where the Operators are unable to resolve their differences following the meeting held pursuant to Section 5.10(d), either Operator may request resolution of the dispute.

#### 5.11 Acceptance of Access Request

5.11.1 In the event where Access Provider agrees to provide access to Facilities and/or Services to the Access Seeker in accordance with Access Provider's RAO, Access Provider shall within two (2) Business Days of such respond and provide the Access Seeker with two (2) copies of the executed Access Agreement and one (1) copy of the executed confidentiality agreement returned by the Access Seeker for execution by the Access Seeker.

5.11.2 Where the Access Seeker wish to negotiate an Access Agreement, the Operators shall comply with the requirements in the MSA Determination in negotiating and concluding an Access Agreement.

(a) Negotiation Obligations

- a. Timing: If an Operator wishes to negotiate an Access Agreement with another Operator:
  - i. Both parties shall notify the Commission when the negotiations for the Access Agreement begin under section 5.11.2 of this RAO
  - ii. Both parties shall use their best endeavors to conclude the Access Agreement within:
    - 1. Where there is no Access Agreement in place between the Operators, four (4) months; or
    - 2. Where there is already a commercial agreement or an Access Agreement in place between the Operators, three (3) months, after a written request by the Access Seeker to commence negotiations under section 5.1.3(c) of this RAO and the Access Provider's response confirming it is willing to proceed to negotiate under paragraph 5.5.1 of this RAO;
  - iii. If the negotiations are not completed within the applicable timeframe specified under paragraph 5.11.2(a)(ii) of this RAO:
    - 1. Both parties may jointly apply to the Commission for an extension of time to negotiate and if the extension of time is not granted by the Commission, there shall be deemed to be a dispute between the two parties and the Dispute Resolution Procedures shall take effect; or
    - 2. Either party may initiate the Dispute Resolution Procedures; and
  - iv. If the Commission grants an extension of time under paragraph 5.11.2(a)(iii)(1) of this RAO, it may do so subject to such conditions as it specifies (such as an ongoing requirement to provide updates on negotiations at specified intervals and the right to reduce or extend any extension).
- b. Good faith: An Operator shall cooperate, in good faith and in a commercially reasonable manner, in negotiating and implementing the terms of its Access Agreements. This includes:
  - i. Acting promptly, honestly, and not perversely, capriciously or irrationally;
  - ii. Avoiding the imposition of unreasonable restrictions or limitations on the provision of access to Facilities and/or Services (such as refusing to provide particular forms of access that the Access Provider provides to itself); and
  - iii. Avoiding unnecessary disputes and resolving disputes promptly and fairly.
- c. Confidentiality: An Operator must protect from disclosure any Confidential Information provided by another Operator in the course of negotiating an Access Agreement and during the term of an Access Agreement in accordance with the confidentiality agreement attached to this RAO.
- d. Intellectual Property: An Operator shall only use such Intellectual Property and information provided by another Operator for the purposes of providing or acquiring access to requested Facilities and/or Services. An Operator must not use such Intellectual Property or information for the development or marketing

of other communications services or Equipment by that Operator, its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest, or third parties.

- e. Negotiation response: If the Access Provider is willing to proceed with negotiation of the Access Request (as described in section 5.5.1 of this RAO) the Access Provider must set out in its response to the Access Seeker:
  - i. A place, date and time, not later than fifteen (15) Business Days from the date of the Access Provider's response, when the Access Provider's representative that is authorized to negotiate on an Access Agreement, will be available for an initial meeting with the Access Seeker's representative that is authorized to negotiate on the Access Agreement; and
  - ii. One (1) copy of the executed confidentiality agreement by the Access Seeker (in accordance with section 5.1.3(e) of this RAO) that has also been properly executed by the Access Provider.
- f. Additional matters: An Access Provider shall not do, or threaten to do, anything that has the effect or likely effect of, any of the following:
  - i. Refuse to negotiate terms of access not related to the price, for the reason that the rate, charge, charging principles or methodologies of access has not been agreed upon;
  - ii. Refuse to negotiate access to the Facilities and/or Services because the Access Seeker has not agreed to acquire access to other Facilities and/or Services;
  - iii. Require an Access Seeker to enter into a confidentially 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;
  - iv. Require an Access Seeker to warrant that an Access Agreement complies with all applicable laws;
  - v. Refuse to include in any Access Agreement a provision permitting variation of the Access Agreement in the event of any change in rules, applicable laws or applicable regulations (including Commission decisions and determinations);
  - vi. Make any negotiation conditional on the Access Seeker first obtaining any regulatory approval or consent;
  - vii. Intentionally mislead or coerce an Access Seeker into reaching an agreement, which would not otherwise have been reached if not for the misleading act or coercion;
  - viii. Intentionally obstruct or delay negotiations or any dispute resolution process;
  - ix. Fail to nominate representatives who have sufficient authority and with sufficient availability to progress negotiations in a timely and efficient manner;
  - x. Fail to provide information that is necessary to conclude an Access Agreement including, without limitation:
    - 1. Information about the Access Provider's Network that the Access Seeker reasonably requires in identifying the network



- elements or network components to which it requires access;  
and
- 2. Information about the basis of the determination of rates,  
charges or fees.

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

- (a) A Security Sum has been provided; and
- (b) An Access Agreement has been executed between the Operators and the Access Agreement is registered with the Commission in accordance with the Act.

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## **Part 6: Forecasting Obligations**

### **6.1 General**

6.1.1 The Access Seeker shall, for the duration of the Term of the Access Agreement:

- (a) Provide the Access Provider with a 12 month forecast of its requirements of Access within thirty (30) days from the date of this Access Agreement; and
- (b) Periodically not less than thirty (30) days before the anniversary of the Commencement Date of this Access Agreement, furnish to Access Provider, reasonably accurate 12 month forecasts of its requirements for Access Services.

### **6.1.2 Duration of Forecast.**

All forecast provided by the Access Seeker shall be for a twelve (12) month period.

### **6.2 Forecast Request**

6.2.1 Access Provider may at any time, request ("Forecast Request") that the Access Seeker provide the following information ("Forecast Information") in sufficient detail to enable the Access Provider to carry out its network and provision planning for the Access Services for which access is required:

- a) Network area or operational area where access is required;
- b) Specific time table when each of the Access Services are required;
- c) The required capacity;
- d) Any such other information as may be reasonably necessary for Access Provider to carry out network planning.

### **6.2.2 Time to Provide Forecast Information.**

The Access Seeker shall provide the Forecast Information to the Access Provider within five (5) weeks from the date of receipt of the Forecast Request, unless the Access Provider agrees in writing to an extension of the time limited for the provision of the Forecast Information.

### **6.2.3 Confidentiality of Forecast Information.**

The Access Provider shall treat all Forecast Information provided by the Access Seeker to as confidential and shall only be used by the following personnel:

- (a) Those personnel who are in the Access Providers' wholesale or interconnection group; or
- (b) Those personnel of the Access Provider who are part of its Network engineering group with responsibility for interconnection, for the purpose of responding to and planning for the forecast.

### **6.2.4 Distribution of Forecast Information.**

The Access Provider may only distribute Forecast Information of an Access Seeker outside the group of people referred to in Section above if:

- (a) The Forecast Information of the Access Seeker is aggregated with forecasts provided by other operators and the Access Providers' own requirements; and
- (b) The Forecast Information or its use does not otherwise specifically identify the Access Seeker in any manner.

### 6.3 Updating & Confirming Forecasts

#### 6.3.1 Updating Forecasts

Regardless of whether the Access Provider makes a Forecast Requests, the Access Seeker shall update its forecast annually and shall inform the Access Provider in writing of the updated forecast in writing, so as to enable the Access Provider to carry out efficient network planning and management to meet its current and future requirements and the performance of its obligations under this Access Agreement.

#### 6.3.2 Forecast Confirmation.

If the Access Provider requires the Access Seeker to confirm its forecasts, then the Access Seeker shall within five (5) Business Days submit a statement confirming its forecasts. Upon such confirmation, the forecasts shall be deemed to be a confirmed Access Order for the purposes of this Agreement, to enable the Access Provider to undertake provisioning of the Access Services, subject always to the availability of spare capacity for such services or facilities.

### 6.4 Constrained Capacity

If the Access Provider reasonably believes that the aggregate of the total capacity of Access Services required by the Access Seeker under its relevant forecasts, its own requirements, and other 3rd party access seekers' forecast, would exceed the capacity which the Access Provider can provide, then the Access Provider will notify the Access Seeker of such constrained capacity, whereupon it will endeavor to allocate the available capacity to all access seekers in accordance with Capacity Allocation Policy maintained by the Access Provider.

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

- (a) Shall be disclosed, free of charge to each Access Seeker upon entry into an Access Agreement, the Commission upon the Effective Date, to both Access Seekers with whom the Access Provider has an Access Agreement and the Commission each time it is amended and any other Operator on request;
- (b) Shall set out the principles in accordance with which the Access Provider shall determine how to allocate capacity between its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or

other interest and any other Operator, in circumstances where the amount of capacity available is less than the aggregate of capacity required by the Access Provider's own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest, and other Operator;

(c) Shall:

- i. Be fair and reasonable;
- ii. Be consistent, so far as practicable, with the Access Provider's general duty of non-discrimination in accordance with subsection 149(2) of the Act;
- iii. Treat the requirements of all Access Seekers on an equivalent basis to the requirements of all Access Provider's own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest; and
- iv. Allocate the available capacity in the relevant Facilities and/or Services in proportion to each Operator's Forecast and/or Order requirements; and

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

6.4.2 In addition to paragraph 6.4.1 of this RAO, the Access Provider'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) The Access Provider has already taken steps to optimize space by using the current available technology, including removing any unused cables;
- (b) The Access Provider shall determine the available space only after considering:
  - i. The requirements for ducts and space in the manholes for the Access Provider's then existing maintenance purposes; and
  - ii. The reservation of the ducts or sub-ducts for future use by the Access Provider or another Access Seeker, applicable on an equivalent basis for six (6) months, upon receipt of an Order; and
- (c) The allocation of available space shall be:
  - i. On a first-come, first-served basis;
  - ii. Applicable to reserved capacity that is not used by either the Access Provider or an Access Seeker within the seven (7) months from the date of the Order; and
  - iii. To the extent possible, based on efficient allocation principles to minimize space wastage.

## 6.5 Forecast Rejection or Acceptance

### 6.5.1 Insufficiency of Forecast Information.

If the Access Provider considers that the Forecast Information supplied by the Access Seeker is insufficient, then the Access Provider will notify the Access Seeker within five (5) Business Days of receipt of the Forecast Information, of the insufficiency of the Forecast Information and specifying what additional information is required.

### 6.5.2 Acceptance

The Access Provider will notify the Access Seeker within fifteen (15) Business Days of receiving the Forecast Information if the Forecast Information is accepted.

#### 6.5.3 Effect of Acceptance

If the Forecast Information is accepted, then the Access Seeker may not cancel, vary or alter the Forecast Information, unless Access Provider so agrees in writing.

#### 6.5.4 Rejection

Access Provider may send a rejection notice to the Access Seeker within fifteen (15) Business Days of receipt of the Forecast Information, if it rejects the Access Seeker's forecast. The rejection notice will specify the reasons for rejection together with an offer by Access Provider to meet with the Access Seeker within five (5) Business Days of the rejection notice, to discuss the rejection and alternative methods by which the Access Seeker may comply with the Forecast Request.

### 6.6 Review of Forecasts upon Rejection

#### 6.6.1 by Access Seeker

Upon the rejection of the Forecast Information by Access Provider, the Access Seeker may within twenty-one (21) Business Days from the receipt of the rejection notice by the Access Seeker, review its Forecast Information and re-submit an amended forecast for Access Providers' consideration.

#### 6.6.2 by Access Provider

If an Access Seeker submits an amended forecast, Access Provider shall reconsider the same and the provisions set out in this Section shall apply as if such amended forecast were a fresh forecast.

### 6.7 Over-forecasting

6.7.1 The Access Seeker shall refrain from over-forecasting its requirements for the Access Services.

6.7.2 Access Provider shall determine whether or not the Access Seeker has over-forecasted its requirements on an annual basis by comparing the forecast amount and the previous Access Orders made for that year.

6.7.3 Should the Access Seeker's forecasted requirements exceed the Access Orders for that year, then there shall be deemed to be an over-forecast, and Section 6.8 shall apply in such cases.

### 6.8 Effect of Over-Forecasting

6.8.1 If there has been an over-forecast by the Access Seeker, and

(a) Access Provider incurs costs and expenses in meeting such forecast, which were reasonably and necessarily incurred by Access Provider, and

(b) Access Provider has reasonably sought to mitigate its loss over a six (6) month period; then Access Provider shall be entitled to recover from the Access Seeker an amount not exceeding seventy-five (75%) percent of such costs and expenses which could not have been mitigated by Access Provider during the aforementioned six (6) month period.

6.8.2 The amount ascertained by Access Provider in accordance with Section 6.8.1 above, shall be deemed to be a debt due from the Access Seeker to Access Provider and said amount be included in the Invoice to the Access Seeker for the relevant Billing Period.

6.8.3 The Access Seeker shall pay the amount invoiced in accordance with this Access Agreement.

#### 6.9 Failure to provide Forecasts

6.9.1 Any failure, neglect or refusal by the Access Seeker to comply with its obligations shall entitle Access Provider to continue to provide access to the Access Seeker but such provision of access may be at the level based on previous year's usage or level but such provision (if any) shall be without prejudice to Access Provider's right to reduce such provision as dictated by the needs of Access Provider and 3rd party access seekers. In either case, Access Provider shall not be responsible for any loss, damages, costs or expenses arising to the Access Seeker.

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## **Part 7: Ordering and Provisioning Obligations**

### **7.1. Access Order Information by Access Seeker**

7.1.1 The Access Seeker shall provide Access Provider with an Access Order, which shall set out the following information (“Access Order Information” or “AOI”):

- (a) The information specified in this RAO
- (b) The Access Services for which access is required;
- (c) The proposed time for delivery of access by Access Provider;
- (d) Such other information as the Access Seeker may reasonably believe that Access Provider may require in order to fulfil the requirements of Access Seeker.

7.1.2 The Access Seeker shall provide the AOI in sufficient detail and in sufficient time to enable Access Provider to evaluate and plan the provisioning of the Access Services.

#### **7.1.3 Confidentiality of AOI.**

Access Provider shall treat all AOI provided by the Access Seeker to Access Provider pursuant to this Access Agreement as confidential and such AOI shall only be used by the following Access Provider personnel:

- (a) Those personnel of Access Provider who are in the wholesale or interconnection group; or
- (b) Those personnel of Access Provider who are part of Access Provider’s Network engineering group with responsibility for interconnection for the purpose of responding to and provisioning the Order.

### **7.2 Acknowledgement of Receipt of Access Order**

7.2.1 Access Provider will issue to the Access Seeker an acknowledgement of receipt of the Access Order within two (2) Business Days. The following information will be provided in the receipt:

- (a) The time and date of receipt;
- (b) The available capacity in Access Provider’s relevant network facilities or network services;
- (c) Time frame for the fulfilment of the Access Order;
- (d) A statement that the Access Order has been placed in the queue based on Access Provider’s queuing policy; and
- (e) Such additional information as may be required by Access Provider to clarify the Access Order.

### **7.3 Additional Information**

The Access Seeker shall revert to Access Provider within ten (10) Business Days, with the additional information requested by Access Provider. Insufficient or incomplete information provided by the Access Seeker will entitle Access Provider to reject the Access Order.

## 7.4 Acceptance or Rejection of an Access Order

7.4.1 Access Provider must notify an Access Seeker that an Order for Duct and Manhole Access is accepted or rejected within ten (10) Business Days after issuing the Notice of Receipt in respect of the Order

### 7.4.2 Rejection

Access Provider may reject an Access Order on any of the following grounds:

- (a) It is not technically feasible to provide the requested Access Services;
- (b) Access Provider has insufficient capacity to provide the requested network services of facilities at the time requested by the Access Seeker;
- (c) The Access Order exceeds the forecast levels provided by the Access Seeker
- (d) The Access Order or variation requested duplicates another Access Order waiting for fulfillment;
- (e) Access Provider has reasonable grounds to believe that the Access Seeker would materially fail to comply with the terms of Access Agreement,
- (f) Access Provider has reasonable grounds to believe that the Access Seeker would fail, in connection with the supply of the Access Services, to protect the integrity of Access Provider's Network and/or safety of individuals working on or using services supplied by Access Provider's Network.

7.4.3 If the Access Order is rejected, then Access Provider shall issue a notice of rejection which shall contain, inter alia, the following information:

- (a) The ground(s) of rejection as stated in this Section;
- (b) The time period by which Access Provider will accept a modified Access Order;
- (c) The nature of such acceptable modifications to the Access Order.

7.4.4 The Access Seeker may within five (5) Business Days of receipt of the Notice of Rejection, request in writing to meet Access Provider to discuss the reasons for rejection and alternative methods of compliance.

7.4.5 If Access Provider refuses to meet with the Access Seeker then the Access Seeker may if it disagrees with the grounds for rejection, initiate the dispute resolution process specified in this RAO.

### 7.4.6 Acceptance

If the Access Order is accepted, then Access Provider shall issue a notice of acceptance which shall contain, inter alia, the following information:

- (a) The indicative delivery timeframe of ten (10) days;
- (b) The actual or an estimate of the charges payable to Access Provider by the Access Seeker, for the fulfillment of the Access Order. Access Provider may initially provide



an estimate of the charges, which may be subsequently varied. The variation of charges is subject to sections 7.5.2 and 7.5.3 of this RAO.

(c) That the Access Seeker must within ninety (90) days from the date of the notice of acceptance confirm in writing to Access Provider of its intention to proceed with the Access Order. The charges set out shall remain valid for the period of ninety (90) days.

## 7.5 Confirmation & Charges

### 7.5.1 Access Seeker's Confirmation.

If Access Provider accepts an Access Order, the Access Seeker shall within the ninety (90) day period from the date of notice of acceptance, confirm in writing its agreement to proceed with such Access Order.

### 7.5.2 Estimate Charges

If Access Provider had provided an estimate of the charges to the Access Seeker, Access Provider will not exceed the estimate unless Access Provider provides the Access Seeker with written notice by prior to Access Provider exceeding the estimate, stating that:

- (a) The estimate will likely to be exceeded;
- (b) The reasons for exceeding the estimate; and
- (c) A further estimate of the charges for the work necessary to fulfill the Order.

7.5.3 If the revised estimate exceeds the original estimate by more than 10% of the original estimate, then the Access Seeker may within ten (10) Business Days from the date of the notice withdraw the Access Order, and such withdrawal shall not expose the Access Seeker to any penalty, and Access Provider shall also be released from fulfilling the Access Order, without being in breach of any of its obligations under the Access Agreement.

### 7.5.4 Access Seeker's Confirmation

- (a) The Access Seeker's confirmation of an Order is not required if the Access Provider accepts the Order without change. A change may include circumstances where delivery dates are delayed, estimated charge are exceeded, a post-Order Service Qualification is required or any other matter that requires further confirmation from the Access Seeker before the Access Provider can proceed with the Order.
- (b) Where the Access Seeker's confirmation is required for the Access Provider to proceed with fulfilling an Order, the Access Provider shall permit the Access Seeker to provide its confirmation within 90 days and shall not provision the Order until the confirmation is received. Upon receipt of such confirmation, the Access Provider shall fulfill the Order in accordance with the Notice of Acceptance.

## 7.6 Fulfilment of an Access Order

Upon receipt of the confirmation specified in Section 7.5.1 above, Access Provider will use all reasonable efforts to fulfil the Access Orders for the Access Services which complies with the

forecast supplied by such Access Seeker, on the terms and conditions contained in the Access Agreement

#### 7.7 Delivery Date for Access

7.7.1 Access Provider will deliver the ordered access to the Access Services on or before the date specified in the notice of acceptance sent by Access Provider.

7.7.2 Should Access Provider be able to deliver the ordered access to the Access Seeker earlier than the agreed delivery date, Access Provider will advise the Access Seeker of such early delivery and if agreed to by the Access Seeker, deliver such ordered access at such earlier date.

#### 7.8 Delay to Delivery Dates

In the event there is a delay in the delivery date, Access Provider will as soon as reasonably practicable, notify the Access Seeker of the delay and the reasons for the delay and also advise the Access Seeker of the revised date of delivery. If the delay is longer than fourteen (14) days, the Access Seeker may cancel the Access Order without any penalty.

Access Provider will give the Access Seeker a rebate for any delay in the delivery date, such rebate shall be of an amount equivalent to the recurring charges payable by the Access Seeker to Access Provider for access to the network services or facilities over a period equal to the period of the delay solely due to Access Provider. Notwithstanding the foregoing, Access Provider shall not be liable for any delay caused by or attributable to the Access Seeker. The rebate will be reflected in the Invoice issued for the next Billing Cycle.

#### 7.9 Cancellation of Access Orders

An Access Seeker may cancel or vary an Access Order in writing to Access Provider at any time. For the purposes of this Section a variation of an Access Order shall be an addition, modification, substitution or omission made to an Access Order.

#### 7.10 Testing and Provisioning by Access Seeker

Access Provider will offer all reasonable assistance and cooperation to the Access Seeker in relation to the testing and provisioning of ordered Access Services.

#### 7.11 Queuing Policy for Access

Access Provider maintains a Queuing Policy for all Access Seekers on a non-discriminatory basis that maximizes the efficiency of its ordering and provisioning process. Access Provider will place an Access Seeker in Access Provider's queuing system at the time of providing an acknowledgement of receipt of the Access Order pursuant to Section 7.2 above.

## **Part 8: Decommissioning Obligations**

### **8.1 Decommissioning Notice**

In the event Access Provider is desirous of decommissioning a Point of Interface, either:

- (a) As a result of a third party landlord's notice to vacate under a tenancy or lease agreement, or
- (b) For any other commercial reason, Access Provider shall give a Decommissioning Notice to the Access Seekers if the Access Seeker is so affected, at least:
  - (i) one (1) year's notice in writing to the Access Seeker prior to the decommissioning of a Point of Interface; or
  - (ii) six (6) months' notice in writing to the Access Seeker prior to the decommissioning of any network facilities or network services (as the case may be).

Access Provider may give a shorter notice in circumstances where it is unable to meet the notice requirements set out in this section 8.1, but in any event shall give as much notice as possible.

### **8.2 Cooperation by Access Provider**

Access Provider will offer reasonable co-operation to all relevant Access Seekers to work out a timetable for the decommissioning of a relevant Point of Interface, network facilities or network services.

### **8.3 Alternative Arrangements**

8.3.1 Where Access Provider gives a Decommissioning Notice, Access Provider will use all reasonable efforts to provide the affected Access Seeker, a functionally equivalent interconnection at an alternative Point of Interface, on terms and conditions that are similar to that applicable to the Point of Interface that has been decommissioned, for a period of three (3) years from the date the alternative Point of Interface was commissioned. In the event Access Provider is unable to agree or provide an alternative Point of Interface to the Access Seeker, the parties will discuss and agree on a reasonable compensation as stated below upon the decommissioning. The Access Seeker shall use its best efforts to obtain interconnection from another Operator.

8.3.2 Where Access Provider gives a Decommissioning Notice to the Access Seeker that it will decommission a network facility or network service, Access Provider will use all reasonable efforts to provide the affected Access Seeker access to an alternative network facility or network service on terms and conditions that are similar to that applicable to the network facilities or network services that has been decommissioned, for a period of three (3) years from the date the alternative network facilities or network services are commissioned. In the event Access Provider is unable to agree or provide an alternative network facilities or network services to the Access Seeker, the parties will discuss and agree on a reasonable compensation as stated below upon the decommissioning. The Access Seeker shall use its best efforts to obtain access to network facilities or network services from another Operator.

## 8.4 Compensation for Decommissioning Point of Interface

8.4.1 Access Provider shall pay to the Access Seeker, the Access Seeker's reasonable costs, necessarily incurred in: (a) decommissioning any of the Access Seeker's links to the Point of Interface that is proposed to be decommissioned and that are or will be rendered redundant by the proposed decommissioning; (b) installing or otherwise procuring links between the Point of Interface that is proposed to be decommissioned and the substitute Point of Interface to be provided pursuant to Section 8.3.1 above; and (c) the carriage of traffic between the Point of Interface that is proposed to be decommissioned and the substitute Point of Interface to be provided pursuant to Section 8.3.1 above for a period of three (3) years from the date of decommissioning.

## 8.5 Compensation for Decommissioning Network Facilities or Network Services

8.5.1 Access Provider shall pay to the Access Seeker, the Access Seeker's reasonable costs, necessarily incurred in (a) moving the Access Seeker's Equipment from the decommissioned network facilities to the alternative network facilities offered in accordance with Section 8.3.2 above; or (b) rearranging Equipment to connect to the alternative network services offered in accordance with Section 8.3.2 above, unless such decommissioning is caused by an event of Force Majeure.

## 8.6 Determining Compensation.

The parties agree to the following process to determine the compensation payable by reason of Sections 8.4 and 8.5 above:

8.6.1 The Access Seeker must within thirty (30) days of the completion of the decommissioning and re-installation at the substitute Point of Interface, submit to Access Provider details of the Access Seeker's reasonable costs identified in Sections 8.4.1 and 8.5.1 above.

8.6.2 If Access Provider considers that the submission is insufficient for Access Provider to verify the costs, Access Provider may request the Access Seeker to provide further information, whereupon the Access Seeker shall within thirty (30) days submit the further information required or provide an explanation as to its unavailability.

8.6.3 Upon receipt of all requisite information from the Access Seeker, Access Provider shall within thirty (30) days, evaluate and determine if the costs incurred is reasonable and necessary, and if Access Provider agrees with quantum of costs incurred, Access Provider shall notify the Access Seeker in writing of its decision and the Parties shall agree on a mechanism for payment of the compensation.

8.6.4 If after the period set out in Section 8.6.3, Access Provider disagrees with the computation provided by the Access Seeker, then Access Provider shall notify the Access Seeker stating its reasons for its disagreement. Upon such notification, the Parties shall meet at a mutually agreed venue and time to resolve the disagreement failing which, a dispute is

deemed to have arisen, which shall be resolved in accordance with the Dispute Resolution Procedure in this RAO.

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## **Part 9: Billing and Settlement**

### **9.1 Deposit & Charges**

#### **9.1.1 Charges**

The Access Seeker shall pay Access Provider the agreed charges for the Access Services. The charges may either be commercially set prices or regulated prices set out in the Commission Determination on the Mandatory Standard on Access Pricing, Determination No. 1 of 2017 or any other Price Determinations issued by the MCMC from time to time.

#### **9.1.2 Deposits**

Within thirty (30) days of the execution of this Access Agreement, the Access Seeker shall provide to Access Provider a bank guarantee from a Bank in Malaysia for an amount equal to two (2) months charges of the relevant Access Services provided to the Access Seeker.

### **9.2 Invoices**

9.2.1 Access Provider will issue Invoices to the Access Seeker in writing and/or in electronic form, in within thirty (30) calendar days of the end of the Billing Period. The invoices shall be for all amounts due to Access Provider in respect of the supply of Access Services during such Billing Period, including such amounts as referred to in Section 9.1.2 above, less any rebates payable by Access Provider to the Access Seeker under the Access Agreement.

#### **9.2.2 Billing Cycle**

Access Provider will issue invoices in monthly billing cycles, unless otherwise agreed between Access Provider and the Access Seeker, and each Invoice will be supported by such information reasonably necessary to allow the Access seeker to verify the Invoice.

9.2.3 In the event Access Provider is unable for any reason to issue an invoice, Access Provider may issue a provisional Invoice based on the previous months invoice.

### **9.3 Billing Errors**

The Access Seeker must notify Access Provider, within ten (10) days from the date of the Invoice, if there are errors in the Invoice. Upon verification and confirmation of such errors, Access Provider will make the necessary adjustments in the next Invoice to the Access seeker.

### **9.4 Payment**

9.4.1 The Access Seeker shall make full payment of all Invoices (including any provisional Invoice) issued to it by Access Provider within thirty (30) days from the date of each Invoice. The payments, in Malaysian Ringgit may be made either by cheque or electronic fund transfer directly to an account nominated by Access Provider.

9.4.2 Notwithstanding anything to the contrary, the Access Seeker may withhold payment of amounts disputed in good faith, provided that the Access Seeker notifies Access Provider within the timelines as set out in Section 9.6.1 below.

9.4.3 After resolution of the Billing Dispute, if Access Provider is obliged to refund an amount to the Access Seeker, Access Provider will pay interest on the refunded amount in accordance with Section 9.8 below. Interest will be payable from the date the Access Seeker paid the disputed amount to the date of the refund by Access Provider.

9.4.4 If the dispute is resolved against the Access Seeker, the Access Seeker shall, in addition to paying the amount disputed, pay interest at the rate specified in Section 9.8.

## 9.5 Billing Dispute Notification

### 9.5.1 Right to Dispute

If the Access Seeker disputes any of the Invoices (within the time periods specified in section 9.6 below), the Access Seeker shall provide sufficient and complete information to Access Provider relating to such dispute including:

- (a) The nature of the dispute, supported with necessary documents;
- (b) The amount disputed;
- (c) Detail of the Invoice stating the Access Seekers account number with Access Provider, the invoice reference number, the invoice date, the invoice amount and the billing verification information
- (d) Such other information as the Access Seeker deems necessary to facilitate the expeditious resolution of the dispute.

### 9.5.2 Grounds for Disputing Invoice

An Invoice may be disputed by the Access Seeker if the Access Seeker has reasonable grounds to believe that an error has arisen from one of the following circumstances:

- (a) Access Provider's billing system is, or has been, defective or inaccurate in respect of the recording of the calls which are the subject of the dispute;
- (b) There is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Access Seeker's Billing System;
- (c) Access Provider has made some other error in respect of the recording of the calls or calculation of the Charges.

## 9.6 Billing Disputes Timeline

9.6.1 If the Access Seeker intends to dispute an Invoice, the Access Seeker must do so within thirty (30) business days of receipt of the disputed invoice from Access Provider.

9.6.2 If the Access Seeker does not dispute the Invoice within the above specified time lines, then the Access Seeker shall be deemed to have accepted the Invoices and shall pay the

disputed amount to Access Provider within five (5) Business Days without any deductions or set-off.

## 9.7 Billing Dispute Resolution

The parties agree to use their reasonable endeavors to promptly resolve any Billing Dispute notified under this section.

### 9.7.1 Billing Disputes

An Access Provider shall allow an Access Seeker to dispute any amount in an invoice if the Access Seeker notifies the Access Provider within thirty (30) Business Days after the receipt of such an Invoice.

9.7.2 An Access Provider may require an Access Seeker to provide the following information when disputing any amount in an Invoice:

- (a) The reasons for which an Invoice is disputed;
- (b) The amount in dispute;
- (c) Details required to identify the relevant Invoice and charges in dispute including:
  - a. The account number;
  - b. The Invoice reference number;
  - c. The Invoice date;
  - d. The Invoice amount; and
  - e. Billing verification information and;
- (d) Evidence in the form of a report indicating the relevant traffic data which is in dispute.

### 9.7.3 Billing Dispute Resolution

An Access Provider and an Access Seeker must comply with the Dispute Resolution Procedures applicable to Billing Disputes.

9.7.4 A Billing Dispute may only arise where the Access Seeker has reasonable grounds to believe that an error has arisen from one of the following circumstances:

- (a) The Access Provider's Billing System is, or has been, defective or inaccurate in respect of the recording of calls which are subject to the Dispute;
- (b) There is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Access Seeker's Billing System;
- (c) There is, or has been, a fraud perpetrated by the Access Provider; or
- (d) The Access Provider has made some other error in respect of the recording of calls or calculation of charges which are the subject of the Billing Dispute.

9.7.5 The Access Seeker may withhold payments of amounts disputed in good faith if the Access Seeker notifies the Access Provider within fifteen (15) Business Date from the date of receipt of the Invoice of such Dispute. If the Billing Dispute is resolved against the Access Seeker, that Access Seeker shall be required to pay interest at the rate of two (2) percent per annum above Malayan Banking Berhad's base rate calculated daily



from the due date until the date of actual payment. Payment which are overdue by more than two (2) months will bear interest at the rate of three (3) percent per annum above the Malayan Banking Berhad's base rate calculated from the due date until the date of receipt by the Invoicing Party of full payment.

- 9.7.6 Where the Access Seeker has paid an amount and subsequently notifies the Invoicing Party of a Billing Dispute in relation to that amount within the Billing Dispute Notification Period, the Access Provider is not obliged to return any or all of that amount until the Billing Dispute is resolved in respect of that amount. Once the Billing Dispute is resolved, if the Access Provider is obliged to refund an amount to the Access Seeker, interest will be payable on the refunded amount specified in section 9.8 of this RAO. In such circumstances, interest will be payable from the date the Access Seeker paid the disputed amount to the date of the refund by the Access Provider.
- 9.7.7 The parties agree to use their reasonable endeavors to promptly resolve any Billing Dispute under this section.
- 9.7.8 If the parties are unable to resolve any Billing Dispute within one (1) month (or such other period as the parties may agree) from the date on which the Billing Dispute 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.
- 9.7.9 To the extent that a Billing Dispute notified under this section involves a Billing Dispute with an international correspondent of an Access Provider, 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 recognize that some Billing Disputes with international correspondents may take longer to resolve, in which case the Access Provider must inform the Access Seeker of the likely period required for resolution.
- 9.7.10 Once the negotiation period under section 9.7.8 (including any extension agreed) and any suspension under section 9.7.9 have expired, the Billing Dispute may be referred by the Access Seeker to the procedure described in section 9.7.11 below.
- 9.7.11 The Access Seeker may refer a Billing Dispute to the Billing Dispute Escalation Procedure under this section by notifying the Access Provider's Billing Representative. Both parties shall then appoint a designated representative who has the authority to settle the Billing Dispute, and who is at a higher level of management than the persons with direct responsibility for administration of this RAO. The designated representatives shall meet as often as they reasonably deem necessary to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one party to the other party shall be honored.

9.7.12 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.

9.7.13 Although it shall be the good faith intention of the parties to use the above Billing Dispute Resolution Procedures to the fullest extent to try and solve the Billing Dispute, nothing in this section 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.

9.7.14 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

9.7.15 Enquiries related to billing, collecting and settlement arrangements or in relation to Network and operational issues may be directed to the Billing Representatives nominated by each party.

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

9.7.17 If the Billing Dispute Escalation Procedure has been exhausted, either party may refer the Billing Dispute to the Commission for resolution under Chapter 7 of Part V of the Act.

## 9.8 Late Payment Interest

9.8.1 Access Provider shall be entitled to charge the Access Seeker late payment interest on all amounts outstanding with respect to any overdue Invoice, at the rate of two (2%) percent per annum above Malaysian Banking Berhad's Base Rate.

9.8.2 If any invoice is overdue by more than two (2) months, such invoice shall be subject to interest rate of three (3%) percent per annum above Malaysian Banking Berhad's Base Rate.

## 9.9 Back Billing

9.9.1 If Access Provider discovers that there are any errors or omissions, or miscalculations in an Invoice ("the affected Invoice"), Access Provider shall include the difference between the revised value (taking into account the errors, omissions and miscalculations) and the value of the affected invoice (with such errors, omissions and miscalculations), and such difference shall be included into a later Invoice. This differential amount shall be identified in sufficient detail to enable the Access Seeker to undertake a reconciliation of the Invoices and payments made, provided the amendment is made within two (2) months from the date of issuance of

the affected invoice, or three (3) months from the latest date when the calls were made or service provided by Access Provider.

9.9.2 Upon receipt of the Invoice containing such differential amounts, the Access Seeker may either request for further information within ten (10) Business Days or pay the said Invoice.

#### 9.10 Set Off

The Access Seeker shall not deduct, withhold or set-off any amounts stated in the Invoices against any amounts which Access Provider may owe the Access Seeker or which may be due from Access Provider to the Access Seeker.

9.10.1 If the Access Seeker in contravention of this section withholds, sets-off or deducts any amounts from the Invoice (except if a Billing dispute has been initiated under Sections 9.5 to 9.7 above), then Access Provider shall, under section 11.6 of this RAO, notify the Commission before suspending the provision of the Access Services.

9.10.2 The amount withheld shall be subject to interest as computed in accordance with Section 9.8 above.

9.10.4 Access Provider may set-off any amount owing to it by the Access Seeker if the access seeker is in default of payment for three (3) billing cycles, from any monies held by the access provider to the account of the access seeker including calling on any security guarantees or security deposits.

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## **Part 10: Operations and Maintenance Obligations**

### **10.1 Operations & Maintenance Responsibility**

Access Provider will be responsible for the operations and maintenance of its own network facilities and network services. The Access Seeker shall be responsible for the operations and maintenance of its own network facilities and network services. The party in whose Network a fault occurs is responsible for rectifying and restoring services in accordance with the response times stated in this Section below.

### **10.2 Fault Management**

#### **10.2.1 Establishing Fault Reporting Service**

Both the Access Seekers and Access Provider will establish and maintain, at their own costs, a fault reporting service that allows their respective Customers who are connected to their respective Networks, to report such faults directly to their fault management systems.

#### **10.2.2 Fault Reporting**

Both Access Provider and the Access Seeker will ensure that it advises it's directly connected customers to report all faults to the fault reporting service set up by the relevant operator, and will manage its fault reporting and identification on a non- discriminatory basis.

#### **10.2.3 Major inter-working faults**

If a major fault occurs in the interconnected Network, which affects communications that crosses both Access Provider's and the Access Seekers Networks, initial identification of fault will rest with the Operator who first becomes aware of the fault. Once it is determined accurately where the fault lies, the affected Operator in whose Network the fault has occurred will promptly repair the said fault.

#### **10.2.4 Faults affecting other Networks or Equipment.**

If an Operator identifies a fault occurring in its Network which may have an adverse effect on the other Operators Network or Equipment, the Operator identifying the fault shall promptly notify the other Operator of the existence of the fault, and the remedial actions being taken by the affected Operator.

#### **10.2.5 Fault Priority and Response Times**

In the event of interruption or failure of any of the facilities and/or services, the affected party will restore those services as soon as is reasonably practicable. Both Access Provider and the Access Seeker will assign priority levels for each of the defect that it experiences in its Network, and will give the highest priority and service to faults that will affect a large number of customers, and to recurring faults affecting any part of the network.

### 10.3 Fault Rectification Response Time

Each party to this Access Agreement, agrees to respond and rectify faults in its Network in accordance with the pre-agreed response and rectification time frames.

### 10.4 Planned Maintenance

10.4.1 The operator ("the Maintenance Operator") who intends to carry out planned maintenance on any part of its network, which may affect the Access Seekers network or Access Provider's network, then the Maintenance Operator is required to:

- (a) Provide a minimum of ten (10) Business days' notice of the planned maintenance;
- (b) Use reasonable endeavors to minimize any disruption to the interconnect and access communications between Access Provider and the Access Seeker; and
- (c) Where reasonably practicable, and if agreed between Access Provider and the Access Seeker, Access Provider will provide an alternative route or carriage on terms to be agreed.

### 10.5 Emergency Maintenance

10.5.1 If the Maintenance Operator needs to undertake emergency maintenance on any part of its Network, which may affect the provision of Access Services, then the Maintenance Operator will, if it is able to:

- (a) Provide at least one (1) Day notice of the planned maintenance, where reasonably practical;
- (b) Use reasonable endeavors to minimize any disruption to the Interconnect and Access communications between Access Provider and the access Seeker; and
- (c) Where reasonably practicable, and if agreed between Access Provider and the Access Seeker, Access Provider will provide an alternative route or carriage of the Access Seekers communication on terms to be agreed.

### 10.6 Site Access

#### 10.6.1 Physical Access

Where required to fulfill an Order for Duct and Manhole Access or for the Access Seeker to perform operations or maintenance activities, an Access Provider shall allow an Access Seeker, its nominated employees and/or contractors to physically access the Access Provider's network facilities and the Access Seeker's Equipment, and to have physical control over the Access Seeker's Equipment located at such network facilities, at equivalent times and in accordance with equivalent processes and procedures as are applicable to itself. The Access Provider shall provide:

- (a) Immediate physical access to Access Seeker for emergency maintenance requests, twenty four (24) hours a day, seven (7) days a week;
- (b) Physical access at the time requested by an 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;
- ii. The period of notice which it requires from itself when providing itself with physical access for planned maintenance.

#### 10.6.2 Nominated Personnel

The employees and/or contractors nominated by the Access Seeker will be reasonable, having regard to:

- (a) The position of each person and number of persons nominated; and
- (b) The position of each of the Access Provider's own personnel and the number for the Access Provider's personnel to which the Access Provider provides physical access to such network facilities.

#### 10.6.3 Site Register

The Access Seeker must establish and maintain a register of all persons who visit the Access Provider's property on the Access Seeker's behalf, which must be made available for inspection by the Access Provider, upon request.

#### 10.6.4 Joint Survey

A joint survey may be conducted by the Access Provider 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.

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## Part 11: Term, Termination and Suspension

### 11.1 Term

The Operators shall unless otherwise required by the Access Seeker enter into an Access Agreement for a term of no less than three (3) years from the execution date of the said Access Agreement.

### 11.2 Term of Supply

Unless otherwise agreed, and subject to Access Provider not being able to provide access as a result of Force Majeure, Access Provider shall only require an Access Seeker to acquire access to specified Facilities and/or Services under an Access Agreement for a minimum period as follows:

Facilities and/or Services	Minimum Term
Duct and Manhole Access	36 months

### 11.3 Termination Circumstances:

Access Provider may terminate an Access Agreement or part thereof if any of the circumstances referred below apply and Access Provider has notified the Access Seeker of its intention to terminate the Access Agreement:

- (a) The Access Seeker has materially breached the Access Agreement and Access Provider has notified the Access Seeker that it will terminate the said agreement in no less than thirty (30) days if the Access Seeker has not remedy its breach by the end of that period; or
- (b) The Access Seeker is subject to a winding up Order; or
- (c) A Force Majeure has continued for a period of more than 90 days.

Access Provider shall forward to the Commission a copy of the notice of termination at the same time as providing the notice of termination to the Access Seeker.

### 11.4 Changes in Law:

Where the continued operation of the Access Agreement or access to any Facilities and/or Services provided by Access Provider is or will be unlawful (as a result of a legislative change), the Access Seeker and Access Provider shall meet within five (5) Business Days of becoming aware of the relevant change in law to review whether access to the relevant Facilities and/or Services may be provided by Access Provider on different terms and conditions (which are acceptable to the Access Seeker). If the Operators cannot agree to the provision of access on different terms and conditions, Access Provider may terminate the provision of access to the relevant Facilities and/or Services.

### 11.5 Suspension Circumstances

Access Provider may only suspend access to any Facilities and/or Services in the following circumstances:

- (a) The Access Seeker is in breach of a material obligation and fails to remedy such breach within 30 days (or 7 days for breach of payment obligations) of receiving written notice from Access Provider to remedy such breach;
- (b) The Access Seeker's Facilities materially adversely affect the normal operation of Access Provider's Network or are a material threat to any person's safety;
- (c) The Access Seeker's Facilities or the supply of Facilities and/or Services pose an imminent threat to life or property of Access Provider, its employees or contractors;
- (d) The Access Seeker's Facilities cause material physical or technical harm to any Facilities of Access Provider or any other person;
- (e) Where the Access Seeker has failed to pay Bills or Invoices in accordance with this RAO and/or the MSA Determination;
- (f) Where Force Majeure applies; or
- (g) The Access Seeker breaches any laws, regulations, rules or standards which has a material adverse effect on Access Provider or the provision by Access Provider of Facilities and/or Services under the Access Agreement.

For the purposes of this Section, Access Provider must provide the Access Seeker five (5) Business Days' notice in writing, including written reasons, prior to suspending access to any Facilities and/or Services.

#### 11.6 Notice

Prior to terminating, suspending, or seeking to materially vary an Access Agreement or access to any Facilities and/or Services provided under it, an Access Provider must notify the Commission in writing of the action the Access Provider proposes to take and the reasons why it considers such action is appropriate. The Commission may invite any affected Access Seeker to make submissions to the Commission regarding the proposed termination, suspension or material variation. The Access Provider:

- (a) Shall only give effect to the proposed termination, suspension or material variation with the Commission's written consent and subject to any time delay or conditions which the Commission may specify (if any). The Commission will endeavor to respond to the Access Provider'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, suspension or material variation unless the Access Provider has received written consent from the Commission to such termination,, suspension or material variation; and
- (c) Shall take all steps practicable to minimize disruptions and inconvenience to the Customers of the Access Seeker, including providing the Access Seeker with a reasonable period to make alternative arrangements prior to the suspension or termination of the Access Agreement, or access to Facilities and/or Services provided under it.

#### 11.7 Post-Termination Fees

Access Provider shall not recover any additional charges, costs or expenses on termination or suspension of an Access Agreement or access to any Facilities and/or Services provided under it except:

- (a) Charges invoiced in arrears and not yet paid; or
- (b) Charges arising during an applicable minimum contractual period (as described in subsection 11.2 above) provided that:
  - i. Such charges must be reduced to reflect any cost savings to the Access Provider from not having to supply the Facilities and/or Services to the extent that they have been terminated or suspended; and



- ii. The Access Provider must use reasonable endeavors to mitigate its costs of termination or suspension and maximize cost savings under paragraph 11.7(b)(i) above.

#### 11.8 Upfront Charges Refund

On termination of an Access Agreement or access to any Facilities and/or Services provided under it, Access Provider shall refund to the Access Seeker all amounts paid in advance to the extent that the amount (or part of the amount calculated on a pro- rata basis) relate to the period after the date of effect of such termination.

#### 11.9 Deposits and Guarantees

Access Provider shall:

- (a) Within sixty (60) days of termination of the Access Agreement refund to the Access Seeker any deposit paid (without interest) provided all other amounts payable by the Access Seeker to Access Provider have been paid; and
- (b) Immediately upon termination of the Access Agreement unconditionally waive any rights under any guarantees provided by the Access Seeker except in respect of amounts payable by the Access Seeker to Access Provider as at the date of termination.

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## Part 12: Dispute Resolution Procedure

### 12.1 General

12.1.1 The following Section sets out the procedure that applies in respect of any dispute or difference between an Access Seeker and Access Provider arising in relation to the Access Agreement.

12.2 For the purposes of the procedures set out in this Section and unless Access Provider and the Access Seeker expressly agree otherwise, a “dispute” is any disagreement or difference relating to, arising out of or in connection with the Access Agreement.

12.3 Subject to subsection 12.4 below, Access Provider and an Access Seeker will adopt and comply with this Dispute Resolution Procedure in relation to any dispute which may arise in respect of or in connection with the supply of Facilities and/or Services to which the Access Agreement applies (“Access Agreement Disputes”).

12.4 All Access Agreement Disputes arising between the parties under the Access Agreement will be dealt with as follows:

- (a) Inter-party working group (IPWG). Resolution of any dispute between the parties will first be attempted through negotiation between the parties by means of an inter-party working group
- (b) Interconnect Steering Group (ISG). In the event the parties cannot resolve the dispute within the time provided, or after any extension of time has expired, then either party may refer the issue to the Interconnect Steering Group (“ISG”)
- (c) Technical Expert or Commission. If the ISG does not resolve a dispute, either party may:
  - (i) Refer any technical dispute to a Technical Expert
  - (ii) Refer the dispute to the Commission under section 151 of the Act for final resolution.
- d) Where a dispute is referred to the Commission pursuant to section 151 of the Act, the Commission will decide the dispute if it is satisfied that the:
  - (i) Parties cannot reach agreement, or will not reach an agreement in a reasonable time;
  - (ii) Notification of the dispute is not trivial, frivolous or vexatious; and
  - (iii) Resolution of the dispute would promote the objects in the Act.

12.5 Access Provider will not prevent the Access Seeker from referring a dispute to the Commission in accordance with the Act.

### 12.6 Court Proceedings.

Until expiry of these Dispute Resolution Procedures, an Operator may not commence court proceedings relating to that dispute, other than an application for urgent interlocutory relief. Nothing in this section will be construed as ousting the jurisdiction of any court.

## 12.7 Representatives.

Either party will ensure that its representative acting in relation to a dispute are of sufficient seniority and are authorized to settle an Access Dispute on its behalf.

12.7.1 At the commencement of the Dispute Resolution Procedure, each party must notify the other party of the scope of the authority of each of their representatives.

12.7.2 If in the course of the Dispute Resolution Procedure it is identified that the matters for resolution 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 with the authority to settle those matters.

12.8 During a dispute and any Dispute Resolution process invoked in accordance with this Section, Access Provider and the Access Seeker must continue to fulfill their respective obligations under the Access Agreement unless the fulfillment of those obligations will affect the outcome of the dispute.

12.9 A party is prohibited from using all information obtained as a result of the Dispute Resolution process for any purpose other than to resolve the dispute.

12.10 Subject to the Act, an arbitrator appointed under this Dispute Resolution Procedure (including a Technical Expert or the Commission) may decide not to determine the dispute if the arbitrator considers the dispute trivial, frivolous or vexatious, or if there is insufficient evidence to determine the dispute. In such a case, the arbitrator will, within five (5) Business Days of receiving the reference to arbitration inform the parties in writing, of his decision. The parties will thereafter be entitled to pursue their dispute by litigation.

12.11 Where the arbitrator decides to determine the dispute, the costs of the arbitration will be shared equally between the parties. If the arbitrator decides not to determine the dispute, the party that initiated the dispute must pay the other party's costs.

## 12.12. Inter-party Working Group ("IPWG")

12.12.1 Access Provider and the Access Seeker will first attempt to resolve an Access Dispute among themselves by setting up a working group(s) which must consist of an equal number of representatives of each party and be headed by a person who holds a position at least equivalent to the General Manager of Access Provider.

12.12.2 In setting up the working group(s), Access Provider will provide for:

- (a) Clear terms of reference, the decision making process, timelines and manner of documenting and reporting of the discussions, negotiations and outcome or decisions agreed on depending on the nature and urgency or time by which the dispute must be resolved;
- (b) Equal representation by Access Provider and the Access Seeker in the working group(s);

- (c) Chairmanship and administrative functions of the working group(s) to be shared equally;
- (d) Formal notification procedures to the working group.

12.12.3 Access Provider and the Access Seeker will use reasonable endeavors to attempt to settle an Access Dispute within the Inter-party working groups no later than forty five (45) days from the date the dispute is referred to the Inter-party working group, subject always to the right for either party to seek urgent interlocutory relief. The parties may agree in writing to an extension of the time for resolution of the Access Dispute.

12.12.4 In default of Access Provider providing for the process contemplated in subsection 12.12.2 above, the process will be as follows:

- (a) Each working group will consist of an equal number of representatives from each party. Such representatives must have, or be able to expeditiously obtain the knowledge and information regarding all aspects (for example technical, financial, commercial, and regulatory) necessary for resolution of the dispute;
- (b) One of the representatives in the working group will be a person who holds a position at least equivalent to the General Manager of Access Provider;
- (c) The working group will meet as often and for as long as is necessary to resolve the Access Dispute by the time by which the dispute must be resolved subject always to the time-limit of forty five (45) days referred to in subsection 12.12.3 above;
- (d) The working group will meet at a convenient and practical location. Each party will bear the costs of its participation in such meetings;
- (e) All discussions, outcomes and decisions made at every meeting of the working group will be recorded and minutes of each meeting will be produced for circulation to the representatives of the working group concerned. The representatives of the working group can decide among themselves who records and produces the minutes of the meetings;
- (f) Regardless of whether the Access Dispute is resolved by the working group, the working group will produce a report of the final outcome or decision of the working group which will be signed by each party's representative in the working group. Each party is entitled to a copy of the report.

12.12.5 The process in subsection 12.12.4 may be amended by mutual agreement of the Parties to suit the requirements of the Access Dispute.

### 12.13. Interconnect Steering Group ("ISG")

12.13.1 If the parties cannot resolve the Access Dispute within the Inter-party working group within the stipulated time, or after the expiry of any extension of time agreed on, either party may give ten (10) Business Days written notice ("Notice Period") to the other party stating its intention to escalate the issue and outlining the details of the issue.

12.13.2 If the issue is not resolved prior to the expiry of the Notice Period, then either party may notify the other party ("Receiving Party") in writing that it wishes to refer the issue to the Interconnect Steering Group ("ISG") ("Referral Notice")

12.13.3 If an Access Dispute is referred to an ISG under subsection 12.13.2, the ISG will meet within ten (10) Business Days of the receipt by the Receiving Party of a Referral Notice. In default of the ISG meeting within the stipulated time of ten (10) Business Days, either party may refer the dispute to a Technical Expert in accordance with this Schedule or to the Commission for arbitration.

12.13.4 If the ISG have not resolved an Access Dispute within twenty (20) Business Days after it first meets to review that Access Dispute under subsection 12.13.3, either party may:

- (a) Refer any technical dispute to a Technical Expert in accordance with this Schedule;
- or
- (b) Refer the dispute to the Commission for final arbitration.

#### 12.14 Technical Expert

12.14.1 An Access Dispute can only be referred to a Technical Expert if the provisions of this section have been complied with.

12.14.2 Once a dispute is referred to a Technical Expert, it may not be referred back to an IPWG or an ISG.

12.14.3 The Technical Expert:

- (a) Will be an expert appointed by agreement of the parties or, if the parties cannot agree within ten (10) Business Days, by the Commission;
- (b) Will have the appropriate qualifications and experience to arbitrate the Access 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 telecommunication company or otherwise have a potential for conflict of interest.

12.14.4 If the parties fail to appoint a Technical Expert within ten (10) Business Days of notice of the need to refer an Access Dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.

12.14.5 If a dispute is referred to a Technical Expert, the following dispute resolution procedure will apply and be utilized by the Technical Expert:

- (a) The parties will deliver written submissions setting out their positions together with supporting evidence 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 receipt of the other party's written submission.

12.14.6 Unless otherwise agreed by the parties and either party requesting the Technical Expert or if the Technical Expert decides within five (5) Business Days of the receipt of the last written submission, that the arbitration by the Technical Expert be by documents only, the

Technical Expert shall convene a hearing (where both parties may attend and witnesses produced) within fifteen (15) Business Days of the delivery of the last written submission.

12.14.7 Where a hearing by Technical Expert is held pursuant to this section, each party will have the opportunity to make an oral submission to the Technical Expert. This process will be conducted in private.

12.14.8 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 hearing by the Technical Expert will last no longer than three (3) Business Days.

12.14.9 The Technical Expert will not have the power to appoint any other experts.

12.14.10 The Technical Expert will deliver his decision within fifteen (15) Business Days after the conclusion of the hearing or after receipt of the last written submission where the arbitration is by documents only.

12.14.11 Every Access Dispute referred to a Technical Expert will be considered separately so that time limits for each Access Dispute are complied with.

12.14.12 The award of the Technical Expert will be final and binding on the parties (in the absence of manifest error of fact or law), and shall be effected promptly by the parties.

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## Part 13: Charges and Charging Principles

13.1 This Section sets out the Charges and charging principles that would be applicable to the Facilities and/or Services provided by Access Provider to the Access Seeker.

### 13.2 Type of Charges

In consideration of the Access Provider's obligations in the provision of the Facilities and/or Services in the Access Agreement, Access Seeker shall pay to Access Provider in accordance with the applicable provisions in the following Charges:

Type of Facilities/Services	Type of Charges	Description	Billing Cycle
Duct and Manhole Access	One Time Charge	Installation and Interconnection	Post Activation
Duct and Manhole Access	Recurring Charges	Rental	Monthly

### 13.3 Charges and Charging Principles of Duct and Manhole Access

The charges for the Duct and Manhole Access are as follows:

Duct and Manhole Access	Type of Charge	Ringgit Malaysia (RM)
25% of Duct and Manhole Access	Recurring	RM316 per KM per month
Fiber Optic Rental (pair)	Recurring	RM26,000 per KM per month
One Time Charge	One Time	As Charged by Contractors

13.3.1 The recurring Charges including rental charges shall commence to be payable from the date Service is provided, and shall be paid according to the Billing Period elected by the Access Seeker in the Service Order Form and payments shall be made in advance on or before the payment periods.

13.3.2 In relation to the Charges, Access Seeker shall also be liable to pay any government taxes (including Sales and Services Tax) relevant to the Service provided it is legally required to be paid by the Access Seeker and utility charges imposed (if any) on utilization of the

Service. Where applicable such taxes shall be added to the invoice and shall be paid to Access Provider at the same time as the relevant invoice is settled.

13.3.3 In relation to the One–Time Charges for each Service, Access Seeker shall pay the Charges no later than the Ready for Service (“**RFS**”) Date, Service Activation Date or Handover Date, whichever is relevant.

13.3.4 All amounts payable by Access Seeker pursuant hereto shall be paid in full free and clear of all bank or transfer charges imposed by the Access Seeker bank(s) to such account(s) as Access Provider may by notice to Access Seeker designate without reduction for any deduction or withholding for or on account of any tax, duty or other charge of whatever nature imposed by any taxing authority. If Access Seeker is required by law to make any deduction or withholding from any payment hereunder, Access Seeker shall pay such additional amount to Access Provider so that after such deduction or withholding the net amount received by Access Provider will be not less than the amount Access Provider would have received had such deduction or withholding not been required. Access Seeker shall make the required deduction or withholding, shall pay the amount so deducted or withheld to the relevant governmental authority and shall promptly provide Access Provider with evidence of such payment.

13.3.5 Any type of Charges chargeable to the Access Seeker shall be determined and made known to the Access Seeker before the commencement of the Service and shall not be changed for the duration of the Service period unless mutually agreed between the Access Seeker and Access Provider or unless provided otherwise in the Access Agreement.

13.3.6 Any unregulated Facilities and/or Services rates that Access Provider will offer to the Access Seeker will be provided to the Access Seeker upon written request to Access Provider.

#### 13.4 Charging Principle on One- Time Charges

13.4.1 One–Time Charges are installation charges, interconnect charges, supervision and administrative charges which may be charged to the Access Seeker in relation to the Service provided to the Access Seeker and such charges may vary from case to case depending on the extend and complexity of the work involved for the installation and interconnection related thereto.

#### 13.5 Charging Principle for Service outside Access Provider’s Existing Network Topology

13.5.1 Any request for Service located outside of Access Provider’s existing Network Topology and subsequently provided to the Access Seeker shall be subject to other charges including third party charges, if any.

#### 13.6 Cancellation Charges

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

- (a) The Access Provider may impose a charge for the cancellation or variation of the Order; and



- (b) The charge which the Access Seeker is required to pay shall not exceed the lesser of the following amounts:
- i. The sum of costs necessarily incurred by the Access Provider which is directly attributable to the cancellation or variation; or
  - ii. An amount equal to the sum of charges that would have been payable by the Access Seeker 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 the Access Provider used its best endeavors to do so.

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## CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on

BETWEEN

MSA RESOURCES (463109-M), a company incorporated in Malaysia with its registered address at No. 23B, Jalan Padi Ria ,Bandar Baru UDA,81200 Johor Bahru, Johor Darul Takzim (hereinafter referred to as "MSA RESOURCES.") of the one part;

AND

(Hereinafter referred to as "Access Seeker") of the other part.

WHEREAS:-

- A. MSA RESOURCES is a licensed individual network facilities provider under the Communications and Multimedia Act 1998. Pursuant thereto, MSA RESOURCES may offer Duct and Manhole Access aft Malaysia-Singapore 2nd Link, Johor Darul Takzim.
- B. The parties are discussing certain matters thereby necessitating the exchange of information for the purpose of determining their respective interests in establishing a business relationship between them.
- C. The parties wish to defend their rights with respect to the said information and to protect the confidentiality thereof and proprietary features contained therein.

NOW THIS AGREEMENT WITNESSETH as follows:-

### 1. Definition

"Confidential Information" means all oral or written information of any kind, whether in printed or electronic format, including but not limited to technical information, data or know-how which relates to research, products plans, products, services, customers, markets, software, developments, inventions, process, designs, drawings, engineering, hardware and software configuration information, marketing or finance or any form of business plans whether or not labelled as "Confidential" and submitted by one party to the other party during the discussions and/or meetings, which Confidential Information is designated in writing to be confidential or proprietary or if given orally, is confirmed promptly in writing as having been disclose as confidential or proprietary.

"Disclosing Party" means the party from whom the Confidential Information originates and is disclosed to the Recipient.

"Recipient" means the party to whom the Confidential Information is given or disclosed.

### 2. Non-Disclosure of Confidential Information

- a. The Recipient agrees not to use any Confidential Information disclosed to it by the Disclosing Party for its own use or for any purpose except to carry out discussions concerning and the undertaking of any business relationship between the two.
- b. The Recipient will not disclose any Confidential Information of the Disclosing Party to third parties or to employees or agents of the Recipient except employees and/or agents who are required to have the information in order to carry out the discussion of the contemplated business.
- c. The Recipient agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the Disclosing Party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized hereunder to have any such information, which measures shall include the highest degree of care that the Recipient utilize to protect its own Confidential Information of a similar nature.
- d. The Recipient agrees to notify the Disclosing Party in writing of any misuse or misappropriation of Confidential Information of the Disclosing Party which may come to the Recipient attention.

3. Information excluded from Confidentiality

The obligation imposed upon either party herein shall not apply to information which:

- i. is in the possession of the Recipient at the time of disclosure as shown by the Recipient's files and records immediately prior to the time of disclosure; or
- ii. prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the Recipient; or
- i. is approved in writing by the Disclosing Party for release; or
- ii. is independently developed by the Recipient; or
- iii. is disclosed to a third party pursuant to written authorization from the Disclosing Party; or
- iv. is received from a third party without similar restrictions as against the Receiving Party; or
- v. is disclosed pursuant to a requirement or request of a Government agency, but only to the extent so ordered.

4. No Commitment

Nothing in this Agreement imposes on either party an obligation to enter into any agreement or transaction.

5. Return Of Materials

Any materials or documents which have been furnished by the Disclosing Party to the Recipient will be promptly returned, accompanied by all copies of such documentation, after the business possibility has been rejected or concluded.

6. Patent or Copyright Infringement

Nothing in this Agreement is intended to grant any rights to the Recipient under any patent or copyright nor shall this Agreement grant the Recipient any rights in or to the Disclosing Party's Confidential Information which was given solely for the purpose of determining whether to enter into the proposed business relationship with the Disclosing Party.

7. Term

The foregoing commitments of the Recipient shall survive any termination of discussions between the parties and shall continue for a period of two (2) years following the date of this Agreement.

8. Miscellaneous

This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that Confidential Information of the Disclosing Party may not be assigned without the prior written consent of the Disclosing Party. Failure to enforce any provision of this Agreement shall constitute a waiver of any term hereof.

9. Governing Law

This Agreement shall be governed by and construed and enforced in accordance with the laws of Malaysia and shall be binding upon the parties hereto in Malaysia and worldwide. The courts of Malaysia shall have exclusive jurisdiction to hear and determine all actions and proceedings arising out of this Agreement and the Recipient hereby submits to the jurisdiction of the courts of Malaysia for the purpose of any such actions and proceedings.

10. Remedies

The Recipient agrees that the obligations of the Recipient provided herein are necessary and reasonable in order to protect the Disclosing Party and its business and the Recipient expressly agrees that monetary damages would be inadequate to compensate the Disclosing Party for any breach by the Recipient of its covenants and agreement set forth herein. Accordingly, the Recipient agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the Disclosing Party and that in addition to any other remedies that may be available, in law, in equity or otherwise, the Disclosing Party shall be entitled to obtain injunctive relief against the

threatened breach of this Agreement or the continuation of any such breach by the Recipient without the necessity of providing actual damages.

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

Signed by

Company Chop:

\_\_\_\_\_  
For and behalf of MSA RESOURCES  
SDN BHD

In the presence of:

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

Signed by

Company Chop:

\_\_\_\_\_  
For and behalf of:

In the presence of:

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

## ACCESS REQUEST FORM

### 1. MSA RESOURCES Site Details

Site Name : Malaysia –Singapore 2nd Link Bridge, Johor Darul Takzim

### 2. Requirement proposed by Access Seeker:

Nos of Sub Ducts: \_\_\_\_\_

Equipment

Specify Equipment to install: \_\_\_\_\_

Space Requirement: \_\_\_\_\_

3. License Term : \_\_\_\_\_

4. License Fee (Yearly) : \_\_\_\_\_

5. Security Deposit: \_\_\_\_\_

6. Start Date : \_\_\_\_\_

IN WITNESS WHEREOF, the undersigned have through their duly authorized representatives signed this SUB DUCT AND MANHOLE ACCESS LICENSE OFFER on the day and year written below.

For or On Behalf of Access Seeker

Signature :

Company Seal :

Name :

Designation :

Date :

For or On Behalf of MSA Resources Sdn. Bhd.

Signature :

Company Seal :

Name :

Designation :

Date :