

VC Telecoms Sdn. Bhd.

(811905-U)

(formerly known as Visi Cenderawasih Sdn Bhd)

REFERENCE ACCESS OFFER

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THIS REFERENCE ACCESS OFFER IS

MADE BY: VC Telecoms Sdn Bhd (VCTEL), company registration number 811905-U, a company incorporated under the laws of Malaysia and having its registered office at No.1 & 3, Jalan 6C/13C Kompleks Premis Usahawan SME Bank Bangi, Taman Perusahaan IKS Seksyen 16, 43650 Bandar Baru Bangi, Selangor Darul Ehsan.

Issued pursuant to the Commission Determination on Access List Determination, Determination 2 of 2015 (**Access List Determination**) and the Commission Determination on the Mandatory Standard on Access, Determination No. 3 of 2016 (**MSA Determination**) and **Section 2.3: Principles of Access and Interconnection**.

LEGISLATIVE BACKGROUND

- A. VCTEL is pleased to prepare and maintain a Reference Access Offer (RAO) for the Facilities and/or Services listed in the Access List Determination, which VCTEL provides to itself or third parties.
- B. This RAO specifies the procedures and process to be followed by an Access Seeker who intends to acquire the Facilities and/or Services on the Access List Determination and which:
 - (i) contains terms and conditions which are consistent with the rights and obligations set out in the MSA Determination; and
 - (ii) does not include terms and conditions which are inconsistent with the rights and obligations set out in the MSA Determination.
- C. This RAO is consistent with:
 - (i) The standard access obligations stipulated under Section 2.3: Principles of Access and Interconnection.

PART 1 – OVERVIEW OF VC TELECOMS SDN BHD REFERENCE ACCESS OFFER

1. INTRODUCTION

This RAO outlines the procedures and process on which VCTEL is prepared to supply facilities and/or services listed in the Access List Determination.

2. FACILITIES AND SERVICES PROVIDED UNDER VCTEL'S RAO

2.1 This RAO contains the terms and conditions for the following facilities and services:

- (a) Infrastructure Sharing
- (b) Transmission Service; and
- (c) Network Co-location Service

3. NOTICE OF WITHDRAWAL, REPLACEMENT AND VARIATION OF VCTEL'S RAO

3.1 Where VCTEL proposes to amend the RAO, VCTEL will, within twenty (20) Business Days of making any amendment to the RAO, provide a copy of the amended RAO showing the proposed changes to the existing RAO, to:

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

For clarification:

- (i) nothing in this **Part 1** prevents an Access Seeker from initiating a dispute in relation to an amendment to a RAO made by VCTEL;
- (ii) where the terms and conditions of an Access Agreement are not identical to those in the existing RAO, an amendment to the RAO will not alter the terms of that Access Agreement except as agreed between VCTEL and Access Seeker; and
- (iii) without prejudice to an Access Seeker's right to dispute a change to a RAO, where the terms and conditions of an Access Agreement are identical to those in the existing RAO, an amendment to the RAO will be deemed to alter the relevant terms and conditions of that Access Agreement. However, if the Access Seeker disputes the change to the existing RAO, no amendments to the Access Agreement will be deemed to occur unless and until such dispute is resolved in favor of VCTEL.

3.2 Upon expiry of the twenty (20) Business Days (or such longer period as [VCTEL determines is necessary to finalize the amendments to its RAO), VCTEL will:

- (a) Make available the amended RAO on VCTEL's publicly accessible 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.

4. INFORMATION DISCLOSURE OBLIGATIONS UPON ACCESS REQUEST

4.1 VCTEL's shall provide the following information within ten (10) Business Days upon receipt of a written request from an Access Seeker for the provision of access:

- (a) any supplementary details of a facility and/or service offered by VCTEL not included in the RAO, including details concerning all POIs and other locations (including sites deemed to be critical national information infrastructure and other secure sites) at which physical co-location, virtual co-location is available to Access Seekers;
- (b) any supplementary access charges for facilities and/or services not included in the RAO (for example, discounts for inferior service levels or surcharges for enhanced service levels);
- (c) all supplementary technical information relating to the Facilities and/or Services which may be the subject of the Access Request, which are not included in the RAO, including but not limited to any physical and logical interfaces of its Network necessary to allow the development and deployment of communications services, value-added services and communications equipment that can connect to, and interoperate with, VCTEL's Network;
- (d) supplementary details of VCTEL's operational processes and procedures not included in the RAO (e.g. regarding escorted access at site deemed to be critical national information infrastructure or other secure sites);
- (e) supplementary details of VCTEL's provisioning cycles not included in the RAO and any impact such cycles may have upon an Access Request by the Access Seeker (e.g. capacity constraints);
- (f) details of VCTEL's alternative quality of service targets not included in the RAO and actual achievements of service targets in respect of the

Facilities and/or Services which may be the subject of the Access Request;

- (g) any security requirements, insurance requirements and creditworthiness information (including a credit assessment for, if available) required by VCTEL; and

Prior to the provision of information under this **Part 1**, VCTEL shall request the Access Seeker to enter into a Confidentiality Agreement as prescribed by VCTEL.

4.2 Confidentiality Agreement

4.2.1 A confidentiality Agreement must be;

- (a) shall be reciprocal;
- (b) shall be no broader than the confidentiality provisions in the RAO;
- (c) shall be no broader than necessary to protect the legitimate commercial interest of the Disclosing Party;
- (d) shall include provisions prohibiting the Receiving Party from disclosing information to third parties or using information other than as necessary for the purpose of accessing a request for access; and
- (e) shall not prevent the disclosure of Confidential Information or other information to the Commission by the Receiving Party.

4.3 Any communication in respect of VCTEL's RAO should be made in writing to:

Attention: Corporate Affairs

Address: No.1 & 3, Jalan 6C/13C
Kompleks Premis Usahawan SME Bank Bangi
Taman Perusahaan IKS Seksyen 16
43650 Bandar Baru Bangi, Selangor.

Email: info@VCTEL.com.my

PART 2 – VC TELECOMS SDN BHD REFERENCE ACCESS OFFER

1. DEFINITIONS, INTERPRETATION AND STRUCTURE

1.1 The following words have these meanings in this VCTEL's RAO unless the contrary intention appears:-

“Act” means the Communications and Multimedia Act 1998 and as may be amended from time to time;

“Access Agreement” means an agreement entered into between VCTEL and the Access Seeker whereby VCTEL provides requested Facilities and/or Services to an Access Seeker in accordance with the terms therein contained and registered with the Commission in accordance with Section 150 of the Act;

“Access List Determination” means the Commission Determination on Access List, Determination No. 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 Request” means a request for access to Facilities and/or Services made by an Access Seeker to VCTEL;

“Access Seeker” means a network facilities provider, network service provider, an applications service provider or a content applications service provider who is a licensee as defined in the Act and who makes a written request for access or is being provided with Facilities and/or Services by VCTEL;

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

- (a) A POI/POP and a Called Party/called number; or
- (b) A calling Party and a POI/POP; or
- (c) Two POIs/POPs.

“Access Service Provider” means 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.

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

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

“Business Day” means any day other than a Saturday, Sunday or in states where Friday is observed as the weekly holiday, a Thursday and Friday or public holiday (whether gazette or not) which is lawfully observed as a national public holiday throughout Malaysia and on which commercial banks are open for usual banking business in Kuala Lumpur and Selangor;

“Call Communications” means communications in whole or in part involving a number IP address used in the operation of each Operator's Network including Message Communications;

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

“Commission” means the Malaysian Communications and Multimedia Commission established under the Malaysian Communications and Multimedia Commission Act (Act 589) and also known as the Suruhanjaya Komunikasi dan Multimedia Malaysia;

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

“DTS” means Digital Trunk Switch;

“**Due Date**” means, in respect of an Invoice, thirty one (31) days from the date of receipt of an Invoice;

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

“**Facilities**” means network facilities and/or other facilities which facilitates the provision of network services or applications services including content applications services as listed in the Access List Determination;

“**Gateway**” means a designated DTS or Media Gateway or SBC which:

- (a) provides operational interworking between the networks of both VCTEL and the Access Seeker;
- (b) provides an agreed interface between the signaling, switching, transmission and operations systems of both VCTEL and the Access Seeker; and
- (c) is defined by a unique name or code; and
- (d) supports one or more POIs.

“**Instrument**” means a direction or determination or declaration made by the Minister or the Commission pursuant to the Act.

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

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

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

“**Legislative Event**” means:

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

“**License**” means an individual license granted by the Minister pursuant to the Act for Communications Services;

“**Network**” means network facilities and/or network services comprising a system, or a series of systems within Malaysia, that carries or is capable of carrying communications by means of guided or unguided electromagnetic energy or both, and in relation to an Operator, means so much of the network as is owned or operated by the Operator;

“**Network Co-Location Service**” has the meaning as described in paragraph 4(9) of the Access List Determination;

“**Operator**” means:

- (a) a network facilities provider; or
- (b) a network service provider; or
- (c) an applications service provider; or
- (d) a content applications service provider; and

includes both VCTEL and the Access Seeker.

“Point of Interconnection” or “POI” means an agreed location which:

- (a) constitutes a point of demarcation between the network of VCTEL and the Access Seeker (collectively referred to as the “interconnecting networks”); and
- (b) is the point at which communication is transferred between the interconnecting networks.

“Point of Interface” means a point at or between network facilities which demarcates the Network of VCTEL and the Network of an Access Seeker and is the point at which a communication is transferred between those network facilities and includes POI and POP;

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

“QoS” means Quality of Service;

“Services” means network services and/or other services which facilitate the provision of network services or applications services, including content applications services, as listed in the Access List Determination and offered in VCTEL’s RAO;

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

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

1.2 In this Determination, unless the context otherwise requires –

- (a) the singular includes the plural and vice versa; and
- (b) a document includes all amendments or supplements to that document, or replacements or novation of it; and

- (c) a reference to a statute, ordinance, code or other law includes regulations and other instruments issued under them and consolidations, amendments, reenactments or replacements of any of them; and
- (d) the word person includes a firm, body corporate, unincorporated association or an authority; and
- (e) reference to a person includes the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation), and assigns;
- (f) if the day on which the payment of money or the performance of an obligation falls due is not a Business Day, the due date or performance date shall be deemed to be the next Business Day and any reference to acts that have to be done or to be done by or on or before a particular day or Business Day means by or on or before the close of business at 5.00 pm on that particular day or Business Day; and
- (g) a reference to a related body corporate of an Operator has the same meaning as in the Companies Act 2016; and
- (h) a reference to a third person is a reference to a person who is not a party to VCTEL's RAO; and
- (i) a reference to an annexure or schedule is a reference to an annexure or schedule to VCTEL's RAO and a reference to VCTEL's RAO includes an annexure or schedule; and
- (j) all monetary amounts are expressed in Ringgit Malaysia.

2. SCOPE OF THE RAO

2.1 Introduction

2.1.1 This RAO only applies to the Facilities and / or Services that are consistent with the terms of the Access List Determination.

2.1.2 The service description for each of the Facilities and Services are set out in **Part 3** of VCTEL's RAO.

2.1.3 The charges and charging principles for each of Facilities and Services are set out in **Part 4** of this RAO.

2.2 Eligibility for Access to Services

2.2.1 An Access Seeker may only request for access to any or all of the Facilities and Service where Access Seeker is licensed under the Act as:

- (a) network facilities providers;
- (b) network service providers;
- (c) applications service providers; and
- (d) content applications service providers.

2.2.2 VCTEL may require an Access Seeker to provide an Access Request if:

- (a) there is no Access Agreement in force between VCTEL and the Access Seeker governing access to the Facilities and/or Services requested;
- (b) there is such an Agreement, but:
 - (i) the current term of that Access Agreement will expire or terminate within the next for (4) months; or
 - (ii) the requested Facilities and/or Service are outside the scope of that agreement.

VCTEL may conduct Service Qualifications prior to entering into an Access Agreement.

2.2.3 An Access Seeker may not request for access to the Facilities and/or Services where the requested Facilities and/or Services are to be used in connection with an activity or activities in which the Access Seeker is not licensed to provide.

2.3 Principles of Access and Interconnection

2.3.1 In supplying a Facility and/or Service, VCTEL must provide access to those Facilities and/or Services specified in the Access List, and such access must be:

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

2.3.2 Without limiting its obligations under the Act, VCTEL shall not refuse to negotiate an Access Agreement with an Access Seeker, whether the access sought is based on a RAO or otherwise

2.4. Customer Principles

VCTEL shall observe and comply with the customer relationship principles set out;

- a) A customer will be regarded as a Customer of VCTEL when the Customer utilizes Facilities and/or Services provided to that Customer by VCTEL.
- b) The same person may be a Customer of more than one Operator.
 - a. in respect of the same or different Facilities provided by different Operators;
 - b. in respect of the same or different Services provided by different Operators;

- c. in respect of Facilities provided by one Operator and Services provided by another Operator.
- c) The supply by VCTEL to another Operator, which the latter Operator then utilizes in providing Facilities and/or Services to its Customer, does not mean those Customers are also Customers of VCTEL.
- d) Each Operator will be responsible for billing its own Customers, unless express agreement to the contrary is made by the Access Provider and Access Seeker.

3 ACCESS REQUEST PROCEDURES

3.1 Application for Access to Services

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

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

The Access Request must:

- (a) contain the name and contact details of the Access Seeker;
- (b) specify the Facilities or Services in respect of which access is sought;
- (c) indicate whether the Access Seeker wishes to negotiate amendment to VCTEL's RAO, or negotiate an Access Agreement on alternative terms;
- (d) contain the information (if any) Access Seeker reasonably requires VCTEL 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 VCTEL;
- (f) preliminary information regarding the scale and scope of Facilities and/or Services that the Access Seeker expects to acquire from VCTEL pursuant to the Access Request;
- (g) relevant technical; information relating to the interface standards of the Equipment of the Access Seeker;
- (h) provide the relevant information relating to the Access Seeker's Network and the functionality of its services, to the extent that the Access Seeker is aware that such information may affect VCTEL's Network;
- (i) contains Creditworthiness Information;
- (j) asses security (or, if applicable, confirmation of security provided) in accordance with the Security Requirements;
- (k) contains Insurance Information;
- (l) such other information that VCTEL may reasonably request for the sole purpose of providing access to the requested Facilities and/or Services.

3.2 Creditworthiness Information

3.2.1 VCTEL may request creditworthiness information from an Access Seeker in the following circumstances:

- (a) if VCTEL reasonably believes that the Access Seeker may not be able to meet any liabilities that may arise under an Access Agreement with the Access Seeker; and

- (b) 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.

3.2.2 The Creditworthiness Information that is required to accompany an Access Request include but shall not be limited to:

- (a) a copy of the Access Seeker's most recently published audited balance sheet and audited profit and loss statement; and
- (b) such other information as may be reasonably requested by VCTEL provided that such information are information which are publicly available.

3.3 Security Requirements

VCTEL may impose security requirements on an Access Seeker if VCTEL, determines that the Access Seeker presents a credit risk and that imposing the security requirement will materially reduce or remove that risk.

The security requirements shall be subject to VCTEL's security policy and is commensurate with:

- (a) an estimate of total charges for the Facilities and/or Services for the minimum period of access; or
- (b) for Facilities and/or Services without a minimum period of access, a single Billing Period for those Facilities and/or Services; or
- (c) The creditworthiness of the Access Seeker (including prior record of payment by the Access Seeker); or
- (d) Security previously reasonable required by VCTEL.

3.4 Insurance Requirements

An Access Request shall be accompanied by the following insurances:

- (a) worker's compensation and/or social security insurance and/or employer's liability insurance and/or other insurance with statutory limits as required by the laws of Malaysia to provide for payment to its employees employed or in connection with the work covered by the Access Agreement that may be entered into; and
- (b) comprehensive general liability Insurance of an amount which is not in excess of Ringgit Malaysia Twenty Million (RM20,000,000) for any one claim or series of claims arising out of an accident or occurrence in connection with the Access Agreement that may be entered into.

3.5 Intellectual Property

An Operator shall only use such Intellectual Property and information provided by another Operator for the purpose 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 communication services or Equipment by that Operator.

3.6 Processing of Access Request

VCTEL shall within ten (10) Business Days of receipt of the Access Request inform the Access Seeker in writing that it has received the Access Request and stating that:

- (a) if the Access Seeker accepts the terms and conditions of this RAO, VCTEL is willing to provide access to Facilities or Services in accordance with VCTEL's RAO; or

- (b) VCTEL is willing to proceed to negotiate the terms and conditions of the RAO or the Access Agreement on alternative terms; or
- (c) VCTEL refuses the Access request; or
- (d) VCTEL requests additional information from the Access Seeker prior to considering the Access Request. Within ten (10) Business days from the date of request, VCTEL shall reconsider the Access Request upon receipt of such additional information.

VCTEL shall provide a copy of its response to the Commission at the same time that it provides the response to the Access Seeker.

3.7. Acceptance Response

If VCTEL responds that access will be provided, VCTEL must within ten (10) Business Days of such response, provide two (2) copies of the RAO to the Access Seeker and one (1) copy confidentiality agreement returned by the Access Seeker.

3.8. Negotiation Response

VCTEL must set out in its response to the Access Seeker;

- (a) A place, date and time, not later than fifteen (15) Business Days from the date of VCTEL's response, when VCTEL'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;
- (b) One (1) copy of executed confidentiality agreement returned by the Access Seeker that has been properly executed by VCTEL.

3.9. Grounds of Refusal

Without limiting any other grounds that may be relied upon under the Act, VCTEL may refuse to accept an Access Request for the supply of a Facility or Service

and accordingly may refuse to supply that Facility or Service to the Access Seeker for any of the following reasons:

- (a) VCTEL 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 VCTEL for the supply of access to such Facilities or Services;
- (b) the Access Seeker has not provided all of the information required to be provided;
- (c) it is not technically feasible to provide access to the requested Facilities and/or Services;
- (d) VCTEL has insufficient capacity or space to provide the requested Facilities or Services;
- (e) there are reasonable grounds in VCTEL's opinion to believe that the Access Seeker may fail to make timely payment for the supply of the relevant Facility and/or Service and such concern cannot be address through a security requirement;
- (f) there are reasonable grounds in VCTEL'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;
or
- (g) there are reasonable grounds for VCTEL to refuse access in the national interest.'

3.10. Notification of Rejection to the Access Seeker

Where VCTEL rejects the Access Request, VCTEL 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 the grounds of refusal under **section 3.9** to the Access Seeker;
- (c) provide the basis for VCTEL's rejection of the Access Request with sufficient particulars for Access Seeker to make its own assessment about the applicability of the specified grounds of refusal; 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 VCTEL 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 VCTEL to substantiate its reasons for refusal, and if access has been refused on the basis of the grounds in:
 - (i) **section 3.9(b)**, VCTEL shall reassess the Access Seeker's original Access Request considering any supplementary information provided by the Access Seeker;
 - (ii) **section 3.9(d)**, VCTEL shall identify when additional capacity is likely to be available; and
 - (iii) **Subsection 3.9(e)**, VCTEL shall identify the form of security which would address its concern.

Where the Operators are unable to resolve their differences following the meeting held pursuant to **section 3.10.1(d)**, either Operator may request resolution of the dispute in accordance with Dispute Resolution Procedure in **Annexure A**.

4. NEGOTIATION OBLIGATIONS

4.1 The following negotiation process and timelines shall be applicable to negotiations between an Access Seeker and VCTEL in respect of an Access Agreement.

4.2 All negotiations shall be conducted by the Access Seeker in good faith. An Operator shall co-operate, in good faith and in a commercially reasonable manner, in negotiating and implementing the terms of its Access Agreements. This includes:

- (a) acting promptly, honestly, and not perversely, capriciously or irrationally;
- (b) 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 VCTEL provides to itself); and
- (c) avoiding unnecessary disputes and resolving disputes promptly and fairly.

4.3 Commencement of Negotiation

4.3.1 If an Access Seeker wishes to negotiate an Access Agreement with VCTEL, both parties shall notify the Commission when the negotiations for the Access Agreement begin.

4.3.2 Both parties shall use their best endeavors to conclude the Access Agreement within:

- (a) where there is no Access Agreement in place between the Operators, four (4) months; or
- (b) 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 is received by VCTEL and VCTEL's response confirming it is willing to proceed to negotiate;
- (c) If negotiations are not completed within the applicable timeframe:

- (i) the Parties may jointly apply to the Commission for an extension of time to negotiate and if the extension of time is not granted by the Commission, there shall be deemed to be a dispute between the Parties and the dispute resolution procedures under the MSA Determination shall take effect; or
- (ii) either Party may initiate the dispute resolution procedures; and
- (d) If the Commission grants an extension of time, it may do so subject to such conditions as it specifies (such as an ongoing requirement to provide updates on negotiations at specified intervals and the right to reduce or extend any extension).

4.4 Initial Meeting

The designated representatives of VCTEL and Access Seeker shall meet on the date and time at the venue specified by VCTEL, and shall:

- (a) agree a timetable for the negotiations, including milestones and dates for subsequent meetings;
- (b) agree the negotiating procedures, including:
 - (i) the calling and chairing meetings;
 - (ii) the party responsible for keeping minutes of meetings;
 - (iii) clearly defined pathways and timetables for escalation and resolution by each party of matters not agreed in meetings;
 - (iv) procedures for consulting and including in the negotiating process relevant experts from the staff of each of the parties; and
 - (v) procedures for preparing and exchanging position papers;
- (c) review the information requested and provided to date and identify information yet to be provided by each Party; and
- (d) identify what technical investigations, if any, need to be made and by whom such investigations should be made.

4.5 Technical Infeasibility

VCTEL shall not refuse an Access Request on the grounds of technical infeasibility unless VCTEL establishes substantial technical or operational concerns preventing the fulfillment of the Access request such;

- (a) economic, accounting, billing, space or site concerns shall be disregarded by VCTEL except that space or site concerns may be taken into account in circumstances where there is no possibility of expanding the space available on the relevant site;
- (b) any requirement for VCTEL to modify its facilities or Equipment in order to meet the Access Request
- (c) if VCTEL asserts that meeting the Access Request would have an adverse impact on network reliability, VCTEL must provide evidence;
- (d) VCTEL must be able to demonstrate it has considered and found not to be technically feasible improvements that would allow VCTEL to meet Access Request.

4.6 Capacity Constraints

VCTEL may only refuse an Access Request if VCTEL has insufficient capacity or space where VCTEL notifies the Commission in writing incapability to meet the Access request because the requisite capacity is;

- (a) carrying traffic to full capacity or near full capacity; or
- (b) reserved for future use by VCTEL or another Access Seeker, which shall commence not later than six (6) months from the date of Access Request. If the reserved capacity is not subsequently used by the receiving party within seven (7) months from the date of Access Request, VCTEL must promptly inform the Access Seeker.
- (c) VCTEL is unable to expand capacity to meet the requirements in the Access Seeker's Access Request.

4.7 Deemed Access Providers

Access Seeker ("Deemed Access Provider") obtains physical colocation at a POI or network facility from VCTEL ("Principal Access Provider"). Within two (2) Business Days of reaching co-location agreement with an Access Seeker, the Deemed Access Provider must notify the Principal Access Provider of the existence agreement and shall be responsible for all acts and omissions of any Access Seekers in connection with providing access to Facilities/Services under the co-location agreement.

5. OBLIGATIONS FOR PROVISION OF INFORMATION

5.1 The obligations of each Operator to provide information to the other Operator are subject to the MSA Determination and the requirements of confidentiality imposed by VCTEL's RAO.

5.2 An Operator must provide the other Operator on a timely basis with all agreed information reasonably required to determine rates and charges to be billed by each Operator to the other Operator or by each Operator to its Customers.

5.3 To the extent permitted by Malaysian law and any relevant guidelines or customer service standards in force pursuant to the Operator's respective License conditions, the Operators will exchange information and otherwise cooperate in relation to the prevention and investigation of fraudulent use or misuse of the Operator's respective Communications Services and the theft of the Operator's provided terminal equipment.

5.4 Information provided under VCTEL's RAO may only be used for the purpose for which it was given. Personal information about a Customer's credit worthiness, credit standing, and credit history or credit capacity may only be used for the purposes permitted by, and in compliance with, Malaysian law.

5.5 If the information is used by an Operator for any purpose other than the purpose for which it was given, the providing Operator may deny the recipient Operator

further access to the information for the period during which the non-observance or non-conforming use continues on notice specifying the non-observance or non-conforming use. The Operators will cooperate to resolve the providing Operator's reasonable concerns so that information exchange can be resumed as soon as possible.

- 5.6 The Operators acknowledge that when information (including for the purpose of this clause any updated information) required to be provided under this Chapter is held on a database, the Operator entitled to receive the information will not be entitled to obtain direct access to the database. The precise method by which information is to be made available will be determined by regard to the reasonable cost, convenience and security concerns of the Operators.
- 5.7 Subject to the Act and any subordinate legislation, nothing in this RAO may be construed as requiring an Operator at any time to disclose to the other Operator information which is at the date when VCTEL's RAO comes into force, the subject of a confidentiality obligation owed to a third person unless the third person consents to such disclosure. Where the consent of a third person is required, the Operator holding the information must use its reasonable endeavors to obtain the consent of that third person.
- 5.8 After the Access Agreement comes into force an Operator must use its best endeavors not to enter into any contract, which would prevent it from making information available to the other Operator unless the contract includes a term, which permits the contracting Operator to make the information available if directed to do so by the Commission.

6. FORECASTING OBLIGATIONS

- 6.1 The Access Seeker may request preliminary information from VCTEL on the availability and capacity of VCTEL's Facilities and/or Services to provide Forecasts.

- 6.2 If it will incur significant cost to ensure the Forecast access can be provided, VCTEL may request Access Seeker to confirm the relevant Forecast. Once, confirmed, Forecast is deemed to be an Order.
- 6.3 VCTEL and Access Seeker may agree to an alternative forecasting and ordering procedure as will be bound by the terms of that alternative procedure.
- 6.4 VCTEL shall not require an Access Seeker to provide Forecast that are legally binding on the Access Seeker except to the extent that VCTEL is permitted to recover costs and expenses for Forecasting.
- 6.5 VCTEL may request an Access Seeker to provide with sufficient level of detail to enable carry out network planning and provisioning such;
- (a) facilities and/or Services which Forecasts are required;
 - (b) total period of time covered by each Forecast, which period;
 - I. shall be determined having regard to VCTEL's planning and provisioning cycles and the forecasting requirements which apply to the Access Seeker's own business units;
 - II. shall be the shorter period set out in the relevant Service Specific Obligations and period of Forecasting which VCTEL provides.
 - (c) the intervals or units of time to be used in making Forecast, which shorter period in relevant Service Specific Obligations and intervals of time which Access Provider provides forecasting to itself;
 - (d) network area or operational area to which Forecast shall relate, correspond to which VCTEL uses for its own network planning and provisioning;

- (e) the frequency which Forecast must be updated or a further Forecast made shall be shorter of period and length of time after which VCTEL provides itself;
 - (f) such other information that VCTEL reasonable requires in order to provide access to Facilities and/or Services requested by the Access Seeker.
- 6.6 VCTEL may only require an Access Seeker to provide Forecasts no sooner than four (4) weeks after receipt of a Forecast Request.
- 6.7 VCTEL must notify the Access Seeker within five (5) Business Days of receiving a Forecast. If VCTEL considers Forecast does not comply, VCTEL require information from Access Seeker to provide not sooner than four (4) weeks after such notice.
- 6.8 VCTEL may reject a Forecast following provisional acceptance where reasonably believes Forecast is inaccurate or insufficient capacity having regard to;
- (a) total current usage of Facilities/Services by VCTEL and all Access Seekers;
 - (b) current growth rate of Access Seeker's usage of the Facilities/Services;
 - (c) current growth rate of total usage of Facilities/Services by VCTEL and all Access Seekers.
- 6.9 VCTEL must give notice of any Acceptance or Rejection Notice of a Forecast to Access Seeker;
- (a) within fifteen (15) Business Days of receipt of Forecast;
 - (b) such Rejection Notice (if any) must specify;
 - i. the grounds on which VCTEL rejects the Forecast at a sufficient level of detail to enable Access Seeker understand the basis of rejection and undertake its own assessment; and

- ii. an offer to meet within five (5) Business Days of Rejection Notice of the Forecast to discuss reasons for rejection and alternative methods of compliance.

- 6.10 VCTEL must allow an Access Seeker to reconsider its Forecast following by a Rejection Notice within twenty-one (21) Business Days of receipt of Rejection Notice, either;
 - (a) to confirm its rejected Forecast and Access Seeker explain reasons, thus VCTEL is obliged to accept, or
 - (b) to submit a new Forecast which Access Seeker regards as meeting VCTEL's concerns.

- 6.11 VCTEL shall reconsider any re-submitted or amended Forecast.

- 6.12 VCTEL shall not seek to recover any costs or expenses incurred due to its acceptance of a Forecast from an Access Seeker if Forecast is not met by the Access Seeker unless;
 - (a) such costs and expenses were reasonably and necessarily incurred by VCTEL;
 - (b) VCTEL reasonably seeks to mitigate its loss provided VCTEL shall not be required to do so for any greater period than the relevant Forecast period; and
 - (c) VCTEL only recovers from the Access Seeker seventy-five percent (75%) of such costs and expenses which could not be mitigated.

- 6.13 VCTEL must carry out network planning in order to enable Forecast to be met, if Forecast has been confirmed, thus it will be binding on the Access Seeker.

7. ORDER AND PROVISIONING PROCEDURES

7.1 Where relevant, the ordering and provisioning procedures and obligations set out in Section 5.7 of the MSA shall be applicable.

7.2 Orders for access to Facilities and/or Services are to be delivered to the senior personnel of the VCTEL and the VCTEL shall notify the Access Seeker in writing from time to time of any change to the designated persons.

- (a) a person to whom Orders for access to Facilities and/or Services are to be delivered;
- (b) a contact point to which Orders for access to Facilities and/or Services are to be delivered (such email address); and
- (c) a mechanism where Orders for access to Facilities and/or Services can be made (such web portal), provided that if such a mechanism is the only method.

7.3 Prior to access being provided, VCTEL may require an Access Seeker to provide it with an Order which outlines the Access Seeker's access requirements. VCTEL may request an Access Seeker to provide, at a level of detail (sufficient for planning provisioning), the following in an Order for access to Facilities and/or Services:

- (a) the Facilities or Services or both to which access is requested;
- (b) a requested time for delivery;
- (c) Equipment of the Access Seeker to be used in connection with the Order;
- (d) the detailed address of the location of the points of delivery and the location maps, if necessary;
- (e) the configuration of the requested Facilities and/or Services;
- (f) contact person and telephone number;

- (j) such other information that the VCTEL reasonably requires in order for it to plan for the provision of access to the Services or Facilities as requested by the Access Seeker.
- 7.4 When the Order is placed, the Access Seeker must give the VCTEL a priority list, allowing for progressive delivery and setting out its preferred order of delivery.
- 7.5 Ordering information provided by the Access Seeker shall be treated by VCTEL as the Confidential Information of the Access Seeker and shall only be used by those persons within the VCTEL whose role is within:
 - (a) the VCTEL 's wholesale; and
 - (b) that part of the Network engineering group of the VCTEL;for the purpose of responding to and provisioning for the Order.
- 7.6 VCTEL shall give the same priority to the handling of Orders from the Access Seeker and any Service Qualifications that may be required for that Access Seeker as it gives to its own orders and Service Qualifications and any orders and Service Qualifications that may be required for Customers who are similarly situated to the Access Seeker in all relevant respects.
- 7.7 VCTEL shall acknowledge receipt of the Order, in writing (or any other material or electronic form agreed by the parties), within the period specified for the Facilities and/or Services under **Part 3** of VCTEL's RAO.
- 7.8 VCTEL shall include in its Notice of Receipt the following information:
 - (a) the time and date of receipt;
 - (b) a list of any additional information reasonably required by VCTEL from the Access Seeker to provision the Order;
 - (c) if the relevant Facilities and/or Services are below the capacity required to provide the relevant Facilities and/or Services, VCTEL shall inform the Access Seeker of the available capacity and timeframe for the fulfillment of the Order;

- (d) if VCTEL needs to perform post-Order Service Qualification because information is not readily available. VCTEL shall provide the reasons for needing to undertake the Service Qualification. VCTEL shall comply to the Service Qualification procedures stipulated; and
 - (e) the position of the Order in VCTEL queue.

- 7.9 The Access Seeker has a period of up to ten (10) Business Days after a request for additional information to provide VCTEL with such additional reasonable Information that is reasonably necessary to clarify an Order. If the Access Seeker fails to provide the additional information required, the Order shall be deemed cancelled or withdrawn unless otherwise agreed in writing by VCTEL.

- 7.10 VCTEL shall use its reasonable efforts to accept and fulfil Orders from the Access Seeker which comply with the Forecast requirement for the Facilities and/or Service under **Part 3** of VCTEL's RAO.

- 7.11 VCTEL shall notify the Access Seeker that an Order is accepted or rejected, within:
 - (a) the timeframe specified for the Facilities and/or Services under **Part 3** of VCTEL's RAO; or
 - (b) the timeframe within which it accepts or rejects equivalent Orders for itself whichever is shorter.

- 7.12 If VCTEL notifies the Access Seeker that an Order is rejected, VCTEL shall advise the Access Seeker if it would be able to accept the Order in a modified form.

- 7.13 VCTEL's Notice of Acceptance to the Access Seeker must contain the following information:
 - (a) the delivery date, which must be the date that is requested by the Access Seeker or if that date cannot be met, such other date which must be no later than the indicative delivery timeframes specified for the Facilities and/or Services under Part 3 of VCTEL's RAO;

- (b) the charges applicable to the fulfillment of the Order;
- (c) such information as is reasonably necessary for the Access Seeker to benefit from access to the Facilities and/or Services; and
- (d) the validity period of the acceptance of the Order which shall be no less than ninety (90) days from the date of Notice of Acceptance; and
- (e) the date when civil works (if any) are intended to commence.

7.14 Delivery Dates, Early Delivery Dates and Delayed Delivery Dates

- (a) VCTEL shall deliver the Order for the Facilities/Services by the delivery date or activation date as specified in the Notice of Acceptance.
- (b) If VCTEL is able to offer a delivery date earlier than the delivery date, it must advise the Access Seeker and if requested by the Access Seeker deliver access to the relevant Facilities/Services at the earlier delivery date.
- (c) If VCTEL specifies a delivery date other than the date requested by the Access Seeker, the Access Seeker may prior to the confirmation of the Order discuss with VCTEL on a delivery date other than the one proposed by VCTEL. The delivery date mutually agreed by the Operators shall be stipulated in the confirmed Order.
- (d) Where a delay is caused by VCTEL, VCTEL shall notify the Access Seeker of the delayed to the delivery date with justification as soon as practicable after aware of the possible delay.

- (e) VCTEL shall permit the Access Seeker to cancel the Order without any penalty if the delay is longer than equivalent time period for delivery of the Facility/Service.
- (f) The delivery date shall be extended for further period as reasonably necessary, VCTEL shall promptly notify the Access Seeker of revised delivery date.
- (g) Where a delay in the delivery of an Order is caused by the Access Seeker or by any governmental authority or agency or third parties (not within the control of the Operators), the delivery date specified in the confirmed Order or indicative delivery time set out above shall be extended for a further period as may be reasonably required by the Access Provider.
- (h) Where an Order has been confirmed by the Access Seeker, the Access Seeker may request for a change in the delivery dates of the Facilities and/or Services Ordered subject to the Access Provider first agreeing in writing to the same.

7.15 Commencement Of Delivery Timeframes

The applicable delivery timeframe for an Order shall commence from:

- (a) Access Seeker's confirmation of an Order is required, the date the Access Seeker confirms the Order in accordance and;
- (b) in any other case, from the start of the Validity Period.

7.16 Access Seeker Confirmation

The Access Seeker's confirmation of an Order is not required if VCTEL accepts the Order without change;

Where the Access Seeker's confirmation of Order is required; VCTEL shall permit the Access Seeker to provide its confirmation within the Validity Period and shall not provision the Order until the confirmation is received.

7.17 Estimated Charges

If the notice of acceptance provided VCTEL contains estimates of charges (e.g. based on time and materials) for a specific scope of work:

- (a) VCTEL shall not exceed the estimate without providing the Access Seeker with written notice prior to exceeding the estimate that:
 - (i) the estimate will likely be exceeded;
 - (ii) an explanation of the reasons for exceeding the estimate; and
 - (iii) a further estimate of the charges for the work necessary to fulfil the Order

- (b) the Access Seeker may withdraw the Order without penalty if the revised estimate exceeds the original estimate by more than ten percent (10%) of the original estimate within ten (10) Business Days of the notice given by VCTEL. If the Access Seeker fails notify VCTEL of its acceptance or withdrawal of the Order within the said time period, the Access Seeker is deemed to have rejected the revised estimated charges.

The actual cost incurred by the Access Provider exceeds an estimate or revised estimate for a specific scope of work provided by VCTEL due to information or facts which are inaccurate or erroneous or which were not disclosed or provided by the Access Seeker or due to a change in the scope of work by the Access Seeker, the Access Seeker shall be obliged to pay VCTEL for the actual cost incurred.

The Access Provider shall not be obliged to commence work until the Access Seeker has confirmed in writing that the Access Seeker is agreeable to the estimate or revised estimate for a specific scope of work provided by the Access Provider.

7.18 VCTEL's notice of rejection of an Order must;

- (a) the grounds on which VCTEL rejects the Forecast at a sufficient level of detail to enable Access Seeker understand the basis of rejection and undertake its own assessment; and
- (b) an offer to meet within five (5) Business Days of Rejection Notice of the Forecast to discuss reasons for rejection and alternative methods of compliance.

7.19 VCTEL may only reject an Order from an Access Seeker where;

- (a) It is not technically feasible to provide access to the Facilities/Services requested by the Access Seeker;
- (b) VCTEL has insufficient capacity to provide the requested Facilities/Services;
- (c) the Order is in excess of the agreed Forecast levels;
- (d) the Order or variation request duplicates an Order awaiting fulfillment;
- (e) the Access Seeker has not obtained the necessary related agreements from VCTEL;
- (f) there are reasonable grounds to believe that the Access Seeker would fail to a material extent, to comply with the terms and conditions of the Access Agreement and such concern cannot be addressed to VCTEL's satisfaction; or
- (f) there are reasonable grounds to believe that the Access Seeker would fail, in connection with the supply of the Facilities/Services to protect the

integrity of a Network, or safety of individuals working on, or using services supplied by means of a Network or Equipment and such concern cannot be addressed to VCTEL's satisfaction.

7.20 Order in excess of Forecast

- (a) VCTEL will use its reasonable efforts to provide sufficient capacity to enable VCTEL to accept and fulfill Orders from an Access Seeker for Facility/Services, which are in excess of the relevant Forecast.
- (b) VCTEL shall allocate the available capacity on a non-discriminatory basis to meet the over Forecast requirements of all Access Seekers and itself.
- (c) VCTEL is not required to supply Facilities/Services in excess of the Forecast despite adopting any reasonable improvements, as this would cause a material degradation in quality of Facilities/Services provided to all Access Seekers and/or VCTEL.

7.21 Required Extra Capacity

- (a) VCTEL may require an Access Seeker to procure additional capacity on the Access Seeker's side of the Network to the extent that VCTEL in good faith and reasonably, estimates that the Operators may require additional capacity to meet demand and a failure by the Access Seeker that additional capacity may cause an adverse impact on the operation of VCTEL's network, where the demand exceeds the capacity on the Access Seeker's Network.
- (b) VCTEL will notify the Access Seeker in writing and the Access Seeker and VCTEL must meet no later than five (5) Business Days after receipt of notice to attempt identify alternative sources of capacity. If the matter cannot be resolved within ten (10) Business Days of the meeting, VCTEL may bar or block traffic to the Access Seeker's Network to the extend necessary to minimize congestion within VCTEL's network.

7.22 Other Uses

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

7.23 Cancellation and variation of Orders

VCTEL shall allow an Access Seeker to cancel or vary an Order at any time.

7.24 Cancellation or variation penalty

To be at no penalty when;

- (a) VCTEL may impose a charge for the cancellation or variation of the Order;
- (b) the charge which the Access Seeker is required to pay shall not exceed the lesser of the following amounts;
 - i. sum of costs necessarily incurred by VCTEL which is directly attributable to the cancellation or variation, or
 - ii. an amount equal to the sum of charge that would have been payable by the Access Seeker in the six (6) months immediately following cancellation or variation had the Order not been cancelled or varied and reduced to the extent that those cost have been mitigated or would have been mitigated where VCTEL shall at its best endeavors to do so.

7.25 Testing and Provisioning

VCTEL shall co-operate with the Access Seeker in relation to the testing and provisioning on an equivalent basis of ordered Facilities/Services and treat an Access Seeker's testing and provisioning for itself.

7.26 Non-refundable Resource Charge

- (a) VCTEL may charge an Access Seeker a one-off non-refundable resources charge (including processing fees and additional and non-routine processing fees) to be determined by reference to the costs incurred by VCTEL for the allocation of manpower and other resources to enable the Access Seeker to test and provide new Facilities and/or Services.
- (b) The one-off non-refundable resource charge shall also be inclusive of a Non-Refundable Processing Fee for undertaking the necessary administrative work to process the Access Request as VCTEL is required to allocate manpower and resources for the same.
- (c) Such Non-Refundable Processing Fee is only applicable to requested Facilities and/or Services that can be offered and made available by VCTEL.
- (d) Notwithstanding the foregoing, in the event that additional and non-routine administrative work is required to process the Access Request where there is insufficient and/or erroneous information provided by the Access Seeker or where the Access Seeker varies or changes the information provided, VCTEL shall be entitled to charge additional and non-routine processing fee for undertaking such additional and non-routine work as additional resources are required to do the same.
- (e) If the Access Seeker does not proceed with the Access Request accepted by VCTEL, the processing fees will not be refunded to the Access Seeker. However, if the Access Seeker proceeds with the Access Request accepted by VCTEL, processing fee only will be set-off against the Charges for the requested Facilities and/or Services upon acceptance.

No.	Interface Type	One-Off Non-Refundable Charge (RM)
1	FE	8,000.00
2	GE	10,000.00
3	10GE	15,000.00

7.27 Queuing Policy

VCTEL shall establish and maintain a queuing policy for each Facility/Service which;

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

7.28 Acceptance on Queue

VCTEL shall promptly notify Access Seeker at the time of providing an acknowledgement of receipt of the Order Receipt.

7.29 Constrained capacity

If VCTEL reasonably believes that the capacity in Facilities/Services required by;

- (a) the Access Seeker pursuant to the relevant Forecast and/or Order;
- (b) other Access Seekers pursuant to their relevant Forecast and/or Orders;
- (c) VCTEL for the purpose of its own divisions, subsidiaries, partners or other entities which has a direct or indirect equity, contractual or other interest would exceed the capacity which VCTEL will be in a position to be able to provide;
- (d) notify all Access Seekers to whom relevant capacity is supplied; and

- (e) allocate the available capacity between itself, the Access Seeker and other Access Seekers in accordance with VCTEL's Capacity Allocation Policy.

7.30 Capacity Allocation Policy

If VCTEL has insufficient capacity to meet an Access Seeker's Forecasts or Order, VCTEL shall;

- (a) be disclosed, free of charge, to each Access Seeker upon entry into an Access Agreement, the Commission upon Effective Date to both Access Seekers with whom VCTEL has an Access Agreement and Commission each time it is amended and any other Operator on request;
- (b) set out the principles and determine how to allocate capacity between its own divisions, subsidiaries, partners or other entities where the amount of capacity available is less than the aggregate capacity required;
- (c) be fair and reasonable, be consistent, treat the requirements of all Access Seekers on an equivalent basis to the requirements of VCTEL divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest.
- (d) allocate the available capacity in the relevant Facilities/Services in proportion to each Operator's Forecast/Order requirements.
- (e) set out VCTEL's plans to expand the capacity over time (if any) which information provided to Access Seekers on a non-discriminatory basis in terms of its content and frequency of updates.

7.31 Late delivery

7.31.1 If VCTEL fails to meet the delivery date or any extended delivery date notified to the Access Seeker, except where such failure has been caused solely by the Access Seeker's delay or a lack of authorization by a third party, VCTEL shall without limitation to any other rights the Access Seeker may provide a rebate to the affected Access Seeker.

7.31.2 The rebate shall be an amount equivalent to the recurring charges payable for access to the Facilities/Services for the delayed period.

7.31.3 If VCTEL alleges that a failure has been caused solely by the Access Seeker's delay or lack of authorization by a third party, VCTEL shall have the burden of demonstrating allegation and minimize or avoid such failure.

8. POINT OF INTERFACE PROCEDURES

8.1 VCTEL has published on the website on the technically feasible points:

- (a) at which physical co-location is available;
- (b) in respect of which virtual co-location is available; and
- (c) in respect of which in-span interconnection is available on and from date of publication for the following twelve (12) months.

8.2 VCTEL shall ensure that network co-location at each POI is offered to the Access Seeker.

8.3 The list of POIs offered by VCTEL is set out in **Annexure B** of this RAO.

8.4 VCTEL shall reasonably consider a request by an Access Seeker to connect at a point other than that specified in **Annexure B**. VCTEL shall promptly accept or reject a request by the Access Seeker under this section, and provide the Access Seeker with reasons if it rejects the Access Seeker's request.

- 8.5 Each Operator is responsible for the provisioning and maintenance of network facilities (including those network facilities which form part of the connect links and the transmission equipment) on its side of the POI/POP.
- 8.6 VCTEL shall permit an Access Seeker to nominate a point of interface of a third Party for the purposes of access between VCTEL and the Access Seeker provided that the Access Seeker remains responsible for the costs of such access and for the third party's act and omissions at the point of interface.
- 8.7 VCTEL shall offer access and co-location at each other technically feasible point,
- 8.8 VCTEL shall not reserve space other than current needs for itself, future needs for itself and needs of other Access Seekers which currently occupying or ordered additional space.
- 8.9 VCTEL will re-arrangement any possible configuration of its Equipment to eliminate space inefficiencies.
- 8.10 Security And Critical National Information Infrastructure
- (a) VCTEL may decline to publish information in connection with particular Points of Interface and other locations where Facilities are located, for national or operational security reasons, but in such circumstances, VCTEL shall:
- i. promptly provide such information to other Operators in request subject only to the Operators entering into a confidentiality agreement;
 - ii. offer to provide, and if the offer is accepted, provide, updated location details to such Operators as Points of Interface and Facilities are withdrawn, introduced and changed; and
 - iii. provide all such information to the Commission and, on a six (6) monthly basis, the locations at which VCTEL is offering to supply Network Co-Location Service, the locations at which Access Seekers have requested

Network Co-Location Service and the locations at which VCTEL is actively supplying Network Co-Location Service.

- (b) VCTEL may establish reasonable security procedures and processes (such as identity checks) to apply to personnel of Access Seekers who will physically access Points of Interface or other locations where Facilities are located. However, such procedures and processes shall:
 - i. not completely or substantially prohibit an Access Seeker from physically accessing a Point of Interface or other relevant location unless VCTEL has been directed in writing to do so by the Government (in which case, VCTEL shall notify the Commission); and
 - ii. be no more restrictive or onerous than the procedures and processes that VCTEL imposes on its own personnel who physically access the same Points of Interface and locations.

9. DECOMMISSIONING OBLIGATIONS

- 9.1 Where relevant, the decommissioning obligations set out in section 5.9 of the MSA Determination shall be applicable.
- 9.2 Either VCTEL or the Access Seeker may request for the decommissioning of a POI/POP.
- 9.3 Where the Access Provider request for the decommissioning of a POI/POP, the Access Provider must provide no less than:
 - (a) one (1) year's notice in writing to all relevant Access Seekers prior to the decommissioning of a POI/POP; or
 - (b) six (6) months' notice in writing to all relevant Access Seekers prior to the decommissioning of any other Facilities and/or Services,

except where VCTEL is required to vacate the site where a POI/POP is located (as a result of a third Party landlord's notice under an arm's length tenancy agreement or the expiry of the term of existing tenancy agreements, which residual period is shorter than the time period specified above, or as a result of a notice to vacate the site where the POI and/or POP is located to VCTEL from the relevant governmental authorities). In such an event, VCTEL shall, as soon as practicable, inform the Access Seeker of the same.

9.4 The Operators must co-operate and negotiate in relation to the timetable for decommissioning of the relevant POI/POP, Facilities or Services.

9.5 The Operator which notifies the other Operator of its intention:

(a) to decommission a POI/POP, shall provide to the other Operator functionally equivalent to another POI/POP on terms and conditions and at a recurring charge which are not disadvantageous to the other Operator, relative to the terms and conditions and recurring charge applying in respect of the POI/POP that is proposed to be decommissioned, for a period that is not less than three (3) years from the date of decommissioning; or

(b) to decommission another network facilities or network services, shall provide to the other Operator access to an alternative network facilities or network services on terms and conditions and at a recurring charge which are not disadvantageous to the other Operator, relative to the terms and conditions and recurring charge applying in respect of the network facilities or network services that is proposed to be decommissioned, for a period that is not less than three (3) years from the date of decommission.

9.6 Decommissioned POI/POP Compensation

9.6.1 The Operator seeking to decommission a POI/POP shall pay the other Operator reasonable costs necessarily incurred in:

- (a) decommissioning any links to the POI/POP that is proposed to be decommissioned that are rendered or will be redundant by the proposed decommissioning;
- (b) installing or otherwise procuring links between the POI/POP that is proposed to be decommissioned and the substitute POI/POP to be provided; and
- (c) the carriage of traffic between the POI/POP that is proposed to be decommissioned and the substitute POI/POP to be provided for a period that is not less than three (3) years from the date of decommissioning,

9.6.2 Except where decommissioning of the POI/POP are due to reasons attributable to the other Operator, Force Majeure or the landlord (other than termination of the tenancy by the landlord due to the breach of the tenancy agreement by that Operator), the Operator seeking to decommission a POI/POP shall pay the other Operator's reasonable costs, necessarily incurred in:

- (a) moving the other Operator's Equipment from the decommissioned network facilities to the alternative network facilities offered or
- (b) re-arranging Equipment to connect to the alternative network services offered.

10. TERM, SUSPENSION AND TERMINATION

10.1 An Operator shall unless otherwise required by the Access Seeker, enter into Access Agreements with a term of no less than three (3) years from the date of execution of the Access Agreement.

10.2 VCTEL shall only require the Access Seeker to acquire access to individual Facilities/Services under the Access Agreement for a minimum period of one (1) year for Transmission Services.

10.3 VCTEL may terminate an Access Agreement if;

- (a) the Access Seeker has materially breached the Access Agreement, thus VCTEL will notify no less than one (1) month if the Access Seeker has not remedied its breach by the end of that period;
- (b) the Access Seeker has become subject to a winding up order or cease to trade or becomes insolvent;
- (c) Force Majeure has continued for a period of more than three (3) months.

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

10.4 VCTEL and the Access Seeker must meet within five (5) Business Days of becoming aware of the relevant change in law to review.

10.5 VCTEL may suspend access to any Facilities/Services in the following circumstances;

- (a) Access Seeker's facilities materially and adversely affect the normal operation of VCTEL's network or threat to any person's safety;
- (b) Access Seeker's facilities or the supply of services pose an imminent threat to life or property of VCTEL, its employees or contractors;
- (c) Access Seeker's facilities cause material, physical or technical harm to any facilities of VCTEL/s or any other person;
- (d) Access Seeker has failed to pay invoice;
- (e) Access Seeker has failed to provide the new security amount as required;

- (f) Force Majeure applies;
- (g) Access Seeker breaches any laws, regulations, rules or standards.

10.6 The Commission may invite any affected Access Seeker to make submissions regarding termination, suspension or material variation. VCTEL shall;

- (a) only give effect to the proposed termination, suspension or material variation with the Commission's written consent and subject to any time delayed or conditions within ten (10) Business Days or reasonable period;
- (b) must not give effect to the proposed termination, suspension or material variation unless VCTEL has received written consent from the Commission;
- (c) take all steps practicable to minimize disruptions and inconvenience to the Customer including providing the Access Seeker with reasonable period to make alternative arrangements prior to suspension or termination of the Access Agreement.

10.7 If the parties to an Access Agreement adopt the terms and conditions specified in an access undertaking, the parties must notify the Commission within five (5) Business Days and will continue in force even the access undertaking is withdrawn or expires prior to the expiry term.

10.8 VCTEL shall not recover any additional charges, costs or expenses on termination or suspension of an Access Agreement except;

- (a) charges invoiced in arrears and not paid; or
- (b) charges arising during an applicable minimum contractual period provided that;

- i. such charges must be reduced to reflect any cost savings to the Access Provider from not having to supply the Facility/Services to the extent that have been terminated or suspended; and
- ii. VCTEL must use reasonable endeavors to mitigate its costs if termination or suspension and maximize cost savings.

10.9 On termination of an Access Agreement, VCTEL shall refund to the Access Seeker all amounts paid in advance (pro-rata basis) relate to the period after the date of effect of such termination.

10.10 VCTEL shall within two (2) months of termination of the Access Agreement refund to the Access Seeker any deposit paid provided all amount payable have been paid and immediately waive any rights under any guarantees provided by the Access Seeker except amount payable as at the date of termination.

10.11 An Access Agreement shall be reviewed if;

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

11. BILLING AND SETTLEMENT OBLIGATIONS

11.1 Where relevant, the billing and settlement obligations set out in section 5.11 of the MSA shall be applicable.

- 11.2 VCTEL will provide accurate and timely billing information to itself, other Operators and Customers with written request on aggregate summary of billings for access of the Facilities/Services provided to the Access Seeker in monthly trances but if there is any error in an invoice, Access Seeker will promptly be notified and VCTEL will made necessary adjustment within one (1) month notice.
- 11.3 Unless otherwise agreed in writing, VCTEL shall Invoice in writing or in electronic form (as requested by the Access Seeker) within one (1) month from the end of each Billing Cycle for amounts due in respect of the supply of Facilities and/or Services during the Billing Period.
- 11.4 VCTEL shall provide with each Invoice, such information as may be reasonably necessary for the Invoiced Operator to verify the rates and charges specified in the Invoice. In addition, the Invoiced Operator may request, in writing, for the billing report to be provided by the Invoicing Operator in an electronic format.
- 11.5 The Invoiced Operator must pay any amount due and owing to the Invoicing Operator on the Due Date unless otherwise agreed in writing by both Operators.
- 11.6 Methods of payment.

All payments:

- (a) must be paid by electronic transfer to the Invoicing Operator or by cheque to the nominated account(s) of VCTEL;
- (b) unless otherwise agreed by the Operators, shall not be subject to any set-offs except where the Invoiced Operator is in liquidation or at least three (3) invoices have been issued and such Invoices have not been paid.
- 11.7 VCTEL shall allow an Access Seeker to withhold payment of any disputed amount in good faith if the Access Seeker notifies VCTEL within fifteen (15) Business Days from date of receipt of Invoice of such dispute.

- 11.8 VCTEL shall allow an Access Seeker to dispute any amount of the invoice on the Facilities/Services if VCTEL is notified within thirty (30) Business days after the receipt of the invoice.
- 11.9 If any disputes, VCTEL may require an Access Seeker to provide following information:
- (a) reasons for invoice disputed;
 - (b) the amount in dispute;
 - (c) details of relevant invoice and charges in dispute:
 - i. the account number;
 - ii. invoice reference number;
 - iii. invoice date;
 - iv. invoice amount;
 - v. billing verification information; and
 - vi. evidence in form of report indicating relevant traffic data which in dispute.
- 11.10 VCTEL and Access Seeker are obliged to comply with Dispute Resolution Procedures as in **Annexure A**.
- 11.11 Unless otherwise agreed by VCTEL and Access Seeker in an Access Agreement, VCTEL may include omitted or miscalculated charges from an earlier Invoice in a later Invoice and such amendment or issuance within three (3) months from the end of the Billing Cycle.
- 11.12 If the Invoicing Operator is unable to submit an Invoice for actual charges for any network facilities and/or network services supplied in a Billing Period, then the Invoicing Operator may issue to the Invoiced Operator an Invoice for a provisional amount ("**Provisional Invoice**") based on the last Invoice (save and except for the first month commencing from the Effective Date) provided that the amount of the Provisional Amount is no more than the average of the most

recent three (3) Invoices. Where there have not been three (3) past Invoices for access to the Facilities and/or Services, the Invoicing Operator may issue a provisional Invoice up to the full value of the amount based on the most recent Invoice.

11.13 The Invoiced Operator shall pay the Provisional Amount by the Due Date. The Provisional Amount will be adjusted in the next invoice or as soon as practicable but not later than sixty (60) days after the month in which the charges were incurred or such other time period as may be agreed in writing ("**Adjustment Period**"). If an adjustment is not made within the Adjustment Period, the said Invoice issued by the Invoicing Operator shall be finalized based solely on the Invoiced Operators call data records / call records and such Invoice shall be treated as the actual invoice.

(a) If the actual amount for a particular Billing Period is higher than the Provisional Amount for the Billing Period, then the Invoiced Operator will pay in full such difference (free of interest) within thirty one (31) days from the receipt of the invoice to the Invoicing Operator.

(b) If the actual amount for a particular Billing Period is lower than the Provisional Amount for the same Billing Period, the Invoicing Operator will reimburse in full or issue a credit note for such difference free of interest within thirty one (31) days from the receipt of the invoice to the Invoiced Operator. Such payment must be forwarded to the Invoiced Operator together with the relevant monthly statement of the actual usage.

11.14 The Invoicing Operator may include omitted or miscalculated Charges from an Invoice at a later date provided that the Invoicing Operator is able to substantiate the Charges to the Invoiced Operator and:

(a) with respect to Charges of the Facilities/Services, the inclusion or amendment is made within:-

- (i) three (3) months of the end of the Billing Period in which the omitted or miscalculated Charges for Facilities/Services should have been included; or
 - (ii) three (3) months from the end of the Billing Period in which the Call Communication were made or other services provided, if there was no relevant original Invoice for Facilities/Services; and
- (b) with respect to any other Charges (other than Charges for Facilities/Services, the inclusion or amendment is made within three (3) months from the end of the Billing Period for the Facilities and Services provided.

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

11.15 For the avoidance of doubt, all taxes, duties or other imposts stated in any Invoice, shall be paid in full by the Invoiced Operator by the Due Date without any deductions or set-off save and except where the Invoiced Operator is able, before the Due Date, to adduce to the Invoicing Operator the official or certified true copy of the exemption issued by the relevant tax authority exempting the Invoiced Operator from paying the applicable taxes, duties or imposts stated in the Invoice. It shall be the duty of the Invoiced Operator to apply to the relevant tax authority for the said exemption to avoid double taxation of the same service rendered to its own end-user.

- (a) Where the Invoiced Operator is only able to adduce the official or certified true copy of the exemption issued by the relevant tax authority after the Due Date for the Invoice, the Invoicing Operator will provide to the Invoiced Operator a credit note equivalent to the amount of taxes,

duties or imposts which the Invoiced Operator is entitled for exemption
Provided Always that:

- (i) such exemption is submitted to the Invoicing Operator within six (6) months from the date the Facilities and/or Services are provided; and/or
 - (ii) the Invoicing Operator is first granted a refund from the relevant tax authority (where such taxes, duties or imposts have already been paid by the Invoicing Operator to the relevant tax authority).
- (b) The Invoicing Operator is not responsible or accountable for any refund of taxes, duties or imposts where:
- (i) the Invoiced Operator fails to provide to the Invoicing Operator the necessary exemption within six (6) months from the date the Facilities and/or Services are provided; and/or
 - (ii) where the relevant tax authority refuses, fails or neglects to grant a refund to the Invoicing Operator (for taxes, duties or imposts which have already been paid).

In such circumstances, the Invoiced Operator shall be responsible and liable for all taxes, duties or other imposts stated in any Invoice. Unless otherwise agreed all invoices shall be stated in Ringgit Malaysia and payment must be made in Ringgit Malaysia.

11.16 It is hereby expressly agreed that the Invoicing Operator is entitled to the payment of interest without prejudice to any other rights of the Invoicing Operator. Interest on due and unpaid amounts is payable (as well as before judgment and after judgment) at the rate of two percent (2%) per annum above Malayan Banking Berhad Base Lending Rate (BLR) calculated daily from the Due Date until the date of actual payment. Payments which are overdue by more than sixty (60) days will bear interest at the rate of three percent (3%) per annum above Malayan Banking Berhad BLR (as well before judgment and after

judgment) calculated from the Due Date until the date of receipt by the Invoicing Operator of full payment. Further, the BLR rate to be used shall be the published rate prevailing on the date of payment. VCTEL shall not charge interest on an amount, which is disputed by an Access Seeker in god faith.

11.17 Notwithstanding anything to the contrary, the Invoicing Operator shall be entitled to deduct or withhold such taxes, duties, levies or such other sums imposed by such governmental authorities ("**said taxes**") from any sum or sums due to the Invoiced Operator in the event the Invoicing Operator is required by law to pay the said taxes for and on behalf of the Invoicing Operator.

12. OPERATIONS AND MAINTENANCE

12.1 Each Operator shall be responsible for the operations and maintenance of its own facilities and services.

12.2 Each Operator shall establish and maintain a fault reporting service that allows Customers who are directly connected to the Network of that Operator and to whom that Operator supplies Facilities and/or Services (inter alia) to report faults relating to any Network, Facility and/or Service.

12.3 Each Operator will advise all of its directly connected Customers to report all faults to the fault reporting service.

12.4 An Operator shall:

(a) perform fault reporting and identification on a non-discriminatory basis;
and

(b) treat the faults reported by another Operator on an equivalent basis as it treats the faults reported by itself.

12.5 If a Customer reports a fault to an Operator:

(a) when the Customer is directly connected to another Operator; or

- (b) which clearly relates to a Network, Facility and/or Service of another Operator,

The Operator which receives the report shall promptly inform the other Operator of the reported fault, or refer that Customer to the other Operator's fault reporting service.

- 12.6 The Operator in whose Network the fault occurs is responsible for rectifying it and restoring services including for the purpose of restoring the supply of Facilities and/or Services (such as Transmission Service) which are used in another Operator's Network.
- 12.7 If a major fault occurs which affects communication that crosses or would cross both Operators' Networks, initial responsibility for identifying the fault rests with the Operator who first becomes aware of the fault.
- 12.8 If an Operator identifies a fault occurring in its Network or with its network facilities which may have an adverse effect on another Operator's Network, network facilities, network services or Equipment, the first-mentioned Operator must promptly inform the other Operator of:
- (a) the existence of the fault;
 - (b) the actions being taken by the first-mentioned Operator to rectify the identified faults and restore the service; and
 - (c) the outcome of those actions.
- 12.9 Each Operator is responsible for establishing and maintaining a fault reporting service at its own cost irrespective of the location of the fault.
- 12.10 Each Operator shall give priority to faults in the following order:
- i. the highest service loss impact in terms of the number of Customers affected;

- i. those which have been reported on previous occasions and have re-occurred; and
- i. all other faults.

12.11 Each Operator shall rectify faults on a non-discriminatory basis.

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

- (a) timeframes set out in a relevant Service Specific Obligation or, if there is no such timeframe, the response timeframes, progress update frequencies and rectification timeframes set out in the table below;
- (b) timeframes which will result in compliance by all affected Operators with any applicable mandatory standards that apply to service availability and restoration; and
- (c) timeframes equivalent to that which VCTEL provides to itself.

Priority Level	Fault Types (examples)	Response Timeframe	Progress Update Frequency	Rectification Timeframe
Level 1	1. Major switch outage 2. Transmission bearer total outage 3. Route blocking > 30% 4. Major signaling problem >50% per route basis 5. Major routing issues	Within 1 hour	Every 1 hour	4 hours
Level 2	1. Minor switch outage 2. Minor routing issue 3. Minor signaling	Within 4 hours	Every 4 hours	24 hours

Priority Level	Fault Types (examples)	Response Timeframe	Progress Update Frequency	Rectification Timeframe
	problems 4. Route blocking 10% - 30%			
Level 3	1. Faults affecting single or small number of Customers 2. Route blocking <10%	Within 24 hours	Every 24 hours	72 hours
Level 4	1. Remote Congestion 2. External Technical Irregularities (ETI) 3. Other performance related issues	Within 48 hours	Every 48 hours	10 Business Days

Explanatory Notes to section 12.12:

- (a) All faults reported shall be ascribed with a “**Priority Level**” as set out in the above table for response, progress update frequency and restoration purposes and the Operators involved shall cooperate with one another to achieve the given time targets based on the severity of the fault reported.
- (b) Some of the common “**Fault Types**” are listed as example in the above table.
- (c) “**Response Timeframe**” refers to the time for the Operator whose Network and/or Service is faulty to respond to and appropriately attend to the fault. Response Times are to be measured from either the time the fault is notified by the other Operator or from the time when the Operator first becomes aware of the Fault, whichever is the earlier.

- (d) “**Rectification Timeframe**” refers to the time taken by the Operator to restore a faulty service and is determined by the period between the reporting of a fault to the relevant fault reporting service of the Operator and the restoration of the faulty service.
- (e) “**Progress Update Frequency**” means the frequency at which the affected Operator may call the Operator responsible for restoring the fault to obtain a verbal progress update.
- (f) The average Restoration Time shall be measured each month as “**Mean Time to Restore**” or “**MTR**” and means the average Restoration Time it takes to restore a fault over a twelve (12) month rolling period.

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

12.13 Planned Maintenance

If an Operator (“**Maintenance Operator**”) intends to undertake planned maintenance which may affect an Access Seeker’s Network, the Maintenance Operator must:

- (a) provide at least ten (10) Business Days’ notice of the planned maintenance;
- (b) use its reasonable endeavors to minimize any disruption to the carriage of Communications which cross or are to cross both Operators’ Networks, and which are caused by the maintenance or re-routing;
- (c) where practicable and agreed by the Operators, provide alternative routing or carriage at no additional cost to the Access Seeker.

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

12.15 If an Operator (“**the Maintenance Operator**”) needs to undertake emergency maintenance which may affect the other Operator’s network, the Maintenance Operator must:

- (a) provide at least twenty-four (24) hours’ notice of the emergency maintenance;
- (b) use its reasonable endeavors to minimize any disruption to the carriage of Communications which cross or are to cross both Operator’s Networks, and which are caused by the maintenance or re-routing; and
- (c) where practicable and agreed by the Operators, provide alternative routing or carriage at no additional cost to the other Operator.

12.16 Both Operators shall maintain a twenty-four (24) hours a day, seven (7) days a week fault reporting centre to which all faults relevant to the proper functioning of the Facilities and/or Services and complaints are reported.

12.17 The Operators must report all access outages that relate to Facilities and/or Services to their respective fault reporting centre.

12.18 Service Level Availability (SLA)

The Service Level Availability commitment indicates the agreed periodic commitment in terms of monthly SLA to be computed for the purpose calculation of service credit claims entitlement.

VCTEL shall submit its service performance report by using VCTEL’s own data and reporting system. Such report shall contain the calculation of the actual monthly SLA mutually agreed and calculated in accordance with the following formula: -

$$\text{Service Availability } (x) = 100\% - \left\{ \frac{(UT)}{D \times 24 \text{ hour} \times 60 \text{ minutes}} \right\} \times 100$$

UT = Total unavailable time in minutes in particular month

D = Number of days in the particular month

In the event that the Access Seeker disputes VCTEL's record on the actual monthly SLA calculation, the CUSTOMER shall notify VCTEL within one (1) month from the date of receipt.

For this purpose, the Access Seeker shall provide VCTEL with the following information:

- (i) Access Seeker's matching Trouble Report (TR) number referring to the same incident;
- (ii) Network statistics and test reports that includes time and date of the disruption until time of restoration.

13. TECHNICAL OBLIGATIONS

13.1 Operators shall adhere to the relevant guidelines issued by the Commission from time to time to the extent that they have not been expressly revoked and are not inconsistent with any technical obligations set out in this Standard.

13.2 An Operator must take reasonable measures to ensure that access do not cause physical or technical harm to the other Operator's Network, which measures shall be no less robust than the measures, which the Operator takes in respect of new facilities, or Equipment incorporated into its own Network.

13.3 An Operator must not do anything, or knowingly permit any third person to do anything, in relation to Network, network facilities, network services or Equipment which:

- (a) causes interference; or
- (b) materially obstructs; interrupts or impedes the continuous use or operation of, the Network, network facilities, network services or Equipment of another Operator.

- 13.4 If an Operator notices ("**Notifying Operator**") another Operator that the other Operator's Network, network facilities, network services or Equipment is causing interference to the Notifying Operator's Network, network facilities, network services or Equipment:
- (a) the other Operator shall rectify the situation as soon as possible, and in any case, within twenty-four (24) hours of receiving notice from the Notifying Operator, so that no interference is caused; or
 - (b) If the other Operator shall not able to locate the source of the interference within twenty-four (24) hours under paragraph 7.5(a) above, the other Operator shall promptly notify the Notifying Operator, and both Operators shall meet as soon as possible, and in any case, within twenty-four (24) hours of such notice and jointly examine each other's Network, network facilities, network services or Equipment to locate the source of the interference.

PART 3 – SERVICE DESCRIPTION

1. INFRASTRUCTURE SHARING

- 1.1 Infrastructure Sharing is a Facility and/or Service which comprises the following:
- (a) provision of physical access, which refers to the provision of space at specified network facilities to enable an Access Seeker to install and maintain its own equipment; or
 - (b) provision of access to in-building Common Antenna Systems and physical access to central equipment room
- 1.2 Specified network facilities include towers and Associated Tower Sites.
- 1.3 Physical access includes power, environmental services (such as heat, light, ventilation and air-conditioning), security, site maintenance and access for the personnel of the Access Seeker.

- 1.4 Provision of space at Associated Tower Sites includes space where the Access Seeker may place its cabin or outdoor equipment and space required for cable gantry connecting to the tower and generator set.
- 1.5 The Access Seeker must submit a forecast to VCTEL for the required Infrastructure Sharing on a yearly basis where:
 - (a) the maximum period of time covered by forecasts regarding Infrastructure Sharing is one (1) year;
 - (b) the minimum intervals or units of time to be used in forecasts regarding Infrastructure Sharing is one (1) year; and
 - (c) the maximum frequency to update or to make further forecasts regarding Infrastructure Sharing is once a year.
- 1.6 If VCTEL consider that any forecast is unreasonable, or that the work which it would be required to carry out based on the forecast is not reasonably achievable within the delivery periods contemplated under this schedule, the Access Seeker is required to resubmit a more reasonable forecast to VCTEL. VCTEL will promptly negotiate a reasonable forecast. Pursuant to such an agreement, the Access Seeker and VCTEL will only be required to carry-out the work which is reasonably achievable within the delivery periods contemplated under this schedule. To assist the negotiations:
 - (a) VCTEL will provide information in relation to the work which it would be required to carry out to meet the forecast which it considers to be unreasonable and the time frame of that works;
 - (b) Both parties will provide information upon which its assessment of the reasonableness (or otherwise) of the forecast is based; and
 - (c) Both parties will endeavor to put forward proposals to produce a satisfactory outcome for both.

- 1.7 Pending the outcome of this negotiation, VCTEL shall not be obliged to accept any order or provide any Infrastructure Sharing in respect of the portion of the forecast which it considers being unreasonable or pursuant to which it would be required to carry out work which is not reasonably achievable within the delivery periods contemplated.
- 1.8 VCTEL shall acknowledge receipt of each Order for Infrastructure Sharing within two (2) Business Days.
- 1.9. VCTEL shall notify an Access Seeker that an Order for Infrastructure Sharing is accepted or rejected within ten (10) Business Days after:
 - (a) issuing the Notice of Receipt in respect of the Order, where VCTEL does not undertake any post-Order Service Qualification; or
 - (b) providing the Access Seeker with the result of post-Order Service Qualification, where VCTEL has undertaken post-Order Service Qualification for that Order.
- 1.10 The indicative delivery timeframe for Infrastructure Sharing is forty (40) Business Days from the Notice of Acceptance.
- 1.11 The Billing Cycle for Infrastructure Sharing will be one (1) year in advance for the first year and quarterly in advance for subsequent years.
- 1.12 Where required to fulfill an Order for Infrastructure Sharing or for the Access Seeker to perform operations or maintenance activities, VCTEL shall allow an Access Seeker, its nominated employees and/or contractors to physically access VCTEL'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.
- 1.13 The employees and/or contractors nominated by the Access Seeker will be reasonable, having regard to:

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

1.14 VCTEL is only permitted to require an escort to be present when nominated employees and/or contractors of the Access Seeker wish to enter into VCTEL's property if VCTEL requires an escort for its own employees or contractors in the same circumstances. If VCTEL determines that it is necessary to have an escort present when the nominated employees and/or contractors of the Access Seeker wish to enter into VCTEL's property, VCTEL shall:

- (a) bear the costs of such escort service;
- (b) provide immediate physical access to the Access Seeker for emergency maintenance requests, twenty-four (24) hours a day, seven (7) days a week;
- (c) provide 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
 - (ii) five (5) Business Days' notice for unmanned sites; and
 - (iii) the period of notice which it requires from itself when providing itself with physical access for planned maintenance; and
- (d) for both planned and emergency maintenance requests at unmanned sites only, have its escort arrive within the shorter of:
 - (i) thirty (30) minutes of time required by the Access Seeker plus a reasonable window to allow for travel time (which must be estimated in an operations and maintenance manual given to the

Access Seeker, or estimated at the time of responding to the Access Seeker's physical access request); and

- (ii) the period of time it requires for its escorts to arrive for planned and emergency maintenance at unmanned sites.

1.15 If an escort does not arrive at VCTEL's property within the required timeframe, the Access Seeker's nominated employees and/or contractors may proceed to enter VCTEL's property without an escort.

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

1.17 Utilities and Ancillary Services

Where the relevant utilities and ancillary services are within VCTEL's control, VCTEL shall ensure that all necessary utilities and ancillary services are provided to enable the Access Seeker to benefit from such access to the same extent that VCTEL provides to itself, including but not limited to:

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

The utility and ancillary costs in respect of the network facilities shall be apportioned (in accordance with fair and equitable principles) between VCTEL and all Access Seekers at the relevant location.

2. TRANSMISSION SERVICE

2.1 The Transmission Service is a Facility and/or Service for the carriage of communications between any two technically feasible network transmission points, not being End User locations or Access Seeker Points of Presence on VCTEL's network, via such network interfaces at such transmission rates as may be agreed between VCTEL and the Access Seeker on a permanent or virtual basis.

2.2 VCBS offers Transmission Services through the following connections:

- (a) End-to-End Transmission
- (b) Trunk Transmission
- (c) Wholesale Leased Circuit Transmission

2.3 Forecasting

The Access Seeker shall provide, with a sufficient level of detail to enable VCTEL to carry out network planning, a forecast for a period is one (1) year. The minimum intervals or units of time to be used in Forecasts regarding Transmission Service is one (1) year and the maximum frequency to update or to make further Forecasts is once a year.

2.3.1 If VCTEL consider that any forecast is unreasonable, or that the work which it within the delivery periods contemplated under this schedule, the Access Seeker is required to resubmit a more reasonable forecast to VCTEL. Pursuant to such an agreement, the Access Seeker and VCTEL will only be required to carry-out the work which is reasonably achievable within the delivery periods contemplated under this schedule to assist the negotiations.

- 2.3.2 VCTEL will provide information in relation to the work which it would be required to carry out to meet the forecast which it considers to be unreasonable and the time frame of that works;
- 2.3.3 Both parties will provide information upon which its assessment of the reasonableness (or otherwise) of the forecast is based; and
- 2.3.4 Both parties will endeavor to put forward proposals to produce a satisfactory outcome for both.
- 2.3.5 Pending the outcome of this negotiation, VCTEL shall not be obliged to accept any order or provide any Transmission Services in respect of the portion of the forecast which it considers being unreasonable or pursuant to which it would be required to carry out work which is not reasonably achievable within the delivery periods contemplated.
- 2.3.6 The forecast format as the following :
- (a) Site A – Site A Name, Latitude & Longitude (in decimal)
 - (b) Site B – Site B Name, Latitude & Longitude (in decimal)
 - (c) EI or the Capacity Required
 - (d) Timelines or RFS
 - (e) Contact person and telephone number.
- 2.4 The Transmission Services is for services in Peninsular Malaysia only where the place/location that VCTEL have its own transmission network infrastructure. Each Operator is responsible for the provisioning and maintenance of Facilities (including those Facilities which form part of the links and the transmission equipment) on its side of the POI.
- 2.5 VCTEL shall acknowledge receipt of each Order for a Transmission Service within two (2) Business Days.

- 2.6 VCTEL shall notify an Access Seeker that an Order for a Transmission Service is accepted or rejected within ten (10) Business Days after:
- (a) issuing the Notice of Receipt in respect of the Order, where VCTEL does not undertake any post-Order Service Qualification for that Order; or
 - (b) providing the Access Seeker with the result of post-Order Service Qualification, where VCTEL has undertaken post-Order Service Qualification for that Order.
- 2.7 The Indicative Delivery Timeframe for Transmission Service is:
- (a) if no new network facilities are required to supply the Transmission Service, twenty (20) Business Days; or
 - (b) if new network facilities are required to supply the Transmission Services, sixty (60) Business Days.
- 2.8 The Billing Cycle for Transmission Services will be quarterly.

3. NETWORK CO-LOCATION SERVICE

- 3.1 The Network Co-Location Service is a Facility and/or Service which comprises:
- (a) Physical co-location, which refers to the provision of space at VCTEL's premises to enable the Access Seeker to install and maintain equipment necessary for the provision of the Access Seeker's services through the Facilities and/or Services. Physical co-location includes physical space, power, environmental services (such as heat, light, ventilation and air conditioning), security, site maintenance and access for the personnel of the Access Seeker;
 - (b) Network premises at which co-location is to be provided includes switching sites, exchange buildings, and such other network facilities locations associated with the provision of a Facility or Service in the

Access List, and includes co-location provided at any location where main distribution frame is housed.

3.2 Forecasts

The Access Seeker shall provide forecast for the Network Co-Location Services for the period of :-

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

3.3 VCTEL shall acknowledge receipt of each Order for a Network Co-Location Service within two (2) Business Days.

3.4 VCTEL must notify an Access Seeker that an Order for a Network Co-Location Service is accepted or rejected within ten (10) Business Days after:

- (a) issuing the Notice of Receipt in respect of the Order, where VCTEL does not undertake any post-Order Service Qualification for that Order; or
- (b) providing the Access Seeker with the result of post-Order Service Qualification, where VCTEL has undertaken post-Order Service Qualification for that Order.

3.5 The indicative delivery timeframe for Network Co-location Service is twenty (20) Business Days. For clarification, the indicative delivery timeframe commences from the Notice of Acceptance or confirmation of Order (as applicable).

3.6 If VCTEL proposes to refuse, or refuses, a request for physical co-location from an Access Seeker on the basis of current or future needs of VCTEL and/or the needs

of other Access Seekers who are currently occupying or have ordered additional space from VCTEL, it must also notify the Access Seeker and the Commission of:

- (a) the space currently used by VCTEL;
- (b) the amount of space reserved for VCTEL's future needs;
- (c) the space currently occupied by other Access Seekers;
- (d) the space ordered by other Access Seekers; and
- (e) the total amount of space potentially available but for the uses set out above.

3.7 Billing Cycle for Network Co-Location Services will be one (1) year in advance for the first year and quarterly in advance for subsequent years.

3.8 VCTEL shall allow nominated employees and/or contractors of a potential Access Seeker to physically inspect network facilities of VCTEL during normal business hours provided that the Access Seeker has provided no less than five (5) Business Days' notice of its request to perform a physical inspection and details of its nominees.

3.9 Where required to fulfill an Order for a Network Co-Location Service or for the Access Seeker to perform operations or maintenance activities, VCTEL shall allow an Access Seeker, its nominated employees and/or contractors to physically access VCTEL'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. VCTEL shall not prevent or restrict access to any network facility or site for reasons concerning national or operational security reasons and may only apply reasonable security procedures and processes that comply with the obligations as set out in the MSA Determination.

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

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

3.11 Escorts

VCTEL is only permitted to require an escort to be present when nominated employees and/or contractors of the Access Seeker wish to enter into VCTEL's property if VCTEL requires an escort for its own employees or contractors in the same circumstances. If VCTEL determines that it is necessary to have an escort present when the nominated employees and/or contractors of the Access Seeker wish to enter into VCTEL's property, VCTEL shall:

- (a) bear the costs of such escort service;
- (b) provide immediate physical access to the Access Seeker for emergency maintenance requests, twenty-four (24) hours a day, seven (7) days a week;
- (c) provide 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; and
 - (ii) the period of notice which it requires from itself when providing itself with physical access for planned maintenance;

(d) for both planned and emergency maintenance requests at unmanned sites only, have its escort arrive within the shorter of:

(i) thirty (30) minutes of time required by the Access Seeker a reasonable window to allow for travel time (which must be estimated in an operations and maintenance manual given to the Access Seeker, or estimated at the time of responding to the Access Seeker's physical access request); and

(ii) the period of time it requires for its escorts to arrive for planned and emergency maintenance at unmanned sites.

3.12 If an escort does not arrive at VCTEL's property within the timeframe specified, the Access Seeker's nominated employees and/or contractors may proceed to enter VCTEL's property without an escort.

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

3.14 If there are space constraints at a particular location, VCTEL shall take reasonable steps to optimize its usage of the space, including through the upgrading of facilities and transferring Equipment to an alternative location. If VCTEL has used its best efforts to accommodate all Access Seekers, and it is not physically possible for any further Access Seekers to be accommodated, VCTEL shall notify the Commission of the lack of space at the location.

3.15 VCTEL shall not reserve space other than for its own current needs, its future needs, calculated by use of a reasonably projected rate of growth over two (2) years and the needs of other Access Seekers who are currently occupying or have ordered space from VCTEL.

- 3.16 VCTEL shall allocate space at each location where physical co-location is to be permitted in a non-discriminatory way and will treat other Access Seekers as it treats itself.
- 3.17 VCTEL shall not impose minimum space requirements on an Access Seeker.
- 3.18 If preparatory work is necessary for the purposes of allowing the Access Seeker to obtain access to or co-locate at or on a VCTEL's network facilities, VCTEL shall permit the Access Seeker's employees and/or contractors to perform such preparatory work if the Access Seeker satisfies VCTEL (acting reasonably and in accordance with the policy referred to in this paragraph) that such employees and/or contractors have the necessary qualifications. VCTEL shall make available a policy about the necessary qualifications applicable to employees and/or contractors who will be permitted to perform preparatory work under this paragraph, and such policy to be non-discriminatory in its application to VCTEL's personnel and the Access Seeker's employees and/or contractors who perform similar functions.
- 3.19 If VCTEL agrees to perform preparatory work and does so on the basis of an estimated charge (e.g. based on a time and materials basis):
- (a) VCTEL shall not exceed the estimate without providing the Access Seeker with prior written notice that:
 - (i) the estimate will likely be exceeded; and
 - (ii) a further estimate of the charges for the work necessary to complete the preparatory work; and
 - (b) VCTEL shall permit the Access Seeker to withdraw the request for preparatory work without penalty if the revised estimate exceeds the original estimate by more than ten percent (10%) of the original estimate.

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

- (a) notify the relevant Access Seeker of the delay to a delivery date, together with the reasons for the delay, as soon as practicable after VCTEL becomes aware of the possible delay;
- (b) permit the Access Seeker not to cancel the preparatory work without penalty if the delay is longer than ten (10) Business Days; and
- (c) compensate the Access Seeker for the costs it has incurred as a result of delay, subject to the Access Seeker using reasonable endeavors to mitigate those costs.

3.21 Utilities and Ancillary Services

If VCTEL has allowed access or physical co-location at a particular location or network facilities, VCTEL must, where the relevant utilities and ancillary services are within VCTEL's control, ensure that all necessary utilities and ancillary services are provided to enable the Access Seeker to benefit from such access or co-location to the same extent that VCTEL provides to itself, including but not limited to:

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

(f) site maintenance.

The utility and ancillary costs in respect of the network facilities as contemplated in this paragraph shall be apportioned (in accordance with fair and equitable principles) between VCTEL and all Access Seekers at the relevant location.

3.22 There is no requirement for the use of cages or similar structures to physically segregate co-located Equipment, or Equipment located at or on network facilities of VCTEL.

3.23 VCTEL shall permit an Access Seeker to locate Equipment on or at VCTEL's network facilities which is necessary for the purposes of obtaining the benefit of access to the network services and network facilities, including but not limited to multi-functional Equipment which may also be used for purposes other than those specified in this section.

3.24 All Operators shall mark or label their Equipment in such a manner that they can be easily identified as the Equipment of the Operator.

3.25 VCTEL permits, and does all things reasonably necessary to allow, an Access Seeker to maintain its Equipment at or on the network facilities to which access has been granted pursuant to this paragraph.

3.26 VCTEL shall reasonably permit the Access Seeker, at the Access Seeker's cost, to extend network facilities of VCTEL as may reasonably be required to meet the Access Seeker's requirements in the circumstances and to the extent technically feasible.

Part 4 CHARGES AND CHARGING PRINCIPLES

1. INFRASTRUCTURE SHARING

1. The applicable Charges for Infrastructure Sharing shall be commercially negotiated and agreed between the Access Seeker and VCTEL in accordance to the Access Agreement.
2. The below sets out the indicative reference Charges for Infrastructure Sharing in respect of towers and associated tower sites. Final pricing shall be subject to negotiations and mutual agreement between VCTEL and the Access Seeker.
3. For the purposes of clarification, all other Infrastructure Sharing Services not listed below are negotiated charges.

**Table A : Indicative Tower Charges
 Recurring/Rental Charges for Peninsular Malaysia**

Tower Height (Feet)	Peninsular (RM/month)	Island (RM/month)
150	4,223	4,856
200	5,837	6,713
250	6,210	7,142
300	7,935	9,125
350	10,005	11,506
400	11,385	13,093

**Table B : Indicative Tower Charges
 Recurring/Rental Charges for Sabah**

Tower Height (Feet)	Zone A (RM/month)	Zone B (RM/month)	Zone C (RM/month)	Zone D (RM /month)
150	4,856	5,067	5,279	5,490
200	6,713	7,005	7,297	7,589
250	7,142	7,452	7,763	8,073
300	9,125	9,522	9,919	10,316
350	11,506	12,006	12,506	13,007
400	13,093	13,662	14,231	14,801

Table C : East Malaysia Zoning Category

Sabah	Zone
Kota Kinabalu, Papar, Labuan, Beaufort	A
Keningau, Kudat, Lahad Datu, Sandakan, Ranau Residency of Pantai Barat, Sandakan, Kudat	B
Tawau, Semporna, Kunak Residency of Sandakan	C
Others	D

Note: Final Infrastructure Sharing charges may differ subject to the level, frequency and/or other requirements or services to be included, such as:-

- (a) Site maintenance and housekeeping;
- (b) Tower maintenance;
- (c) Physical access to site;
- (d) Site security such as guards for manned station and fencing and pad lock for unmanned station;
- (e) Routine maintenance of access roads;
- (f) Other costs such as tower permit and quit rent, site survey, equipment installation, provision of space for cabin, outdoor equipment and space required for cable gantry connecting to the tower and generator set, etc.

The Access Seeker shall be responsible for providing its own electricity supply. Such power supply shall be obtained from Tenaga Nasional Berhad (“**TNB**”) or any available power utility companies.

2. TRANSMISSION SERVICE

1. Transmission Service supplied by VCTEL shall, only to the extent necessary, be subject to the Charges listed in Table A, Table B and Table C.
2. The Charges for Transmission Service is as per mandated by the Commission.
3. For the purposes of clarification, all the other Transmission Service not listed in Table A, Table B and Table C below are negotiated charges.

Table A: Trunk Transmission Service Rental Charges

Within Peninsular Malaysia	Ringgit Malaysia per month		
	2018	2019	2020
1 Mbps	9	8	7
10 Mbps	86	78	71
100 Mbps	863	776	710
200 Mbps	1,726	1,551	1,421
500 Mbps	4,314	3,878	3,552
750 Mbps	6,472	5,817	5,327
1 Gbps	8,836	7,942	7,273
3 Gbps	26,508	23,825	21,820
5 Gbps	44,180	39,709	36,367
Installation (non-recurring charge)	426	447	469

Table B: End-to-End Transmission Service Rental Charges

Within Peninsular Malaysia	Ringgit Malaysia per month		
	2018	2019	2020
1 Mbps	105	106	108
10 Mbps	1,353	1,302	1,256
100 Mbps	2,130	2,000	1,895
200 Mbps	2,993	2,775	2,606
500 Mbps	5,582	5,102	4,737
750 Mbps	7,739	7,041	6,512
1 Gbps	10,103	9,166	8,459
3 Gbps	28,406	25,660	23,597
5 Gbps	46,078	41,543	38,144
Installation (non-recurring charge)	5,110	5,365	5,633

Note:

- The price is not inclusive of internal cabling and cross connect charges to customer's equipment/premises.

Table C: Wholesale Leased Circuit Rental Charges

	Ringgit Malaysia per month		
	2018	2019	2020
Below 1 Mbps	48	49	50
From 1 Mbps – 1 Gbps	634	612	593
From 1 Gbps – 10 Gbps	16,042	15,432	14,869
From 1 Gbps (using Dense Wavelength Divison Multiplexing Equipment)	949	917	888
Installation (non-recurring charge)	2,555	2,683	2,817

3. NETWORK CO-LOCATION SERVICE

1. Network Co-Location Service supplied by VCTEL shall only to the extent necessary, be subject to the charges mutually agreed by the Access Seeker and VCTEL.
2. The prices for Network Co-Location Service shall be applied for physical co-location for space, environmental services (heat, light, ventilation and air-conditioning), security, and maintenance at switching sites, submarine cable landing centres, earth stations and exchange buildings.

Table D : Network Co-Location Rental Charges

	Ringgit Malaysia per month		
	2018	2019	2020
Co-location of half of copper cabinet	84	85	86
Co-location of half of fibre cabinet	188	185	182
Co-location of one square metre in technical building	72	75	79
kWh of electricity consumed by co-located equipment (RM/kWh)	0.8583	0.9013	0.9463

Annexure A Dispute Resolution Procedures

Definitions

1.1 In the Dispute Resolution Procedures set out in this Annexure A:

1. (a) "Billing Dispute" means the dispute of an Invoice issued by one party to the other party, which is made in good faith;
2. (b) "Billing Dispute Notice" means the written notification made by one party to the other party in relation to a Billing Dispute in accordance with Subsection 7.4 of this Appendix;
3. (c) "Billing Dispute Notification Period" means the period after the date of receipt of an Invoice during which a Billing Dispute may be raised in relation to that Invoice, as specified in subsection 7.2 of this Appendix;
4. (d) "Billing Representative" means a representative of the party appointed in accordance with the billing procedures set out in subsection 7.15 of this Appendix;'
5. (e) "Billing System" means a system to issue Invoices relating to charges payable by each party under an Access Agreement;
6. (f) "Dispute" has the meaning given to it in subsection 2.1 of this Appendix;
7. (g) "Notice" means the notice issued of intention to escalate the issue; and
8. (h) "Technical Expert" has the meaning given to it in subsection 6.3 of this Appendix.

2. Introduction

2.1 Subject to subsection 2.2(c) of this Appendix, an Access Provider and an Access Seeker shall adopt and comply with these Dispute Resolution Procedures in relation to any dispute which may arise between an Access Seeker and an Access Provider in relation to or in connection with the supply of Facilities and/or Services to which this Standard applies ("Dispute").

2.2 The following dispute resolution mechanisms are discussed in this section:

1. (a) inter-party working groups; and

2. (b) subject to specific resolution of disputes, being:
 - i. technical disputes (which must follow the procedure set out in section 6 of this Appendix if they cannot be resolved through the application of the general dispute resolution provisions in Sections 3, 4 and 5 of this Appendix);
 - ii. Billing Disputes (as defined in subsection 1.1 of this Appendix), which must follow the procedures set out in section 7 of this Appendix; or
 - iii. any other types of disputes, which, if cannot be resolved through the application of the general dispute resolution provisions in sections 3, 4 and 5 of this Appendix, must be referred to the Commission for resolution.
- 2.3 A Dispute shall first be attempted to be resolved by negotiation between the Parties. If the Parties to the Dispute cannot or otherwise fail to reach an agreement, the Parties shall always be entitled to seek resolution of the Dispute by the Commission in accordance with section 151 of the Act, and the Commission will decide the dispute if it is satisfied that:
 1. (a) the Parties will not reach agreement, or will not reach agreement in a reasonable time;
 2. (b) the notification of the Dispute is not trivial, frivolous or vexatious; and
 3. (c) the resolution of the Dispute would promote the objects in the Act. An Access Provider shall not prevent the Access Seeker from notifying a Dispute to the Commission in accordance with the Act.
- 2.4 For clarification, unless stated otherwise, all references to sections subsections and paragraphs in this Appendix are references to sections subsections and paragraphs of this Appendix.
3. General
 - 3.1 An Operator may not commence court proceedings relating to a Dispute, which is the subject of these Dispute Resolution Procedures until it has complied with

each applicable process in these Dispute Resolution Procedures, other than an application for urgent interlocutory relief. Nothing in this subsection shall be construed as ousting the jurisdiction of any court.

- 3.2 Both Parties to a Dispute shall ensure that their representatives acting in relation to a Dispute are of sufficient seniority and have authority to settle a Dispute on their behalf. At the commencement of the Dispute Resolution Procedures, each party must notify the other party of the scope of the authority of each of their representatives. If, in the course of the Dispute Resolution Procedures, it is identified that the matters to be resolved are outside the initial term of reference for which authority was given to the representative, a party may require that those matters be referred to more senior officers of that party who have authority to settle those matters.
- 3.3 During a Dispute and any dispute resolution process invoked in accordance with this Appendix, an Access Provider and Access Seeker must continue to fulfil their obligations under the Access Agreement between them.
- 3.4 Subject to subsection 3.5 of this Appendix, the Parties to a Dispute shall exchange information of a type described in this Standard during the course of, and to facilitate, resolution of the Dispute.
- 3.5 Confidential Information of a party which is disclosed, and any other oral or written submissions made by a party or a party's representatives during the course of any dispute resolution process will be subject to the confidentiality restrictions in relevant confidentiality provisions contained in the Confidentiality Agreement prepared in accordance with subsection 5.3.8 of this Standard.
- 3.6 A party must not use information obtained under subsection 3.4 of this Appendix or described in subsection 3.5 above for any purpose other than to resolve the Dispute.
- 3.7 Subject to Chapter 7 of Part V of the Act, an arbitrator of a Dispute (including a Technical Expert or the Commission, in accordance with this Appendix) may

decide not to determine the Dispute if the arbitrator considers that the Dispute is trivial, frivolous or vexatious, or if there is insufficient evidence before the arbitrator to determine the Dispute.

3.8 The costs of the arbitration are to be shared equally between the parties, unless the arbitrator of the Dispute has decided not to determine the Dispute in accordance with subsection 3.7 above. If an arbitrator decides not to determine the Dispute, the party that initiated the Dispute must pay the other party's costs.

4. Inter-party working group

4.1 In the first instance the Access Seeker and the Access Provider should attempt to resolve the Dispute between them.

4.2 The Access Provider and the Access Seeker shall establish a working group, or working groups, to fulfill the requirements of subsection 4.1 above. The working group shall comprise of representatives of the Parties, and be headed by a person who holds a position that is at least equivalent to the head of the Access Provider's Wholesale.

4.3 The Access Provider shall provide for:

(a) subject areas to be dealt with by each working group;

(b) equal representation by the Access Seeker and the Access Provider;

(c) chairmanship and administrative functions of the working group to be shared equally; and

(d) formal notification procedures to the working group.

4.4 The Access Provider and the Access Seeker shall use reasonable endeavors to attempt to settle the Dispute in the working group for a period of no longer than thirty (30) Business Days unless otherwise agreed by the Parties, subject always to a party's right to seek urgent interlocutory relief.

5. Use of a Technical Expert

5.1 A Dispute will only be referred to a Technical Expert.

5.2 The person to whom a technical dispute may be referred:

- (a) will be an expert appointed by agreement of the Parties or, if the Parties cannot agree, by the Commission;
- (b) will have the appropriate qualifications and experience to arbitrate the dispute, including knowledge of the communications industry;
- (c) need not be a Malaysian citizen or resident; and
- (d) will not be an officer, director, or employee of a communications company or otherwise have a potential for conflict of interest,

(“Technical Expert”).

5.3 If the Parties fail to appoint a Technical Expert within ten (10) Business Days of the need to refer a Dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.

5.4 When relying on the services of a Technical Expert, the following dispute resolution procedures will apply to the Technical Expert:

- (a) the Parties will present written submissions to the Technical Expert and each other within fifteen (15) Business Days of the appointment of the Technical Expert; and
- (b) each party may respond to the other party's submission in writing within fifteen (15) Business Days from the date of the other party's submission.

5.5 At the request of either party and subject to the parties agreeing, or the Technical Expert deciding within five (5) Business Days of the last written submission, that the arbitration by the Technical Expert should be by documents only, a Technical Expert hearing will be held within fifteen (15) Business Days of the last written submission.

- 5.6 Should a Technical Expert hearing be held, each party will have the opportunity of making an oral submission. This process will be conducted in private.
- 5.7 The procedure for hearing technical disputes will be determined by the Technical Expert (including number and duration of oral submissions by the Parties) but in any case, the Technical Expert's hearing will last no longer than three (3) Business Days.
- 5.8 The Technical Expert will not have the power to appoint any other experts.
- 5.9 The Technical Expert will deliver his or her award within fifteen (15) Business Days of the hearing or of the last written submission where the arbitration is ' by documents only.
- 5.10 Every Dispute referred to a Technical Expert will be considered separately so that time limits for each Dispute are complied with.
- 5.11 The Technical Expert's decision will be binding on the Parties (in the absence of manifest error of fact or law).

6. Billing Dispute resolution

- 6.1 As outlined in the billing provisions of this Standard at subsection 5.11, a party ("Invoicing Party") shall provide to the other party ("Invoiced Party") an Invoice in writing, or in such electronic form as may be agreed from time to time, for amounts due in respect of the supply of Facilities and/or Services during such Billing Cycle.
- 6.2 An Invoicing Party shall allow an Invoiced Party to dispute an Invoice prepared by the Invoicing Party if:
- (a) in case of any other Facilities and/or Services, the Invoiced Party notifies the Invoicing Party within thirty Business Days after the date of receipt of such Invoice,

provided that, in any case specified above, the Invoiced Party's Billing Dispute Notice specifies the information in accordance with subsection 7.4 of this Appendix.

6.3 A Billing Dispute may only arise where the Invoiced Party has reasonable grounds to believe that an error has arisen from one of the following circumstances:

- (a) the Invoicing Party's Billing System is, or has been, defective or inaccurate in respect of the recording which are the subject of the Dispute;
- (b) there is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Invoiced Party's Billing System;
- (c) here is, or has been, a fraud perpetrated by the Invoicing Party; or
- (d) the Invoicing Party has made some other error in respect of the calculation of the charges which are the subject of the Billing Dispute.

6.4 A Billing Dispute Notice given under this section 7 must specify:

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

- 6.5 The Invoiced Party may withhold payment of amounts disputed in good faith in accordance with subsection 5.11.11 of this Standard. If the Billing Dispute is resolved against the invoiced Party, that Invoiced Party shall be required to pay interest at the rate specified in subsection 5.11.15 of this Standard on the amount payable.
- 6.6 Where the Invoiced Party has paid an amount and subsequently notifies the Invoicing Party of a Billing Dispute in relation to that amount within the Billing Dispute Notification Period, the invoicing Party is not obliged to refund any or all of that amount until the Billing Dispute is resolved in respect of that amount. Once the Billing Dispute is resolved, if the Invoicing Party is obliged to refund an amount to the Invoiced Party, interest will be payable on the refunded amount at the rate specified in subsection 5.11.15 of this Standard. In such circumstances, interest will be payable from the date the Invoiced Party paid the disputed amount to the date of the refund by the invoicing Party.
- 6.7 The parties agree to use their reasonable endeavors to promptly resolve any Billing Dispute notified under this section 7.
- 6.8 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 Notice is received, either party may seek the consent of the other party to extend the period for resolution of the Billing Dispute stating the exceptional reasons for such extension. The other party is, however, under no obligation to agree to such extension.
- 6.9 To the extent that a Billing Dispute notified under this section involves a Billing Dispute with an international correspondent of the invoicing Party, the Dispute Resolution Procedures shall be suspended for a reasonable period of time pending resolution of the Billing Dispute with that international correspondent. As a general rule, the period of suspension will not exceed four (4) months. However, the parties shall recognize that some Billing Disputes with international correspondents may take longer to resolve, in which case the Invoicing Party

must promptly inform the invoiced Party of the likely period required for resolution.

- 6.10 Once the negotiation period under subsection 7.8 of this Appendix (including any extension agreed) and any suspension period under subsection 7.9 of this Appendix have expired, the Billing Dispute may be referred by the Invoiced Party to the procedure described in subsection 7.11 of this Appendix ("Billing Dispute Escalation Procedure").
- 6.11 The invoiced Party may refer a Billing Dispute to the Billing Dispute Escalation Procedure under this subsection 7.11 by notifying the Invoicing Party's Billing Representative. Both parties shall then appoint a designated representative who has authority to settle the Billing Dispute, and who is at a higher level of management than the persons with direct responsibility for administration of this Standard. 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.
- 6.12 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.
- 6.13 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 to solve Billing Disputes, nothing in this Appendix shall prevent either party from pursuing any other remedy in law or equity that may be available to them if a Billing Dispute cannot be resolved to their satisfaction.
- 6.14 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. The joint investigation may include the generation of test to the other party's Network.

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

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

6.17 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.

Annexure B LIST OF POIs

VC TELECOMS Sdn Bhd POI and POP locations are as follows;

No.	Location
1	CX1 Data Center, Cyberjaya
2	CX2 Data Center, Cyberjaya
3	CCC, Cyberjaya
4	Menara AIMS, Kuala Lumpur
5	Menara PTTC, Ipoh Perak

Note:

- Any arrangements outside the parameter of VCTEL's network shall be considered as additional customized network connectivity solution and shall be subject to additional costs payable by Access Seeker.

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