



SACOFA

Connecting you to the future

Sacofa Sdn Bhd
[Company No. 200101017148]

Reference Access Offer
(Version 2.0)

Effective 4 July 2024

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SACOFA'S RAO – CHAPTER 1

CHAPTER 1: INTRODUCTION

- 1.1 This Reference Access Offer is made by SACOFA Sdn. Bhd. [Company No. 200101017148 (552905-P)] (“SACOFA”), a company incorporated under the laws of Malaysia and having its registered office on the Level 3, Wisma Mahmud, Jalan Sungai Sarawak, 93100 Kuching, Sarawak and having its principal office on the 3rd Floor, Menara Zecon, Jalan Satok, 93400 Kuching, Sarawak which takes effect on 4th July 2024 pursuant to section 5.3.3 of the Commission Determination on the Mandatory Standard on Access, Determination No. 1 of 2022, which comes into force on the 1st November 2022 (“the MSA Determination”) and Commission Determination On The Mandatory Standard On Access Pricing, Determination No. 1 of 2023, which comes into force on the 1st March 2023.
- 1.2 This Reference Access Offer is hereby referred to as SACOFA's RAO.
- 1.3 The MSA deals with access to network facilities and network services included in the Access List and sets out the obligations that apply to Operators concerning various access issues which include:
- (a) Disclosure obligations (Section 5.3 of the MSA Determination);
 - (b) Negotiation obligations (Section 5.4 of the MSA Determination); and
 - (c) Content obligations (Section 5.16 of the MSA Determination):
- ”5.16.3 **Equal representatives:** Each Operator must appoint an equal number of representatives to an Interconnect Steering Group (and such other working groups as may be agreed upon) to manage the smooth and timely implementation of the terms and conditions of Access Agreements or Dispute Resolution Procedures, as applicable.*
- 5.16.5 **Complete charges:** An Access Provider shall specify all charges in an Access Agreement and shall not attempt to recover any other costs, expenses or charges which are not specified in the Access Agreement except where such work is to be done on a time and materials basis in which case the Access Provider shall do such work in accordance with a quotation agreed with the Access Seeker as set out in the MSA.”*
- 1.4 Pursuant thereto SACOFA is required to prepare and maintain a Reference Access Offer in relation to the Facilities and Services on the Access List Determinations which it provides to itself or third parties, are consistent with the MSA Determination and where applicable, the rights and obligations set out in MSA Determination shall be applicable to SACOFA's RAO.
- 1.5 The access to be provided by SACOFA to be consistent with the obligations under section 4.1.1 of the MSA Determination and section 149 the Act and on an equitable and non-discriminatory basis.
- 1.6 SACOFA may offer network facilities, network services and applications services within Malaysia.

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1.7 For the purposes of clarification, if the Access Seeker requests services outside SACOFA's RAO, the terms and conditions for the provision of such services shall not be governed by SACOFA's RAO, SACOFA and the Access Seeker will:

- (a) negotiate in good faith in relation to such terms and conditions; and
- (b) enter into and conduct negotiations in a timely manner.

1.8 Additional Services

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

1.9 Making the Reference Access Offer

SACOFA's RAO comes into force and takes effect immediately from the date referred to in **Section 1.1** and continues until the earlier occurrence of:

- (a) the expiry of the RAO Term; or
- (b) a Review; or
- (c) withdrawal in accordance with this SACOFA's RAO.

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

1.10 SACOFA shall, not less than **twenty (20)** Business Days before effecting any amendment to the SACOFA's RAO, provide a copy of the amendments, or an amended copy of SACOFA's RAO to:

- (a) the Access Seeker who is being provided with access to network facilities or network services listed on the Access List under SACOFA's RAO; and
- (b) the Access Seeker who has requested SACOFA's RAO within the period of **ninety (90)** days prior to the making of such amendments, unless the Access Seeker has already indicated that it does not wish to proceed with an Access Request.

1.11 If the Commission modifies, varies or revokes the Access List Determination relating to the network facilities or network services listed on the Access List under section 56 of the Act, SACOFA may, by giving written notice as prescribed under Section 7.4.2 of the MSA to all Access Seekers to whom it is supplying network facilities or network services under SACOFA's RAO, withdraw or replace SACOFA's RAO in accordance with that written notice.

1.12 SACOFA shall comply with Sections 5.3.5, 5.3.6, 7.4.2 and 7.4.3 of the MSA Determination where it withdraws or varies SACOFA's RAO pursuant to **Section 1.11**:

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5.3.5 Amendment: *If an Access Provider proposes to amend a RAO except to the extent relating to 5G Services, that Access Provider must, no less than **thirty (30)** Business Days before the Access Provider proposes to effect the changes, provide a copy of the amended RAO showing the proposed changes to the existing RAO, to:*

- (a) *all Access Seekers who are being provided with access to Facilities and/or Services under the existing RAO; and*
- (b) *all Access Seekers who have requested access to Facilities and/or Services under the existing RAO within the period of **three (3)** months prior to 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 subsection 5.3.5 of the MSA prevents an Access Seeker from initiating a dispute in relation to an amendment to a RAO made by an Access Provider under this subsection;*
- (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 the Access Provider 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. Upon expiry of the **thirty (30)** Business Day period referred in this subsection 5.3.5. However, if the Access Seeker disputes the change to the existing RAO within such **thirty (30)** Business Day period, no amendments to the Access Agreement will be deemed to occur unless and until such dispute is resolved in favour of the Access Provider.*

5.3.6 Amended RAO: *Upon expiry of the **thirty (30)** Business Days in subsection 5.3.5 of the MSA (or such longer period as the Access Provider determines is necessary to finalise the amendments to its RAO), the Access Provider will:*

- (a) *make available the amended RAO on the Access Provider'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 before being made available under paragraph 5.3.6(a) of the MSA.*

7.4.2 Notice period: *The notice period referred to in subsection 7.4.1 of the MSA must be no shorter than:*

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- (a) *the period of time between the time of giving the notice and the time at which the Access Provider is proposing to no longer provide the Facilities and/or Services to itself; or*
- (b) **twelve (12) months.**

7.4.3 **Contents of notice of variation or replacement:** *The notice to be provided by the Access Provider under subsection 7.4.1 of the MSA when the Commission varies, removes or replaces the Facilities and/or Services in the access list, must state:*

- (a) *when the variation or replacement will come into effect;*
- (b) *how the variation or replacement is likely to affect the Access Seeker; and*
- (c) *any alternative Facilities and/or Services that may be available to be provided by the Access Provider to the Access Seeker and the terms and conditions on which such alternative arrangements are made available.”*

1.13 In addition to **Section 1.12** above, SACOFA may give the Access Seekers to whom it is supplying network facilities and network services under SACOFA’s RAO a notice of a variation or replacement of SACOFA’s RAO to effect such variations that are necessary or appropriate in the event of:

- (a) the occurrence of a Legislative Event that materially affects the rights or obligations of SACOFA under SACOFA’s RAO; or
- (b) the occurrence of a Regulatory Event that relates to SACOFA; or
- (c) a review by the Commission of the MSA Determination pursuant to Section 7.5 of the MSA Determination inclusive of any review by the Commission on the Mandatory Standard Access Pricing.

1.14 Notwithstanding **Sections 1.11, 1.12** and **1.13** above, SACOFA may subject to **Section 1.10** above, replace SACOFA’s RAO at any time.

1.15 Subject to **Section 1.16**, SACOFA’s RAO shall be made available to an Access Seeker:

- (a) on written request, at SACOFA principal place of business; and
- (b) on a publicly accessible website.

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1. 16 Any communication in respect of SACOFA's RAO should be made in writing to:-

Attention: Head
Legal, Regulatory & Compliance

Address: SACOFA Sdn. Bhd.
3rd Floor, Menara Zecon,
Jalan Satok,
93400 Kuching, Sarawak.

Facsimile: 082-239353

Email: regulatory@sacofa.com.my

SACOFA'S RAO – CHAPTER 2

CHAPTER 2: INTERPRETATION

2.1 The following words have these meanings in this SACOFA's RAO unless the contrary intention appear:-

2.2 **“Act”** means the *Communications and Multimedia Act 1998*.

“Access Agreement” means:

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

whereby SACOFA provides requested Facilities or Services listed in the Access List Determination to the Access Seeker in accordance with the terms therein contained and registered with the Commission in accordance with Section 150 of the Act.

“Access Agreement” means the agreement entered into pursuant to:

- (a) an Access Request made in accordance with **Sections 4.1 to 4.12** (also referred to as **“Access Agreement Template”** or **“AAT”**); or
- (b) a fast track application process made in accordance with **Section 4.13** (also referred to as **“Fast Track Access Agreement”** or **“FTAA”**); and which contains the terms and conditions based on SACOFA's RAO.

“Access Charge” means a charge paid by the Access Seeker to SACOFA for accessing the Facilities and/or Services listed on the access List Determination provided by SACOFA.

“Access List” means the list of Facilities or Services determined by the Commission under section 146 of the Act.

“Access List Determination” means the Commission Determination on Access List, Determination No. 6 of 2021; which came into operation on 15 December 2021 or as amended from time to time.

“RAO Term” means the period of three years from the date set out in Section 1.1 or such other period as may be specified by SACOFA from time to time.

“Access Request” means a request for access to Facilities or Services on the Access List Determination made by the Access Seeker to SACOFA and containing the information in Section 4.1.3.

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“Access Seeker” means an Operator who:

- (a) is a network facilities provider, network services provider, application service provider or content application service provider and who is a licensee as defined in the Act; and
- (b) makes a written request for access to Facilities or Services listed in the Access List Determination.

“Associated Tower Sites” is the space and the land owned, leased or tenanted by SACOFA surrounding or on which the tower or towers are sited and where the Access Seeker may place its cabin or outdoor equipment including space required for cable gantry connecting to the tower and generator-set, necessary right-of-way and permission to dig.

“Bank Guarantee” means the guarantee executed and to be granted to SACOFA on behalf of the Access Seeker by a bank approved by SACOFA pursuant to **Section 4.3**.

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

“Billing Period” means the period over which the supply of access to Facilities or Services is measured for the purposes of billing as contemplated in Chapter 6, which shall be more than **thirty-one (31)** days and in accordance with the relevant calendar month, unless otherwise agreed between the Operators.

“Business Day” means a day other than a Saturday and Sunday or in states where Friday is observed as the weekly holiday, Thursday and Friday or a day which is lawfully observed as a national public holiday on the same day around Malaysia.

“Charges” means the sums payable by the Access Seeker to SACOFA for the provision of Facilities or Services listed in the Access List Determination.

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

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

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

“Communication Information” means information in respect of Communications made during the Billing Period which may be required by SACOFA and to be specified for each Facility or Service provided under Chapter 6 (Billing & Settlement).

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

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“Confidentiality Agreement” means a confidential agreement entered into between the Operators in accordance with Section 5.3.8 of the MSA Determination.

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

“Customer” means in relation to an Operator, a person having a contractual relationship with the Operator for the provision of Communications Services.

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

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

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

“Trunk Transmission Service” shall have the meaning as defined in **Part I of Schedule A**.

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

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

“End User” means a consumer and final recipient of the service, and includes an ultimate retail Customer of an Operator.

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

“Facilities” means network facilities and/or other facilities which facilitate the provision of network services or applications services including content applications services as offered in SACOFA’s RAO and listed in the Access List Determination.

“Facilities Access” means a Service for the provision of access to Facilities listed on the Access List Determination, pursuant to **Parts I and II of Schedule A**.

“Fast Track Application Service” means a Facility or Service that is subjected to the fast track application process which is more particularly set out in **Section 4.13**.

“Fast Track Security Sum” means the security:

- (a) either in the form of a Bank Guarantee or cash, deposited with SACOFA for the Fast Track Application Service pursuant to **Section 4.13**; and
- (b) which amount is **Ringgit Malaysia Fifty Thousand (RM50,000)** only for each Facility or Service for which access is sought.

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

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

“Insurance Information” means the insurance information required by SACOFA pursuant to **Section 4.4**.

“Interconnect Link” means a physical link connecting the Networks of two (2) Operators.

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

“Invoice” means the invoice for amounts due in respect of the supply of requested Facilities or Services listed in the Access List Determination during a Billing Period.

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

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

“Lead-In-Duct” means a duct which extends from an End User location to the first manhole associated with such a duct.

“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 SACOFA is required or obliged to comply;
- (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 SACOFA’s RAO contravenes

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any provision of any law, except to the extent that the making of such determination, direction or finding constitutes a Regulatory Event.

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

“Mainline Duct” means each duct or series of ducts, which extend(s) from one or more Lead-In Duct(s) to the closest exchange building associated with the duct(s).

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

“Minister” means the Minister of Communications or, if different, the Minister administering the Act.

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

“Network Co-Location Service” shall have the meaning as defined in **Part III of Schedule A**.

“POI” or **“Point of Interconnection”** means any technically feasible point which demarcates SACOFA’s Network and the Access Seeker’s Network (both collectively hereinafter referred to as “Interconnecting Networks”), and is the point at which communication is transferred between the Interconnecting Networks.

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

“Operators” means SACOFA and the Access Seeker collectively;

“Other Operator” means either

- (a) SACOFA; or
- (b) the Access Seeker,

as the context requires.

“QOS” means quality of service.

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

“Regulatory Event” means:

- (a) the declaration, modification, variation or revocation of the MSA Determination;

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- (b) the giving of a lawful direction to SACOFA by the Commission relating to SACOFA's RAO; or
- (c) the giving of a lawful direction to SACOFA by the Minister relating to SACOFA's RAO.

"Review" means a review of the MSA Determination and/or the Mandatory Standard on Access Pricing.

"RM" means Ringgit Malaysia which shall be the monetary currency used in SACOFA's RAO unless otherwise provided.

"Security Sum" means the security:

- (a) either in the form of a Bank Guarantee or cash, deposited with SACOFA for the supply of Facilities or Services listed on the Access List Determination which is more particularly described in **Section 4.3**; and
- (b) as stated under the respective Facilities or Services.

"Services" means network services and/or other services which facilitate the provision of network services or applications services, including content applications services which are offered in SACOFA's RAO and listed in the Access List Determination.

"Service Ordering Procedures" means the procedures governing the forecasting, planning and ordering of relevant Facilities and Services listed in the Access List Determination as set out in the relevant Manuals.

"SESCO" means Syarikat SESCO Berhad (formerly known as Sarawak Electricity Supply Corporation);

"Standard Access Obligations" has the meaning prescribed in Section 149 of the Act.

"Technical Specifications" means any technical parameters, specifications and procedures applicable to Interconnection of the Operators' Networks and provision of Facilities and/or Services documented in the Manuals to the Access Agreement.

"SACOFA" means SACOFA Sdn Bhd and in SACOFA's RAO, is SACOFA unless otherwise stated.

2.2 In SACOFA's RAO except where the contrary intention appears;

- (a) the singular includes the plural and vice versa; and
- (b) a document includes all amendments or supplements to that document, or replacements or novations of it; and
- (c) a reference to a statute, ordinance, regulations, code or other law and other instruments under it, shall include any statute, ordinance, regulation, code and other

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- law consolidating, amending, re-enacting or replacing of any of them from time to time relating thereto or in connection therewith; and
- (d) a reference to a person includes a firm, body corporate, unincorporated association or an authority; and
 - (e) a reference to a person includes the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation), and assigns; and
 - (f) if the day on which the payment of money falls due is not a Business Day, the due date shall be deemed to be the next Business Day and any reference to acts that have to be done or to be done by or on or before a particular day or Business Day means by or on or before the close of business at 5.00pm on that particular day or Business Day; and
 - (g) a reference to a related body corporate of an Operator has the same meaning as in the Companies Act 2016; and
 - (h) a reference to a third person is a reference to a person who is not a party to this RAO; and
 - (i) headings are included for convenience and do not affect the interpretation of SACOFA's RAO.

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SACOFA'S RAO – CHAPTER 3

CHAPTER 3: PRINCIPLES OF ACCESS AND INTERCONNECTION

3.1 Services

- 3.1.1 SACOFA's RAO applies only to Facilities or Services listed on the Access List Determination.
- 3.1.2 The service description and the charges and charging principles for each of the Facilities and Services are set out in **Schedule A**.
- 3.1.3 The forecast, ordering and provisioning, Point of Interface procedures, decommissioning, technical and operational matters for all of the Facilities and Services are set out in **Schedule B**.

3.2 Eligibility for Access to Services

- 3.2.1 SACOFA may at its discretion and in a manner consistent with the Licence(s) granted (and the licence rights accorded therein) by the Minister to the Access Seeker, determine on a case by case basis whether to provide the Access Seeker with access to Facilities or Services listed in the Access List Determination which are set out in SACOFA's RAO and subject to Section 5.4.11 of the MSA.
- 3.2.2 For the purposes of clarification, consistent with Government policy and Determinations by the Commission (and its predecessor), an Access Seeker may only request for access to any or all of the Facilities or Services listed in the Access List Determination which are set out in SACOFA's RAO where the Access Seeker has been granted (i) an individual network facilities provider licence and (ii) an individual network services provider licence and (iii) an individual content applications services provider licence, and such individual licences are not limited or restricted from those detailed in the *Communications and Multimedia (Licensing) Regulations 2000* and subject to Section 149 of the CMA, as amended in any way:
- (a) by reference to the type of network facilities, network services and/or content applications services that can be provided; and
 - (b) by geographical limitations to only a specific area and/or areas in Malaysia to which the Access Seeker can provide such network facilities, network services and/or content applications services.
- 3.2.3 An Access Seeker may not request for access to the Facilities or Services listed in the Access List Determination where the requested Facilities or Services are to be used in connection with an activity or activities in which the Access Seeker is not licensed to provide.
- 3.2.4 Consistent with Government policy and Determinations by the Commissions (and its predecessor), where SACOFA provides the Access Seeker with access to the Facilities or Services listed in the Access List Determination pursuant to **Section 3.2.1**, the charges for the requested Facilities or Services shall be negotiated between the Operators subject to any mandatory standard on access pricing determined by the Commission.

3.3 Principles of Access and Interconnection

3.3.1 SACOFA shall subject to **Section 3.2**, if requested to do so by an Access Seeker, supply a Facility or Service listed in the Access List Determination to the Access Seeker on reasonable terms and conditions.

3.3.2 In supplying a Facility or Service listed in the Access List Determination, SACOFA must treat an Access Seeker on a non-discriminatory basis as required by the Standard Access Obligations in relation to the supply of a Service.

3.3.3 Principles of non-discrimination

3.3.3.1 The access provided by SACOFA to the Access Seeker shall be consistent with:

(a) section 149(2) of the Act; and

(b) the principles set out in sections 4.1.5 and 4.1.6 of the MSA Determination.

3.3.4 Customer Principles

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

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SACOFA'S RAO – CHAPTER 4

CHAPTER 4: ACCESS REQUEST PROCEDURES

4.1 Application for Access to Services

4.1.1 An Access Seeker shall request SACOFA to supply Facilities or Services listed in the Access List Determination to it by serving an Access Request on SACOFA.

4.1.2 The purpose of such Access Request is to provide SACOFA with sufficient information to assess the Access Seeker's request for the supply of Facilities or Services listed in the Access List Determination under SACOFA's RAO.

4.1.3 The Access Request must:

- (a) contain the name and contact details of the Access Seeker;
- (b) specify the Facilities or Services listed in the Access List Determination in respect of which access is sought;
- (c) indicate whether the Access Seeker wishes to accept SACOFA's RAO or negotiate an Access Agreement;
- (d) contain the information (if any) as set out in Section 5.3.7 of the MSA Determination that the Access Seeker reasonably requires SACOFA 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 SACOFA;
- (f) preliminary information regarding the scale and scope of Facilities and/or Services that the Access Seeker expects to acquire from the Access Provider pursuant to the Access Request;
- (g) provide the relevant information relating to the Access Seeker's Network and the functionality of its Services, to the extent that the Access Seeker is aware that such information may affect SACOFA's Network;
- (h) specify the type of communications licences held by the Access Seeker and a copy of the licence where a copy had not been previously provided;
- (i) contain Creditworthiness Information as set out in **Section 4.2**;
- (j) be accompanied by a Security Sum as set out in **Section 4.3**;
- (k) contain Insurance Information as set out in **Section 4.4**;

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- (l) contain relevant technical information relating to the interface standards of the Access Seeker; and
- (m) contain such other information that SACOFA may reasonably request.

4.2 Creditworthiness Information

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

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

4.3 Security Sum

4.3.1 An Access Request shall be accompanied by a Security Sum. The security that may be given by the Access Seeker may be in the form of either:

- (a) Bank Guarantee; or
- (b) cash sum.

4.3.2 SACOFA is not obliged to consider entering into an Access Agreement with the Access Seeker pursuant to SACOFA's RAO until the Access Seeker has amongst other things, provided (at the Access Seeker's costs) to SACOFA such Security Sum on terms and conditions reasonably acceptable to SACOFA.

4.4 Insurance Information

4.4.1 An Access Request shall be accompanied by the following insurances:

- (a) Worker's Compensation and/or Social Security Insurance and/or Employer's Liability Insurance and/or other insurance within statutory limits as required by the laws of Malaysia in respect of its employees employed or in connection with the work covered by the Access Agreement that may be entered into;
- (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. Such policy shall include contractual liability; and

4.5 Processing of Access Request

4.5.1 Acknowledgement of Receipt of Access Request

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

- (a) Subject to **Section 4.5.3**, request additional information from the Access Seeker where there is a need for further information, prior to considering the Access Request; or
- (b) indicate whether it is willing to provide access to Facilities or Services listed in the Access List Determination in accordance with SACOFA's RAO; or
- (c) indicate whether SACOFA is willing to negotiate any amendments to the RAO or the Access Agreement; or
- (d) refuses the request in accordance to **Section 4.6** below.

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

4.5.2 Non-refundable processing fee

4.5.2.1 Subject to **Section 4.5.2.2**, SACOFA may charge an Access Seeker a non-refundable processing fee for undertaking the necessary administrative work to process the Access Request.

4.5.2.2 The non-refundable processing fee is only applicable to requested Facilities and Services listed in the Access List Determination that can be offered and made available by SACOFA.

4.5.2.3 Unless otherwise advised in writing by SACOFA, the non-refundable processing fees for the respective Facilities and Services listed in the Access List Determination are set out in **Annexure 2**. Processing Fees for Facilities and Services not currently specified in **Annexure 2** will be mutually agreed by the Operators from time to time.

4.5.2.4 In the event that additional and non-routine work is required in order to process the Access Request, SACOFA may charge a separate fee for undertaking such additional work. If the Access Seeker does not proceed with the Access Request accepted by SACOFA, the processing fee will not be refunded to the Access Seeker.

4.5.2.5 The processing fee will be set-off against the Charges for the requested Facilities and Services upon acceptance of the Access Request by SACOFA pursuant to **Section 4.8**.

4.5.3 Request for information

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

4.6 Assessment of Access Request

4.6.1 Reasons for Refusal

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

- (a) in SACOFA's reasonable opinion, the Access Seeker's Access Request was not made in good faith and SACOFA shall set out the basis on which the Access Request was not made in good faith;
- (b) in SACOFA's reasonable opinion, the Access Request does not contain the information reasonably required by SACOFA's RAO provided that SACOFA has sought the information from the Access Seeker under **Section 4.5.1** of SACOFA's RAO and has not received that information within **twenty (20)** Business Days of making such a request;
- (c) SACOFA does not currently supply or provide access to the requested Facilities or Services listed in the Access List Determination to itself or to any third parties, except where the Access Seeker compensates SACOFA for the supply of access to such Facilities or Services;
- (d) it is not technically feasible to provide access to the requested Facilities or Services listed in the Access List Determination;
- (e) SACOFA has insufficient capacity to provide the requested Facilities or Services listed in the Access List Determination;
- (f) there are reasonable grounds in SACOFA's opinion to believe that the Access Seeker would fail to make timely payment for the supply of the relevant Facility or Service listed in the Access List Determination and such concern cannot be addressed through a security requirement in accordance with the MSA;
- (g) there are reasonable grounds in SACOFA's opinion to believe that the Access Seeker would fail, to a material extent, to comply with the terms and conditions applicable to the supply of the Facilities or Services listed in the Access List Determination; or
- (h) there are reasonable grounds for SACOFA to refuse access in the national interest; or
- (i) the facilities and/or services sought are not in the Access List Determination.

4.6.2 Determination of technical infeasibility

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

5.4.17 Technical infeasibility: For the purposes of paragraph 5.4.11(c) of the MSA, an Access Provider shall not refuse an Access Request on the grounds of technical infeasibility unless the Access Provider establishes that there are substantial technical or operational concerns preventing the fulfilment of the Access Request. Each of the following matters shall be taken into account in determining whether access is technically feasible:

- (a) economic, accounting, billing, space or site concerns shall be disregarded by the Access Provider except 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 the Access Provider to modify its facilities or Equipment in order to meet the Access Request will not, on its own, mean that the access is not technically feasible;
- (c) if the Access Provider asserts that meeting the Access Request would have an adverse impact on network reliability, the Access Provider must provide evidence that provision of the requested Facilities and/or Services would result in a specific and significant adverse impact on network reliability; and
- (d) the Access Provider must be able to demonstrate that it has considered and found not to be technically feasible (in accordance with this subsection) improvements that would allow the Access Provider to meet the Access Request (in whole, or in part, and including for an interim period until any primary difficulties can be resolved)."

4.6.3 Determination of capacity constraints

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

5.4.18 Capacity constraints: An Access Provider may only refuse an Access Request on the ground that an Access Provider has insufficient capacity or space under paragraph 5.4.11(d) of the MSA where the Access Provider notifies the Commission in writing that it does not have sufficient capacity to meet the Access Request because the requisite capacity is:

- (a) already carrying traffic to full capacity or near full capacity; or
- (b) already reserved for future use by the Access Provider or another Access Seeker, where such future use shall commence not later than **six (6)** months from the date of the Access Request. If the reserved capacity is not subsequently used by the reserving party within **seven (7)** months from the date of the Access Request, the Access Provider must promptly inform the Access Seeker and, if required by the Access Seeker, re-consider the Access Request in accordance with the process set out in subsection 5.4 of the MSA; and

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- (c) *in the case of both paragraphs 5.4.18(a) and 5.4.18(b) of the MSA, the Access Provider is unable to expand capacity to meet the requirements in the Access Seeker's Access Request.*

If the Access Provider considers that it has insufficient capacity or space under paragraph 5.4.11(d) to meet the requirements in an Access Request for 5G Services, then the Access Provider must:

- (d) *increase capacity on its 5G RAN or take such other measures that may be reasonably necessary to accept the Access Seeker's Access Request;*
- (e) *keep the Access Seeker notified and updated regarding such measures; and*
- (f) *notify the Commission as soon as practicable of such insufficient capacity or space, together with reasons and the anticipated length of any delay in satisfying the requirements of the Access Request."*

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

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

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

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

4.6.6 Assessment of Creditworthiness

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

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

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

4.7.1 Where SACOFA rejects the Access Request, SACOFA shall:

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- (a) notify the Access Seeker in writing within **ten (10)** Business Days from receipt of the Access Request or additional information requested pursuant to **Section 4.5.1**, as the case may be;
 - (b) provide reasons for rejection under **Section 4.6** to the Access Seeker;
 - (c) provide the basis for SACOFA's rejection of the Access Request; and
 - (d) indicate a date and time, not later **seven (7)** Business Days from the date of the notice of rejection, at which representatives of SACOFA 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 SACOFA to substantiate its reasons for refusal, and if access has been refused on the basis of the following grounds:-
 - (i) **Section 4.6.1 (b)**, SACOFA must reassess the Access Seeker's original Access Request considering any supplementary information provided by the Access Seeker;
 - (ii) **Section 4.6.1(e)**, SACOFA must identify when additional capacity is likely to be available;
 - (iii) **Section 4.6.1 (f)**, SACOFA must identify the form of security requirement which would satisfy its concern that the Access Seeker may fail to make timely payment for the requested Facilities and/or Services, its reasons for security requirement and why it considers such concern cannot be addressed through a security requirement under **Section 4.3** herein.

4.7.2 Where the Operators are unable to resolve their differences following the meeting held pursuant to **Section 4.7.1(d)**, either Operator may request resolution of the dispute in accordance with **Chapter 7**.

4.8 Acceptance of Access Request

4.8.1 Where SACOFA agrees to provide access to Facilities or Services listed in the Access List Determination to the Access Seeker in accordance with SACOFA's RAO, SACOFA shall within **ten (10)** Business Days of such respond under **Section 4.5.1(b)**, provide the Access Seeker with two copies of the executed Access Agreement, for execution by the Access Seeker.

4.8.2 Where the Access Seeker wish to negotiate an Access Agreement, the Operators shall comply with the requirements in Sections 5.4.1, 5.4.2, 5.4.3, 5.4.4, 5.4.9 and 5.4.15 of the MSA Determination in negotiating and concluding an Access Agreement.

4.8.3 SACOFA will not be taken to have agreed to provide, and the Access Seeker will not be taken to have agreed to acquire the requested Facility or Service listed in the Access List Determination until:

- (a) a Security Sum has been provided in accordance with **Sections 4.1** and **4.3**; and

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- (b) an Access Agreement has been executed between the Operators and the Access Agreement is registered with the Commission in accordance with section 150 of the Act.

4.9 Timing

4.9.1 If an Access Seeker wishes to negotiate an Access Agreement with an Access Provider:-

- (a) both parties shall notify the Commission when the negotiations for the Access Agreement begin under this subsection;
- (b) both parties shall use their best endeavours to conclude the Access Agreement within:-
 - (i) where there is no Access Agreement in place between SACOFA and the Access Seeker, **four (4)** months; or
 - (ii) where there is already a commercial agreement or an Access Agreement in place between SACOFA and the Access Seeker, **three (3)** months;

after a written request by the Access Seeker to commence negotiations under Section 5.4.6 (c) of the MSA. SACOFA's response confirming it is willing to negotiate under paragraph 5.4.7 (b) of the MSA.

- (c) If the negotiations are not completed within the applicable timeframe specified under Section 4.9.1 (b):-
 - (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 shall take effect; or
 - (ii) either party may initiate the Dispute Resolution Procedures; and
- (d) if the Commission grants an extension of time Section 4.9.1 (c) (i), 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).

4.10 Negotiation Response

4.10.1 If SACOFA is willing to proceed with negotiation of the Access Request, SACOFA 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 SACOFA's response, when SACOFA's representative that is authorised to negotiate on an Access Agreement, will be available for an initial meeting with the Access Seeker's representative that is authorised to negotiate on the Access Agreement; and
- (b) one (1) copy of the executed confidentiality agreement returned by the Access Seeker that has also been properly executed by SACOFA.

4.11 Initial Meeting

4.11.1 Unless otherwise agreed between the Operators, each Operator shall ensure that its representatives meet on the date notified pursuant to paragraph 5.4.9 (a) of the MSA and that such representatives:

- (a) agree on a timetable for the negotiations, including milestones and dates for subsequent meetings within the applicable timeframe for negotiations under paragraph 5.4.1 (b) of the MSA;
- (b) agree on negotiating procedures, including:
 - (i) calling and chairing meetings;
 - (ii) responsibility for keeping minutes of the meetings;
 - (iii) clearly defined pathways and timetables for escalation and resolution by each Operator of matters not agreed in the meetings;
 - (iv) procedures for consulting, and including in the negotiating process, relevant experts from each of the Operators; and
 - (v) procedures for preparing and exchanging position papers;
- (c) review the information requested and provided to date and identify information yet to be provided by each Operator; and
- (d) identify what technical investigations, if any, need to be made and by whom such investigations should be made.

4.12 Reporting on Refusals

4.12.1 If SACOFA refuses an Access Request, it must notify the Commission within **five (5)** Business Days of that refusal together with an explanation of its reason for refusal under Section 5.4.11 of the MSA.

4.13 Fast Track Application Process

- 4.13.1 (a) The fast track application process set out in this **Section 4.13** shall be applicable to Trunk Transmission Service, Wholesale Local Leased Circuit and End-To-End Transmission for existing Facility and Services which does not require any additional investment;
- (b) For the purpose of clarification, where an Access Seeker requests for a Facility or Service that is not listed in **Section 4.13.1** above in addition to a Fast Track Application Service, the fast track application process shall not be applicable and the Access

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Seeker shall be required to put in an Access Request for the requested Facilities and Services in accordance with **Sections 4.1 to 4.12**.

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

- (a) the Access Seeker is duly licensed to provide the Facilities or Services listed in the Access List Determination for which access is sought;
- (b) the access requirements of the Access Seeker do not in SACOFA's opinion, have a material impact on SACOFA's current level of network resources; and
- (c) the Access Seeker is willing to accept the terms and conditions for the requested Facilities or Services as stipulated in the Access Agreement without negotiation.

4.13.3 Subject to **Section 4.13.1**, where an Access Seeker who is eligible for the fast track application process wishes to utilise the fast track application process, the Access Seeker shall:

- (a) forward to SACOFA a duly completed fast track application form which is attached herewith as ANNEXURE 5 shall contain the following information:
 - (i) the name and contact details of the Access Seeker; and
 - (ii) the Facilities and Services listed in the Access List Determination in respect of which access is sought;
- (b) deposit a Fast Track Security Sum;
- (c) pay a non-refundable processing fee as set out in **Annexure 2** to SACOFA for undertaking the necessary administrative work to process the fast track application; and
- (d) lodge with two (2) copies of the signed Access Agreement with suggested amendments to the technical matters (if any).

4.13.4 SACOFA may reject the Access Seeker's fast track application for the reasons set out in **Sections 4.6.1(c), (f) and (g)**.

4.13.5 Where SACOFA accepts the Access Seeker's fast track application, SACOFA:

- (a) may impose a one-off resource charge for allocation of manpower and other resources in accordance with **Section 4.5.3** and
- (b) shall within **ten (10)** Business Days of receipt of the fast track application, execute the Access Agreement.

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

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- (a) a Fast Track Security Sum has been provided in accordance with **Section 4.13.3**; and
- (b) an Access Agreement has been executed between the Operators and the Access Agreement is registered with the Commission in accordance with section 150 of the Act.

4.13.7 For the purpose of clarification, if the Access Seeker wishes to obtain the Fast Track Application Services but is not agreeable to the terms and conditions of the Access Agreement, SACOFA is not obliged to process the fast track application further and the Access Seeker shall be required to put in a new Access Request in accordance with **Section 4.1-4.13**.

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SACOFA'S RAO – CHAPTER 5

CHAPTER 5: PROVISION OF INFORMATION

- 5.1 The obligations of each Operator to provide information to the Other Operator are subject to the MSA Determination and the requirements of confidentiality imposed by SACOFA'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 Licence conditions, the Operators will exchange information and otherwise cooperate in relation to the prevention and investigation of fraudulent use or misuse of the Operator's respective Communications Services and the theft of the Operator's provided terminal equipment.
- 5.4 Information provided under SACOFA's RAO may only be used for the purpose for which it was given. Personal information about a Customer's credit worthiness, credit standing, credit history or credit capacity may only be used for the purposes permitted by, and in compliance with, Malaysian law.
- 5.5 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 purposes of this clause any updated information) required to be provided under this Paragraph 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 both SACOFA and the Access Seeker having regard to the reasonable cost, convenience and security concerns of the Operators.
- 5.6 (a) Subject to the Act and any subordinate legislation, nothing in the Access Agreement may be construed as requiring an Operator at any time to disclose to the Other Operator information which is at the date when the Access Agreement comes into force, the subject of a confidentiality obligation owed to a third person unless the third person consents to such disclosure. Where the consent of a third person is required, the Operator holding the information must use its reasonable endeavours to obtain the consent of that third person.
- (b) After the Access Agreement comes into force an Operator must use its best endeavours not to enter into any contract which would prevent it from making information available to the Other Operator unless the contract includes a term

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which permits the contracting Operator to make the information available if directed to do so by the Commission.

- 5.7 All Communication Information, call and such other relevant information must be kept by both Operators for a period of **two (2)** years unless otherwise agreed in writing for the purposes of verification and audit.

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SACOFA'S RAO – CHAPTER 6

CHAPTER 6: BILLING AND SETTLEMENT

6.1 Where relevant, the billing and settlement obligations set out in Section 5.11 of the MSA Determination shall be applicable:

*“5.11.3 **Billing Cycle:** An Access Provider shall issue Invoices in accordance with the Billing Cycles specified in the Service Specific Obligations, except where a different Billing Cycle is agreed with the Access Seeker in an Access Agreement.”*

6.2 Billing

- 6.2.1 (a) In respect of any charge due from the Access Seeker, SACOFA shall raise the Invoice for amount due for the supply of Facilities and Services.
- (b) Unless otherwise agreed in writing, SACOFA shall Invoice in writing or in electronic form (as requested by the Access Seeker), on a Party to Party basis, within **thirty (30)** days from the provisioning of the Facilities and/or Services for amounts due in respect of the supply of Facilities and Services during the Billing Period. SACOFA shall provide with each Invoice, such information as may be reasonably necessary for the Access Seeker to verify the rates and charges specified in the Invoice. In addition, the Access Seeker may request, in writing, for the billing report to be provided by SACOFA in an electronic format.
- (c) SACOFA shall provide the Access Seeker at the Access Seeker's written request, with an aggregated summary of billings for access to the Facilities and/or Services provided to the Access Seeker in monthly trenches.
- (d) The Access Seeker shall, from time to time, inform SACOFA of the mailing address and the department to which the Invoice should be sent to and also SACOFA's bank account details for the purposes of enabling the Access Seeker to make payment. All physical Invoices shall be delivered by hand or post (either registered mail or courier).

6.3 Backdate Billing

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

6.4 Terms of Payment

- 6.4.1 (a) The Access Seeker must pay any amount due and owing to SACOFA on the Due Date unless otherwise agreed in writing by both Parties.

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- (b) The Access Seeker to whom any Facilities and/or Service is provided under this Agreement must pay SACOFA the applicable rates and charges, and on the terms and conditions set out or referred to, as the case may be, in this Agreement.
 - (c) The Access Seeker shall acknowledge their acceptance of invoice issued by SACOFA to the Access Seeker upon receipt and fax over the acknowledgment to SACOFA on the day of receipt, failing which the Access Seeker is deemed to have been received by the Access Seeker **three (3)** days after posting or courier of the invoice.

6.4.2 Method of payments:

- (a) must be paid by electronic transfer to SACOFA or by cheque to the nominated account(s) of SACOFA;
- (b) must be accompanied by such information as it reasonably required by SACOFA to properly allocate payments received, failing which SACOFA shall have the absolute discretion to allocate payments received to any amounts due and payable; and
- (c) SACOFA shall only be entitled to set-off any amounts stated in any Invoice and which is outstanding against any amounts owed to the Access Seeker:-
 - i) in the event the Access Seeker is in or goes into or threatens to go into liquidation or passes a resolution to wind up; or
 - ii) there are at least **three (3)** Invoices unpaid by the Access Seeker.
 - iii) unless otherwise agreed by the Parties, set-off is to be limited to the same type of Facilities and/or Services provided.

6.4.3 Unless otherwise agreed by SACOFA and the Access Seeker, all invoices shall be stated in RM and payment must be made in RM; and

6.4.4 It is hereby expressly agreed that SACOFA is entitled to the payment of interest without prejudice to any other rights of SACOFA. 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 rate 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 base rate (as well before judgment and after judgment) calculated from the Due Date until the date of receipt by SACOFA of full payment. Further, the base rate to be used shall be the published rate prevailing on the date of payment.

6.4.5 Where interest in respect of any due and unpaid amount is due to SACOFA under Condition 6.4.4, SACOFA may issue a debit note for this interest.

6.4.6 If SACOFA discovers an error in an invoice given to the Access Seeker under this Chapter 6, it must notify the Access Seeker. SACOFA which made the error must make the necessary adjustment to correct that error (including adjusting any interest erroneously charged) within **one (1)** month of notification.

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6.4.7 Unless otherwise agreed by SACOFA and Access Seeker in an Access Agreement, SACOFA may include omitted or miscalculated Charges from an earlier Invoice in a later Invoice, or issue an Invoice for Charges which previously have not been invoiced provided that SACOFA is able to substantiate the Charges to the Access Seeker and such inclusion, amendment or issuance is made within **three (3)** months from the end of the Billing Cycle in which the calls were made or in which other Facilities and/or Services were provided.

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

6.5 Security Sum

6.5.1 The Access Seeker shall have deposited the Security Sum as security for the performance of all the Access Seeker's obligations under this Agreement. The amount of the initial Security Sum for each Facility or Services shall be as stipulated in respective Facility or Services description. For the purpose of clarification, the Security Sum does not relieve the Access Seeker from its obligations to pay amounts to SACOFA as they become due and payable, nor does it constitute a waiver of the SACOFA's right to suspend, disconnect, or terminate the relevant Facilities or Services due to non-payment of any sums due or payable to SACOFA.

6.5.2 (a) SACOFA shall be entitled, from time to time and in no event once in any **twelve (12) months**, to revise the Security Sum in any of the following event:-

(i) where, in the opinion of SACOFA, there is a material change in circumstances in relation to the Access Seeker's creditworthiness. In such cases, SACOFA may request for additional security in addition to the sum stated under the respective Facilities and/or Service to sufficiently and reasonably mitigate its risk in providing the Facilities and Services to the Access Seeker. For clarification, material change in circumstances includes, but is not limited to, failure to pay on the Due Date in respect of **three (3)** Invoices rendered in the preceding **six (6)** months, so long as those amounts have not been disputed in good faith; and/or

(ii) as provided under the respective Facilities and/or Service descriptions.

(b) Where the amount of the Security Sum is, at any time, less than the amount stated in the respective Facilities and/or Services (including when a demand has been made by SACOFA) determined by SACOFA, the Access Seeker shall within **thirty (30)** days from the written request of SACOFA, deposit a new security equivalent to the requested sum.

(c) Upon termination of the Agreement:

(i) the Security Sum deposited with SACOFA or parts thereof shall be returned and/or refunded to the Access Seeker within **sixty (60)** days from the date of termination provided all other amounts payable by the Access Seeker to SACOFA have been paid; and

- (ii) SACOFA shall immediately in writing unconditionally waive its rights under any guarantee provided as Security Sum in respect of future performance of this Agreement by the Access Seeker if any, since this Agreement has been terminated save and except that the guarantee shall remain in full force in respect of any antecedent breaches under this Agreement or in respect of any amounts payable by the Access Seeker to SACOFA as at the date of termination, without prejudice to the rights and remedies of SACOFA under this Agreement (including but not limited to the right to claim for any or all amounts due and payable under the Agreement and/or to call upon the Security Sum) and/or under law.

6.6 Billing Disputes

- 6.6.1 Where there is a Billing Dispute, the Parties shall comply with the dispute resolution procedures in Chapter 7.
- 6.6.2 For the avoidance of doubt, the Access Seeker shall not use the dispute resolution procedure in Chapter 7 to avoid or delay payment due to SACOFA where there is no genuine dispute.

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SACOFA'S RAO – CHAPTER 7

CHAPTER 7: DISPUTE RESOLUTION PROCESS

7.1 Introduction

7.1.1 Subject to **Section 7.2.3**, the Operators shall adopt and comply with this dispute resolution procedure in relation to any dispute which may arise between the Operators in relation to or in connection with SACOFA's supply of any Facilities and/or Services ("**Access Dispute**").

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

- (a) Interconnect Steering Group; and
- (b) specific resolution of disputes, being:
 - (i) technical disputes (which must follow the procedures set out in **Section 7.4** if they cannot be resolved through the application of the general dispute resolution provisions in Sections 7.2 and 7.3);
 - (ii) Billing Disputes, which must follow the procedures set out in **Section 7.5**; or
 - (iii) any other types of disputes which, if cannot be resolved through the application of the general dispute resolution provisions in **Sections 7.2** and **7.3**, must be referred to the Commission for resolution.

7.1.3 A dispute between the Operators regarding any matter dealt with under the Access Agreement shall first be attempted to be resolved by good faith negotiation between the Operators in accordance with this Chapter 7 and the Access Agreement.

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

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

7.2 General

7.2.1 Until expiry of the dispute resolution procedures set out herein, an Operator may not commence court proceedings relating to that dispute other than an application for urgent

interlocutory relief. Nothing in this **Section 7.2.1** shall be construed as ousting the jurisdiction of any court.

- 7.2.2 An Operator shall ensure that its representatives acting in relation to a dispute are of sufficient seniority and have authority to settle an access dispute on behalf of the Operator. At the commencement of the dispute resolution procedure, each Operator must notify the Other Operator of the scope of the authority of each of their representatives. If in the course of the dispute resolution procedures it is identified that the matters to be resolved are outside the initial term of reference for which authority was given to a representative, an Operator may require that those matters be referred to more senior officers of that Operator who have authority to settle those matters.
- 7.2.3 During a dispute and any dispute resolution process invoked in accordance with this **Chapter 7**, the Operators must continue to fulfil their obligations under the Access Agreement between themselves.
- 7.2.4 Subject to **Section 7.2.5**, the Operators shall exchange information of a type described in the Access Agreement during the course of, and to facilitate, resolution of such a dispute.
- 7.2.5 Confidential information of an Operator which is disclosed, and any other oral or written submissions made by an Operator or an Operator's representatives during the course of any dispute resolution process will be subject to the confidentiality restrictions contained in the Confidentiality Agreement and the Access Agreement.
- 7.2.6 An Operator must not use information obtained under **Section 7.2.4** or described in **Section 7.2.5** for any purpose other than to resolve the dispute.
- 7.2.7 Subject to Chapter 7 of Part V of the Act, an arbitrator of a dispute (including a Technical Expert (as hereinafter defined) or the Commission, in accordance with this **Chapter 7**) 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.
- 7.2.8 The costs of the arbitration are to be shared equally between the Operators, unless the arbitrator of the dispute has decided not to determine the dispute in accordance with **Section 7.2.7**. If an arbitrator decides not to determine the dispute, the Operator that initiated the dispute must pay the costs of the arbitration including the Other Operator's costs thereto.

7.3 Interconnect Steering Group

- 7.3.1 In the first instance the Access Seeker and the Access Provider should attempt to resolve the Dispute between themselves. Either Operator may give written notice ("**Notice**") to the Other Operator ("**Receiving Operator**") stating its intention to form, within **ten (10)** Business Days, an Interconnect Steering Group ("**ISG**") and outline the details of the Dispute.
- 7.3.2 The Access Provider and the Access Seeker shall form the ISG within **ten (10)** Business Days, to fulfil the requirements of **Section 7.3.1** above. The ISG shall comprise of representatives of the Parties, and be headed by a person who holds a position that is at least equivalent to the Chief Officer or Executive Vice President of the Access Provider.

- 7.3.3 The Parties shall provide for:
- (a) subject areas to be dealt with by the ISG;
 - (b) equal representation by the Access Seeker and the Access Provider;
 - (c) chairmanship and administrative functions of the working group to be shared equally; and
 - (d) formal notification procedures to the ISG.
- 7.3.4 The Access Provider and the Access Seeker shall use reasonable endeavours to attempt to settle the Dispute in the working group for a period of no longer than **thirty (30)** Business Days from the date of the Notice unless otherwise agreed by the Parties, subject always to a party's right to seek urgent interlocutory relief.
- 7.3.5 In the event that the Operators cannot resolve the Dispute between themselves within the time specified in **Section 7.3.4**, or after any agreed time extension has expired, either Operator may notify the Other Operator that it wishes to refer the issue to:
- (a) to the extent the issues in dispute are technical in nature, to a Technical Expert (in accordance with **Section 7.4**); or
 - (b) to the Commission for final arbitration.
- 7.3.6 The ISG to which an issue has been raised will meet within **ten (10)** Business Days of the receipt by the Receiving Operator of the Notice under **Section 7.3.1**. If the ISG fails to meet or has not been formed within **ten (10)** Business Days of the receipt by the Receiving Operator of the Notice, either Operator may refer the Dispute:
- (a) to the extent the issues in dispute are technical in nature, to a Technical Expert (in accordance with **Section 7.4**); or
 - (b) to the Commission for final arbitration.
- 7.4 Use of a Technical Expert**
- 7.4.1 A dispute will only be referred to a Technical Expert if the provisions in **Section 7.3** have been complied with.
- 7.4.2 Once a dispute is referred to a Technical Expert, it may not be referred back to a Working Group or ISG.
- 7.4.3 The Technical Expert:
- (a) will be an expert appointed by agreement of the Operators or, if the Operators cannot agree, by the Commission;

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- (b) will have the appropriate qualifications and experience to arbitrate the dispute, including knowledge of the communication industry;
 - (c) need not be a Malaysian citizen or resident; and
 - (d) will not be an officer, director, or employee of a communications company or otherwise have a potential for conflict of interest.
- 7.4.4 If the Operators fail to appoint a Technical Expert within **ten (10)** Business Days of the notice to refer a dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.
- 7.4.5 When relying on the services of a Technical Expert, the following procedures will apply to the dispute resolution procedure of the Technical Expert:
- (a) the Operators will present written submission to the Technical Expert and each other within **fifteen (15)** Business Days of the appointment of the Technical Expert; and
 - (b) each Operator may respond to the Other Operator's submission in writing within **fifteen (15)** Business Days from the date of the Other Operator's submission. No further submissions in reply shall be made except with the Technical Expert's approval.
- 7.4.6 A Technical Expert hearing will be within **fifteen (15)** Business Days of the last written submission unless:
- (a) an Operator requests for and the Other Operator agrees that the use of the Technical Expert be by documents only; or
 - (b) failing agreement of the Operators, the Technical Expert decides within **five (5)** Business Days of the last written submission that the use of the Technical Expert be by documents only.
- 7.4.7 Should a Technical Expert hearing be held, each Operator will have the opportunity of making an oral submission. This process will be conducted in private.
- 7.4.8 The procedure for hearing technical disputes will be determined by the Technical Expert (including number and duration of oral submissions by the Operators) but in any case, the Technical Expert's hearing will last no longer than **three (3)** Business Days.
- 7.4.9 The Technical Expert will not have the power to appoint any other experts.
- 7.4.10 The Technical Expert will deliver his award within **fifteen (15)** Business Days of the conclusion of the hearing or of the last written submission where the arbitration is by documents only. A failure to comply with the time frame in this **Section 7.4.10** does not invalidate the Technical Expert's award.
- 7.4.11 Every dispute referred to a Technical Expert will be considered separately so that time limits for each dispute are complied with.

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7.4.12 The Technical Expert's decision will be final and binding on the Operators (in the absence of manifest error of fact or law).

7.4.13 For the avoidance of doubt, a Dispute shall not be referred to the Commission once it has been referred to a Technical Expert. The Technical Expert shall be the one determining the Dispute.

7.5 Billing dispute resolution

7.5.1 SACOFA shall allow the Access Seeker to dispute an Invoice prepared by SACOFA if in the case of any other Facilities and Services, the Access Seeker notifies SACOFA in writing within **thirty (30)** business days after the date of receipt of such Invoice, provided that the Access Seeker's notification specifies the information referred to in Section 5.11.13 of the MSA:

*"5.11.13 **Notification of Billing Dispute:** An Access Provider may require an Access Seeker to provide the following information when disputing any amount in an Invoice:*

- (a) the reasons for which 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 any relevant traffic data which is in dispute."*

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

7.5.2 Unless otherwise agreed in writing, a Billing Dispute may only arise where the Access Seeker has reasonable grounds to believe that an error has arisen from one of the following circumstances:

- (a) SACOFA's Billing System is, or has been, defective or inaccurate in respect of the recording of the calls which are the subject of the dispute;
- (b) there is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Access Seeker's Billing System; or
- (c) there is, or has been, a fraud perpetrated by SACOFA; or

General Terms and Conditions

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- (d) SACOFA has made some error in respect of the calculation of the charges which are the subject of the Billing Dispute.

7.5.3 All Billing Dispute Notices given under this **Section 7.5** must specify;

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

7.5.4 SACOFA shall allow the Access Seeker to dispute an Invoice prepared by SACOFA, if in the case if the Access Seeker notifies SACOFA in writing within **thirty (30)** business days after the date of receipt of such Invoice. If the Access Seeker fails to dispute an Invoice within the specified time period above, SACOFA is deemed to have accepted the Invoice.

7.5.5 Notwithstanding **Section 7.5.4**, if the Operators are not able to settle a Billing Dispute within the time periods specified in **Section 7.5.7**, an Operator may withhold payment of amounts disputed in good faith for all subsequent Invoices issued by SACOFA. If the Dispute is resolved between the Operators in writing against the Access Seeker, then the Access Seeker shall pay interest (calculated in accordance with **Section 6.4.4**) on the outstanding amounts due to SACOFA. The interest shall be payable within **fourteen (14)** days from the settlement of the Dispute, as documented by the Operators. Interest shall be calculated from the Due Date to the date of actual payment of the outstanding amount.

7.5.6 The Operators agree to use their reasonable endeavours to promptly resolve any Billing Dispute notified under this **Section 7.5**.

7.5.7 If the Operators are unable to resolve any Billing Dispute within **thirty (30)** calendar days (or such other period as the Operators may agree) from the date on which the Billing Dispute Notice is received, either Operator may seek the consent of the Other Operator to extend the period for resolution of the Billing Dispute stating the exceptional reasons for such extension. The Other Operator is, however, under no obligation to agree to such extension.

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- 7.5.8 To the extent that a Billing Dispute notified under this **Section 7.5** involves a Billing Dispute with an international correspondent of SACOFA, the dispute resolution procedures shall be suspended for a reasonable period of time pending resolution of the dispute with that international correspondent. As a general rule, the period of suspension will not exceed **one hundred twenty (120)** days. However, the Operators recognize that some Billing Disputes with international correspondents may take longer to resolve, in which case SACOFA must promptly inform the Access Seeker of the likely period required for resolution.
- 7.5.9 Once the negotiation period under **Section 7.5.7** and any extension granted under **Section 7.5.8** has expired, the Billing Dispute may be referred by the Access Seeker to the procedure described in **Section 7.5.10** ("**Billing Dispute Escalation Procedure**").
- 7.5.10 The Access Seeker may refer a Billing Dispute to the Billing Dispute Escalation Procedure under this **Section 7.5.10** by notifying SACOFA's Billing Representative. Each of the Operators shall then appoint a designated representative that has authority to settle the Billing Dispute, and that is at a higher level of management than the persons with direct responsibility for administration of the Access Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute. The specific format for such discussions will be left to the discretion of the designated representatives however all reasonable requests for relevant information made by one Operator to the Other Operator shall be honoured.
- 7.5.11 Although it is the good faith intention of the Operators to use the billing dispute resolution procedures to the fullest extent to try to solve Billing Disputes, nothing in the Access Agreement shall prevent either Operator from pursuing any other remedy in law or equity that may be available to them if a Billing Dispute cannot be resolved to their satisfaction.
- 7.5.12 An Operator may request a joint investigation of Invoice discrepancies after that Operator has conducted comprehensive internal investigation, including an examination of its own Billing System. Prior to commencement of the joint investigation, the Operators must agree the terms of the joint investigation, including:
- (a) the scope of the joint investigation;
 - (b) how the joint investigation will be conducted; and
 - (c) the date by which the joint investigation must be concluded.
- The joint investigation may include the generation of test Call Communications to the Other Operator's Network.
- 7.5.13 Enquiries relating to billing, collecting and settlement arrangements or in relation to Network and operation issues may be directed to the Billing Representatives nominated by each Operator. The Billing Representatives nominated by each Operator shall be their Billing Representative at the ISG meetings.
- 7.5.14 Either Operator may at any time nominate another Billing Representative, provided that **ten (10)** Business Days prior notification of such appointment is given.

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7.5.15 If the Operators are unable to resolve any Billing Dispute after exhausting the Billing Dispute Escalation Procedure, either Operator may refer the Billing Dispute to the Commission for resolution under Chapter 7 of Part V of the CMA. For the purposes of clarification, the Billing Dispute procedure shall follow the procedure in this **Section 7.5** and does not involve the Interconnect Steering Group and Technical Expert under **Sections 7.3 and 7.4**.

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SACOFA'S RAO – CHAPTER 8

CHAPTER 8: INTELLECTUAL PROPERTY RIGHTS

- 8.1 All right, title and interest in and to any:
- (a) Intellectual Property (in relation to matters which are the subject of this Agreement) developed or to be developed vests in the Operator who developed that Intellectual Property or for whom that Intellectual Property was developed by a third person; and
 - (b) improvements to or adaptations, versions or modifications of Intellectual Property (in relation to matters which are the subject of this Agreement) vest in the Operator who developed that Intellectual Property or on behalf of whom that Intellectual Property was developed.
- 8.2 The Operators will negotiate arrangements (including in respect of title) concerning Intellectual Property jointly developed in the course of performing or otherwise in connection with this Agreement.
- 8.3 Each Operator shall licence to the Other Operator on a royalty-free basis, all Intellectual Property rights necessary for the on-going operation of this Agreement and the interoperability of the Operators' Networks but shall be subject to any relevant third party licences. The Operators agree that such Intellectual Property rights accorded to them shall only be used for purposes of this Agreement unless otherwise agreed in writing.
- 8.4 Each Operator ("**Indemnifying Operator**") indemnifies the Other Operator ("**Innocent Operator**") against all liability or loss arising directly from, and all reasonable costs, charges and expenses incurred by the Innocent Operator in connection with any claim, action, suit or demand alleging infringement of the rights of a third party arising from use by the Innocent Operator of Intellectual Property disclosed or licensed by the Indemnifying Operator under this Agreement. This indemnification will represent the only remedy and form of compensation available to the Innocent Operator in relation to the infringement of Intellectual Property licensed or disclosed by the Indemnifying Operator under this Agreement.

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SACOFA'S RAO – CHAPTER 9

CHAPTER 9: CONFIDENTIALITY OBLIGATION

- 9.1 All Confidential Information disclosed or communicated by one Operator to the Other Operator or obtained by one Operator from the Other Operator in connection with this Agreement including but not limited to the business and operations of an Operator and the terms of this Agreement shall be treated as Confidential Information unless the information:
- (a) is or become publicly available through no fault of the receiving Operator;
 - (b) which the receiving Operator can prove was in its possession or known to it prior to its receipt from the disclosing Operator without a duty of confidentiality;
 - (c) is or was rightfully received by the receiving Operator from a third party without a duty of confidentiality being owed by the receiving Operator to the third party, except where the receiving Operator has knowledge that the third party has obtained that information either directly or indirectly as a result of a breach of any duty of confidence owed to the disclosing Operator; or
 - (d) is independently developed by the receiving Operator without the use of the Confidential Information.
- 9.2 Each Operator's Confidential Information shall be held in strict confidence by the Other Operator, using no lesser security measures and degree of care as it uses to protect its own Confidential Information. In any event, the security measures and the degree of care it uses shall, as a minimum, comply with the standards imposed by the applicable laws including the Personal Data Protection Act 2010. The receiving Operator shall further ensure that the Confidential Information is secured from unauthorised access from internal and external parties and that all Confidential Information used, stored and/or processed shall be free from virus, malware or other malicious codes.
- 9.3 Neither Operator shall publicise or announce the execution of this Agreement or otherwise disclose the terms thereof without the prior written consent of the other save and except where its disclosure becomes mandatory pursuant to any laws or any acts of authority or is for the purposes of court proceedings in which case **Section 9.5** shall apply.
- 9.4 The Confidential Information shall not be used, copied, reproduced, distributed or disclosed by the receiving Operator for any purpose except that:
- (a) it may be disclosed to its employees or its advisers strictly on a need to know basis to implement or perform this Agreement provided that its employees and advisers is subject to and maintains the confidentiality obligations under this Agreement; and/or
 - (b) its disclosure becomes mandatory pursuant to any laws or any acts of authority or rules of any stock exchange, or is for the purposes of court proceedings.

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- 9.5 Where the receiving Operator is required to disclose any Confidential Information pursuant to any laws or any acts of authority or rules of any stock exchange, or is for the purposes of court proceedings, the receiving Operator:
- (a) shall where practicable and lawful give **one (1)** Business Day's notice to disclosing Operator that it is required to disclose the Confidential Information so that the disclosing Operator has an opportunity to protect the confidentiality of its Confidential Information; and
 - (b) provides the disclosing Operator with a copy of the Confidential Information that the receiving Operator is required to disclose.
- 9.6 Upon the expiry or termination of this Agreement, the receiving Operator shall promptly return to the disclosing Operator or, where instructed, destroy Confidential Information of the disclosing Operator at its own cost and immediately cease using all such Confidential Information. Where required by the disclosing Operator, the receiving Operator shall provide to the disclosing Operator a written undertaking confirming that it has fully complied with the requirements of this **Section 9.6** and that it is not in possession or control of any of the disclosing Operator's Confidential Information.
- 9.7 The receiving Operator shall ensure that each of its personnel and advisers to whom the Confidential Information of the disclosing Operator is disclosed will strictly comply with the confidentiality obligations under this **Section 9**.
- 9.8 Each Operator shall comply with all applicable privacy and personal data protection laws and regulations. Each Operator may be required to provide to the Other Operator personal data (as defined in the Personal Data Protection Act 2010) of third parties (including but not limited to the Operator's contact persons and employees) as part of and/or for the performance of this Agreement. Each Operator represents and warrants that it has and will comply with any applicable laws to provide notices to or obtain consents from any such individuals to allow sharing of their personal data with the Other Operator and/or their employees or agents to facilitate the performance of this Agreement and any other ancillary matters related to the performance of this Agreement including but not limited to the disclosure of their personal data to any other third parties on a need to know basis.
- 9.9 The obligations of the receiving Operator in this **Section 9** shall survive the termination or expiry of this Agreement.

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SACOFA'S RAO – CHAPTER 10

CHAPTER 10: LIABILITY AND INDEMNITY

10.1 General Principle

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

10.2 Insurance

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

- (a) Worker's Compensation and/or Social Security Insurance and/or Employer's Liability Insurance and/or other insurance with statutory limits as required by the laws of Malaysia to provide for payment to its employees employed on or in connection with the work covered by this Agreement and/or their dependants.
- (b) Comprehensive General Liability Insurance or Public Liability Insurance of an amount which is not more than **Ringgit Malaysia Twenty Million (RM 20,000,000)** for any one claim or series of claims arising out of an accident or occurrence in connection with this Agreement resulting in bodily injury and/or personal injury including death and property damage of an Operator which shall arise out of or in consequence of any acts or omission of the Other Operator.

10.3 Damage to Property

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

10.4 Death and Personal Injury

10.4.1 Subject to **Section 10.6.4**, the defaulting Operator shall be absolutely liable for, and hereby indemnifies the Other Operator from and against all costs, expenses and claims in respect of all injuries to, including the death of any and all employees of the Other Operator arising out of any act or omission of the defaulting Operator, its servants or agent.

10.5 Third Person Indemnity

10.5.1 Subject to **Section 10.6.4**, the defaulting Operator shall indemnify and hold the Other Operator safe and harmless from and against all costs, expenses and claims in respect of:-

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

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

10.6 Liability

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

10.6.2 Subject to **Sections 8.4 and 10.5**, an Operator shall not be liable to the Other Operator or any other third party and shall not indemnify the Other Operator for any claims, proceedings or actions brought or made by a third party against the Other Operator, howsoever arising, including but not limited to:

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

10.6.3 Notwithstanding **Sections 10.3.1 and 10.5.1**, an Operator shall not be liable for damage to property due to hacking and the transmission of malicious codes and/or programs by third parties (other than its employees, agents, servants, contractors and/or other persons under its control) provided that presently available security solutions and antivirus solutions have been put in place by the Operator.

10.6.4 In no event will either Operator's liability under this Agreement exceeds **Ringgit Malaysia Twenty Million (RM20,000,000)** only per event for any accident or occurrence in connection with this Agreement save that the limitation of liability set out in this **Section 10.6.4** shall not apply to damage to property and/or fraud by that Operator and/or amounts due and payable under an Invoice.

10.7 Exclusion of Warranties

10.7.1 Except as expressly set out in this Agreement, all representations, conditions and warranties (whether express or implied, statutory or otherwise) including but not limited to any implied warranty of merchantability, implied warranty of fitness for a particular purpose, implied warranty of non-infringement and implied warranty arising out of the course of dealing, custom

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or usage of trade with respect to any service provided by either Operator are expressly negated and excluded. The warranties set forth in this Agreement are the only warranties made by each Operator and will not be enlarged or diminished without that Operator's approval.

- 10.7.2 In no event will either Operator be liable to the Other Operator or any other person for indirect loss of profits, loss of business, use of data or special, exemplary, indirect, incidental, consequential or punitive damages of any kind for any reason, including, without limitation, the breach of this Agreement or any termination of this Agreement, whether such liability is asserted on the basis of contract, tort (including negligence and strict liability) or otherwise, even if either Operator has been advised of the possibility of such damages. The essential purpose of this provision is to limit the potential liability of each Operator arising out of this Agreement.

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SACOFA'S RAO – CHAPTER 11

CHAPTER 11: TERMINATION AND SUSPENSION

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

- 11.2 (a) An Operator (“**Notifying Operator**”) may terminate this Agreement or part thereof if:-
- i. the Other Operator (“**Defaulting Operator**”) fails to remedy a breach (which is capable of remedy) of a material obligation under this Agreement (including but not limited to the events specified in **Section 11.3(a)(iii) to (v)**) within **thirty (30)** days of receiving a notice of breach from the Notifying Operator;
 - ii. a winding up order has been made against the Defaulting Operator and the order remains or will remain in effect for a continuous period of **ninety (90)** days;

an order is made or an effective resolution is passed, for the reconstruction and amalgamation of the Defaulting Operator or otherwise under Section 176 of the Companies Act 1965 or any other similar action or proceeding under any other law and the order or resolution remains or will remain in effect for a continuous period of **sixty (60)** days;
 - iii. a receiver, receiver and manager, official manager, provisional liquidator, liquidator, or like official is appointed over the whole or a substantial part of the undertaking and property of the Defaulting Operator;
 - iv. a holder of an encumbrance takes possession of the whole or any substantial part of the undertaking and property of the Defaulting Operator;
 - v. the Defaulting Operator fails to remedy breaches (which are capable of remedy) of any laws, regulations, rules or standards which has a material adverse effect on the Notifying Operator or this Agreement or the provision of Facilities and/or Services, within **thirty (30)** days of receiving a notice of breach from the Notifying Operator; or
 - vi. a Force Majeure, substantially and adversely affecting the ability of an Operator to perform its obligations to the Other Operator under this Agreement, continues for a consecutive period of **ninety (90)** days. However, Notifying Operator may not give notice under this **Section 11.2** unless the Notifying Operator has:
 - (A) negotiated or endeavoured to negotiate in good faith with the Other Operator to remedy the Force Majeure with the purpose of amending the terms of this Agreement to enable this Agreement to remain in full force and effect notwithstanding such inability to so perform; and

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- (B) has failed to reach any agreement within **thirty (30)** days from the commencement of negotiations.
- (b) Upon the occurrence of the events set out in **Section 11.2** above or where a breach is incapable of remedy, and subject to the provision of **Section 11.4** below, the Notifying Operator may terminate this Agreement by issuing a termination notice to the Defaulting Operator/Other Operator (in the case of Force Majeure) and this Agreement shall terminate in accordance with the terms of the termination notice.
- 11.3 (a) The Notifying Operator may, without liability, suspend, to the extent necessary, access to its Facilities and/or Services where:
- i. the Defaulting Operator fails to remedy a breach (which is capable of remedy) of a material obligation under this Agreement (including the failure to pay Invoices in accordance with this Agreement within **thirty (30)** days of receiving a notice of breach from the Notifying Operator;
 - ii. the Defaulting Operator fails to remedy breaches (which are capable of remedy) of any laws, regulations, rules or standards, which has a material adverse effect on the Notifying Operator or this Agreement or the provision of Facilities and/or Services, within **thirty (30)** days of receiving a notice of breach from the Notifying Operator;
 - iii. the Defaulting Operator fails to remedy any fault or condition (which is capable of remedy), that causes the Defaulting Operator's network facilities materially adversely affect the normal operation of the Notifying Operator's Network, or are a material threat to any person's safety;
 - iv. the Defaulting Operator fails to remedy any condition (which is capable of remedy), that causes the Defaulting Operator's network facilities or supply of a network service posing an imminent threat to life or property of the Notifying Operator's, its employees or contractors;
 - v. the Defaulting Operator fails to remedy any fault or condition (which is capable of remedy) in the Defaulting Operator's network facilities that cause material physical or technical harm to any network facilities of the Notifying Operator or any other person;
 - vi. where the Defaulting Operator has failed to provide a new Security Sum as required in accordance with this Agreement; or
 - vii. subject to **Section 13.1.1**, where Force Majeure applies.
- (b) Upon the occurrence of the events set out in **Section 11.3(a)** above or where a breach is incapable of remedy and subject to the provision of **Section 11.4** below, the Notifying Operator may suspend access to its Facilities and/or Services by issuing a suspension notice and the suspension of access to the Notifying Operator's Facilities and/or Services shall take effect in accordance with the terms of the suspension notice.

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- (c) During the period of suspension, the Notifying Operator shall be entitled to charge the Defaulting Operator for all Charges invoiced in arrears and not yet paid or Charges arising during an applicable minimum contractual period in respect of the Facilities and/or Services provided that where a suspension is due to Force Majeure, the fixed periodic Charges for Services affected by the Force Majeure only will not be charged. The Defaulting Operator shall be solely responsible for any loss, costs, damages or expenses which the Defaulting Operator may incur or suffer during the period of suspension.

- 11.4 (a) Where the Notifying Operator seeks to terminate the Agreement (or part thereof) or suspend, to the extent necessary, access to Facilities and/or Services on any grounds including those specified in:-

- i. **Sections 11.2 (a)(i) to (vii)** with respect to termination; and/or
- ii. **Sections 11.3 (a)(i) to (vi)** with respect to suspension,

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

- (A) shall only give effect to the proposed termination or suspension with the Commission's written consent and subject to any time delay or conditions which the Commission may specify (if any). In this respect, the Commission shall respond to the Notifying Operator's notice within **ten (10) Business Days** or such other period that the Commission considers is reasonable; and
- (B) must not give effect to the proposed termination or suspension unless the Access Provider has received written consent from the Commission to such termination or suspension.

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

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

the Notifying Operator may, issue:

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

General Terms and Conditions

- (B) a suspension notice, with reasons, to the Defaulting Operator
- (1) immediately where the suspension is due to any of the events under **Section 11.3(a)(ii) to (v)**; or
 - (2) with **five (5)** Business Days' notice where the suspension is due to events under **Section 11.3(a)(i), (vi) and/or (vii)**,
- (with a copy of the said notice to be provided to the Commission on the same day) and the access to the Facilities and/or Services shall be suspended immediately or after the expiry of the **five (5)** Business Day period (as the case may be) in accordance with the terms of the notice.
- 11.5 The issuance of a suspension notice shall not in any way prejudice or prevent the Notifying Operator from exercising its right to issue a termination notice under **Section 11.2**.
- 11.6 In the event the Notifying Operator suspends access to Facilities and/or Services by reason of the Defaulting Operator's failures set out in **Section 11.3**, the Notifying Operator must reinstate access to Facilities and/or Services upon the Defaulting Operator remedying its failure or the direction of the Commission.
- 11.7 Notwithstanding **Section 11.4**, in the event that:-
- (a) an Operator's Licence(s) is terminated and the Operator is not immediately granted another Licence(s) of that type (where a License of that type or another License is required); or
 - (b) there are any change in law or regulation which renders this Agreement or access to any Facilities and/or Services unlawful,
- the Agreement or part thereof shall terminate in so far as the Agreement or part thereof is affected by the termination of an Operator's Licence(s) or change in law or regulation. However, other obligations under this Agreement which are not affected by such events shall remain in force. The Operators shall meet within **five (5)** Business Days of the affected Operator notifying the Other Operator of the events specified in **paragraphs (a) or (b)** above, review the Agreement to ascertain whether access to the Facilities and/or Services are lawful and may be provided on different terms which are mutually agreeable by both Operators.
- 11.8 Notwithstanding anything to the contrary, in the event an Operator breaches any of its obligations under this Agreement, the Other Operator shall, without prejudice to any of its rights and remedies under this Agreement and under law, have the absolute discretion to immediately seek urgent interlocutory action which shall include but not be limited to:-
- (a) preventing such further breaches from occurring;
 - (b) preventing the continuation of the said breach; and/or
 - (c) requiring the Operator in breach to comply with their obligations under this Agreement,

General Terms and Conditions

without the necessity of first exercising any of its rights herein. For the avoidance of doubt, **Sections 11.2, 11.3, 11.4 and 7** shall not preclude the Other Operator from immediately seeking urgent interlocutory action under this Condition.

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

11.10 Upon termination of this Agreement or part thereof:

- (a) subject to **Section 11.10 (b)** below, the Access Provider shall refund to the Access Seeker within **sixty (60)** days all amounts paid in advance in respect of Facilities and/or Services to the extent that the amount (or part of the amount calculated on a pro-rata basis) relate to the period after the effective date of termination; and
- (b) the Access Seeker shall immediately pay all amounts due to the Access Provider for the provision of Facilities and/or Services prior to and up to termination

(save for disputed amounts which the Access Seeker is entitled to withhold under **Section 7.5.5**).

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

- (i) such charges must be reduced to reflect any cost savings to the Notifying Operator from not having to supply the Facilities and/or Services to the extent that they have been terminated or suspended; and
- (ii) the Notifying Operator must use reasonable endeavours to mitigate its cost of termination or suspension and maximise cost savings under **Section 11.10(i)**.

General Terms and Conditions

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

- 11.11 Without prejudice to the Access Provider's rights and remedies under this Agreement and/or law, upon termination of this Agreement or suspension of access to Facilities and/or Services, the Access Provider shall not be entitled to penalise the Access Seeker with a penalty with respect to the provision of Facilities and/or Services. Nothing in this **Section 11.11** shall prejudice, limit or negate the rights and remedies of the Access Provider under this Agreement or law to seek redress or claim damages, cost and expenses for breach of this Agreement by the Access Provider, to enforce its right of indemnities, to claim interest and generally to enforce its rights and remedies.
- 11.12 Termination or expiry of this Agreement, in whole or in part, does not operate as a waiver of any breach by an Operator of any of its provisions and is without prejudice to any rights, liabilities or obligations of any Operator which have accrued up to the date of the termination or expiry, including a right of indemnity.

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SACOFA'S RAO – CHAPTER 12

CHAPTER 12: REVIEW

12.1 Subject to **Section 12.3**, if:-

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

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

12.2 If after the date hereof,

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

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

12.3 The obligation to negotiate set out in **Sections 12.1 and 12.2** commences promptly after delivery of a notice from one Operator to the Other Operator setting out in reasonable detail, the amendments sought.

General Terms and Conditions

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- 12.4 (a) If a Regulated Facility and/or Service is removed from the Access List or becomes a non-regulated facility or service pursuant to a revocation or an amendment to the Access List:
- (i) the Access Provider may, at its discretion and by giving notice to the Access Seeker:
 - (A) terminate or withdraw that network facility or network service; or
 - (B) vary or modify the terms and conditions pertaining to that network facility or network service subject to mutual agreement provided always that the Operators shall, within **fourteen (14)** days from the date of Access Provider's notice, first discuss the variation or modification which the Access Provider proposes to adopt ("**initial meeting**"). Thereafter, if the Operators fail to agree on the amended terms and conditions within **forty-five (45)** days from the initial meeting or such other time as may be mutually agreed in writing by the Operators, then the Access Provider shall be entitled to terminate or withdraw that network facility or network service under **paragraph (a)(i)(A)** above. In such a case, the notice period referred to in **Section 12.4(c)**, shall commence from the date of the Access Provider's notice to vary the terms. Nothing in this **paragraph (i)(B)** shall prevent the Access Seeker from terminating the affected network facility or network service at any time in accordance with **Section 12.4(a)(ii)(A)**.
 - (ii) the Access Seeker may by giving notice to the Access Provider either:-
 - (A) terminate that network facility or network service by giving at least **three (3)** months written notice without penalty; or
 - (B) propose to vary or modify the terms and conditions pertaining to that network facility or network service subject to mutual agreement provided always that the Operators shall, within **fourteen (14)** days from the date of Access Seeker's notice, first discuss the variation or modification which the Access Seeker proposes ("**first meeting**"). Thereafter, if the Operators fail to agree on the amended terms and conditions within **forty-five (45)** days from the first meeting or such other time as may be mutually agreed in writing by the Operators, the Access Seeker may terminate or withdraw that network facility or network services in accordance with **Section 12.4(a)(ii)(A)**. Nothing in this **Section 12.4(a)(ii)(B)** shall prevent the Access Provider from terminating or withdrawing the affected network facility or network service at any time in accordance with **Section 12.4(a)(i)(A)**.
- (b) If:
- (i) a non-regulated facility and/or service becomes a Regulated Facility and/or Service pursuant to an amendment to the Access List; or

General Terms and Conditions

- (ii) where there is a variation or amendment to the Access List service description of a Regulated Facility and/or Service,

either Operator may propose variation or modification to the terms and conditions pertaining to that network facility or network service subject to mutual agreement provided always that the Operators shall, within **fourteen (14)** days, from the date of the written notice by the notifying Operator, first discuss the variation or modification proposed to be adopted ("**preliminary meeting**"). Thereafter, if the Operators fail to agree on the amended terms and conditions within **ninety (90)** days from the preliminary meeting or such other time as may be mutually agreed in writing by the Operators, then either Operator may initiate the dispute resolution procedures in **Section 7**. Nothing in this **Section 12.4(b)** shall prevent the Access Seeker from terminating the affected network facility or network service at any time, without penalty, by giving the Access Provider **three (3)** months written notice.

- (c) The notice given pursuant to **Section 12.4(a)(i)(A)**, shall be:

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

whichever is the earlier.

- (b) The notice given pursuant to **Section 12.4(a)(i)(A)** must state any alternative network facility or network service that may be available to be provided by the Access Provider to the Access Seeker and the terms and conditions of such alternative arrangement.

- (c) The amended terms and conditions agreed between the Operators shall take retrospective effect from the date of the relevant Commission's Determination takes effect (or where none is specified, the date of the Commission's Determination was made) unless otherwise agreed.

12.5 For the avoidance of doubt:

- (a) the variation of the Agreement pursuant to **Section 12.4(a)** shall not be subject to the approval process required under **Section 13.8.1(b)**; and
- (b) the provisions of this Agreement remain in full force and effect during any negotiations conducted under this **Section 12** until commencement of an agreement replacing or amending this Agreement.

CHAPTER 13: GENERAL PROVISIONS

13.1 Force Majeure

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

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

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

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

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

13.2 Governing Law

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

13.2.2 In the event of:

- (a) an Operator seeking urgent interlocutory relief in respect of any matter; or
- (b) an Operator seeking relief in respect of the Other Operator failing to comply with the dispute resolution process set out in **Section 7**; or
- (c) an Operator seeking relief in respect of a manifest error or mistake of law of the arbitrator (be it the Technical Expert or the Commission), established by the Operators pursuant to any dispute resolution procedures agreed in writing,

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

13.3 Operators to Act in Good Faith

- 13.3.1 Each Operator agrees that it will act in good faith in relation to the Other Operator with respect to all matters relating to or contemplated by this Agreement.

13.4 Costs and Expenses

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

13.5 Relationship of the Operators

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

13.6 Surviving Obligations

- 13.6.1 Termination or expiration in whole or in part of this Agreement does not affect those Conditions (including, without limitation, **Sections 8, 9, 10, 11.6, 11.9 and 7**) which by their nature survive termination or expiry.

13.7 Relationship with Third Persons

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

- 13.7.2 Subject to **Section 13.7.1**, no Operator has any authority to bind or oblige or incur any liability on behalf of the Other Operator and no such authority is to be implied.

- 13.7.3 **Sections 13.7.1** and **13.7.2** have neither the effect nor imply:

- (a) that an Operator or any of its employees, agents, representatives or contractors is the employee agent contractor or representative of the Other Operator; or
- (b) that an Operator has the authority to bind or oblige or incur a liability on behalf of the Other Operator,

unless the first mentioned Operator is a related body corporate of the Other Operator.

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

13.8 Variation

- 13.8.1 (a) A variation of any part of this Agreement is valid if, and only if, made between and in writing subscribed by the Operators and that the variation in respect of Regulated Facilities and Services is registered with the Commission in accordance with the Act.
- (b) Subject to **Section 13.8.1(a)**, where the Operators agree to materially vary the Agreement or access to its Facilities and/or Services, the Operators shall inform the Commission in writing of the action the Access Provider proposes to take and the reasons why such action is appropriate. This Agreement or access to Facilities and/or Services shall not be varied until such reasonable time and on such reasonable conditions as the Commission may legally specify.
- (c) In this **Section 13.8**, a reference to a variation includes a reference to an addition, deletion, amendment, modification, alteration or other variation.

13.9 Assignment

- 13.9.1 No rights, benefits or obligations under this Agreement may be assigned or novated by an Operator without the prior written consent of the Other Operator, which consent must not be unreasonably withheld.

13.10 Remedies Cumulative

- 13.10.1 Subject to any clause or provision of this Agreement which provides for a remedy or form of compensation to the exclusion of any other remedy or form of compensation, the rights, powers and remedies provided in this Agreement are:
- (a) cumulative; and
- (b) not exclusive of the rights, powers or remedies provided by law independent of this Agreement.

13.11 Notices

- 13.11.1 Subject to **Section 6.1.1(d)**, a notice, invoice, approval, consent, request or other communication in connection with this Agreement:
- (a) must be in writing; and
- (b) must be left at the address of the addressee, or sent by ordinary post, registered post or licensed courier to the address of the addressee or sent by facsimile (to be followed by post) to the facsimile number of the addressee which is set out below or if the addressee notifies another address or facsimile number then to that address or facsimile number.

General Terms and Conditions

The address and facsimile number of each Operator is:

SACOFA SDN. BHD.

Attention: Chief Administrative Officer
Address: 3rd Floor, Menara Zecon, Jalan Satok, 93400 Kuching, Sarawak
Facsimile: 082-239353

Access Seeker:

Attention: Chief Executive Officer
Address:
Facsimile: 082-

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

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

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

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

13.12 Waiver

13.12.1 (a) A provision of or right under this Agreement may not be waived except in writing signed by the non-defaulting Operator or Operators to be bound.

- (b) No failure or delay on the part of any Operator in exercising any rights hereunder shall operate as a waiver thereof nor shall any single or partial exercise of such right preclude any other or further exercise of any other right hereunder provided however that nothing in this condition shall extend time or be construed to extend time for the performance of any right or obligation under this Agreement if a time period is imposed for the performance of such right or obligation.

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

13.13 Entire Agreement

13.13.1 This Agreement constitutes the entire agreement of the Operators regarding the subject matter of this Agreement.

13.14 Severability

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

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

13.15 Time of the Essence

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

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General Terms and Conditions

SACOFA'S RAO – ANNEXURE 1

ANNEXURE 1

LIST OF FACILITIES AND SERVICES

Network Facilities / Network Services	Part in Schedule A
Trunk Transmission Service	Part I
Infrastructure Sharing	Part II
Network Co-Location Service	Part III
Wholesale Local Leased Circuit Service	Part IV
Duct And Manhole Access	Part V
End-To-End Transmission Service	Part VI
Layer 2 HSBB Network Service with Quality of Service ("QoS")	Part VII

SACOFA'S RAO – ANNEXURE 2

ANNEXURE 2

PART 1: NON-REFUNDABLE PROCESSING FEE FOR ACCESS REQUEST

No.	Types of Facilities and/or Services	Processing Fee
1.	Trunk Transmission Service	Up to RM600.00 per circuit
2.	Infrastructure Sharing	Up to RM300.00 per site
3.	Network Co-Location Service	Up to RM300.00 per site
4.	Wholesale Local Leased Circuit Service	Up to RM600.00 per circuit
5.	End-To- End Transmission Service	Up to RM600.00 per circuit

SACOFA shall impose on the Access Seeker and the Access Seeker shall pay in accordance with terms and conditions of Section 4.5.2 of the RAO Agreement:

1. a non-refundable processing fee for undertaking reasonably necessary administrative work to process and Order submitted by the Access Seeker; and
2. a fee for undertaking Service Qualifications, additional and non-routine work.

SACOFA shall provide a quotation of the estimate fees to the Access Seeker within **seven (7)** Business Days of receipt of an Order from the Access Seeker.

Upon the Access Seeker's acceptance of the quotation, SACOFA shall process the Order.

Any changes to the estimate fees of more than **twenty percent (20%)** will be notified to the Access Seeker within **seven (7)** Business Days of SACOFA becoming aware of the changes to the estimate fees and if the Access Seeker does not agree to pay the new estimate fees, the Access Seeker's Order shall be deemed withdrawn by the Access Seeker.

SACOFA'S RAO – ANNEXURE 3

ANNEXURE 3

BANK GUARANTEE FORMAT

Date: _____

To: Sacofa Sdn. Bhd. [200101017148 (552905-P)]
Level 3, Wisma Mahmud,
Jalan Sungai Sarawak,
93100 Kuching, Sarawak

BANK GUARANTEE

In consideration of Sacofa Sdn. Bhd. (hereinafter referred to as "SACOFA") entering or having entered into CONTRACT No: _____ dated _____ for _____ (hereinafter referred to as "CONTRACT"), with _____ (hereinafter referred to as "SUPPLIER"),

- a) We _____ acting through our _____ branch or office (hereinafter referred to as "GUARANTOR") hereby unconditionally and irrevocably guarantee to SACOFA its Affiliates, Co-Ventures and _____ the due and punctual performance by SUPPLIER of all its obligations under the CONTRACT and undertakes to indemnify and keep SACOFA harmless from loss or damage of whatsoever nature up to a maximum amount of Ringgit Malaysia _____ (RM____) and GUARANTOR shall not be discharged or released from its undertaking hereunder by:
- i. Any arrangement made between SACOFA and SUPPLIER; and /or
 - ii. Any waiver, forbearance or indulgence by SACOFA as to payment, time, performance or otherwise; and / or
 - iii. Any amendments to, additions to or deletions from the CONTRACT; and / or
 - iv. Any assignment or novation of any rights or obligations under the CONTRACT.
- b) GUARANTOR undertakes upon first written demand of SACOFA without proof or condition, unconditionally pay SACOFA the amount demanded by SACOFA up to the applicable limit as aforesaid notwithstanding any contestation by SUPPLIER or any other party.
- c) This Guarantee shall be in addition to and not in substitution for any rights which SACOFA may have under the CONTRACT and may be enforced by SACOFA without taking any proceedings against SUPPLIER.
- d) This Guarantee shall be a continuing Guarantee and is irrevocable and unconditional and accordingly shall remain in full force and effect from the issue date of the Purchase Order until **six (6)** months after the expiry of the warranty period of the goods to be supplied under the CONTRACT or any extension thereto whichever is the latest (hereinafter referred to as "Expiry Date"). All claims if any in respect of or under this Guarantee must be made in writing and received by GUARANTOR at any time within **three (3)** months after the Expiry Date.

General Terms and Conditions

- e) The construction, validity and performance of this Guarantee and undertaking shall be governed by and interpreted in accordance with the laws of Malaysia.
- f) The High Court of Malaysia shall have jurisdiction to settle any dispute which may arise between SACOFA and the GUARANTOR in respect of the construction, validity or performance of this Guarantee and undertaking or as to the rights and obligations of SACOFA and GUARANTOR.
- g) GUARANTOR warrants that this Guarantee has been carried out by authorized persons and executed in Malaysia in accordance with the constitution of the bank.

For and on behalf of _____

Signature _____

Typed Name _____

Title _____

(BANK SEAL)

SACOFA'S RAO – ANNEXURE 4

ANNEXURE 4

Confidentiality Agreement

Confidentiality and Non-Disclosure Agreement

This Confidentiality and Non-Disclosure Agreement (“this Agreement”) is entered into on this _____ day of _____ 20_____

BETWEEN

SACOFA SDN. BHD. [COMPANY NO. 200101017148 (552905-P)], a company incorporated in Malaysia under the Companies Act 1965 with a registered office on the Level 3, Wisma Mahmud, Jalan Sungai Sarawak, 93100 Kuching, Sarawak and a place of business on the 3rd Floor, Menara Zecon, Jalan Satok, 93400 Kuching, Sarawak (hereinafter referred to as “SACOFA”) of the one part

AND

_____, a company incorporated in _____ (hereinafter referred to as “_____”) of another part.

(SACOFA and _____ are individually referred to as “Party” and collectively as “Parties”).

RECITALS

WHEREAS :-

1. SACOFA is a licensed operator under the Communications and Multimedia Act 1998 (“Act”).
2. _____ is a company _____
3. Parties are _____ (hereinafter referred to as the “Project”).
4. For the purpose of the Project, the Parties will have to mutually disclose to each other Confidential Information as defined below and the Parties agree that the disclosure and use of such Confidential Information shall be limited to the Project.

NOW THEREFORE, the Parties hereto agree as follows:-

1. Definition

“**Confidential Information**” shall mean any information or material whether or not marked as “Confidential Information” by the Disclosing Party. Such information or material may or may not be owned or developed by the Disclosing Party and is obtained through or as a result of the relationship created between the Parties under this Agreement.

General Terms and Conditions

“Disclosing Party” means the Party disclosing the Confidential Information to the other Party under this Agreement.

Forms of Confidential Information includes but is not limited to any information disclosed in whatever form (whether or not reduced to writing or still in developing stage), designs, concepts, drawings, ideas, inventions, specifications, techniques, discoveries, models, data, source code, object code, documentation, diagrams, flow charts, research, development, processes, procedures, know-how, new product or new technology information, marketing techniques and materials, marketing plans, timetables, strategies and development plans (including prospective trade names or trade marks or service marks), customer names and other information related to customers, pricing policies, and financial information.

“Receiving Party” means the Party receiving the Confidential Information from the other Party under this Agreement.

Words applicable to natural person(s) include any body of persons, firm or partnership, corporate or unincorporated and shall bind all of its assigns and successors-in-title.

Words importing the singular number shall include the plural number and vice versa.

The headings and sub-headings in this Agreement are inserted for convenience only and are to be ignored when construing the provisions of this Agreement.

2. **Exception to Confidential Information**

Confidential Information shall exclude the following information:-

- 2.1 Information which is presently or in the future becomes generally known (except due to any antecedent breach of this Agreement);
- 2.2 Information which has been published or generally disclosed to the public.

3. **Non-disclosure of Confidential Information**

- 3.1 The Receiving Party shall not disclose the Confidential Information to a third party except as provided for in Clause 4. of this Agreement.
- 3.2 In amplification and not in derogation of sub-clause 3.1 hereinabove mentioned the Receiving Party shall be liable to the Disclosing Party for any loss and damage and / or for the disclosure of the Confidential Information whether the disclosure is intentional or otherwise.

4. **Employees, agents, representatives and subcontractors**

- 4.1 The Receiving Party may disclose the Confidential Information to any of its affiliates, directors, employees, contractors, subcontractors, representatives, agents and advisors (where relevant) for the purpose of execution of the Project but the Receiving Party shall take all steps to ensure that the latter shall be bound and abide by the terms of this Agreement.

4.2 In amplification and not in derogation of sub-clause 4.1 hereinabove mentioned, the affiliates, directors, employees, contractors, subcontractors, representatives, agents and advisors (where relevant) shall only be allowed to use the Confidential Information to the same extent the Receiving Party is allowed to use the same for the execution of the Project.

5. Use Of Confidential Information

The Receiving Party shall only be entitled to use the Confidential Information for the purpose of execution of the Project.

6. Disclosure of Confidential Information

Notwithstanding Clause 3. hereinabove mentioned the Receiving Party shall not be prevented from disclosing the Confidential Information which disclosure is required by law, order of the court, government authorities having jurisdiction over the Project and / or this Agreement provided the Receiving Party shall have first given prior written notice to the Disclosing Party. The Receiving Party shall make every effort to protect the Confidential Information in connection with such disclosure.

7. Copying, Alteration, Modification and Return of Confidential Information

7.1 The Receiving Party shall not copy, alter, modify, disassemble, reverse engineer or decompile any samples, models, programmes, drawings, documents, instruments and / or materials containing the Confidential Information without the prior written consent of the Disclosing Party.

7.2. All samples, models, programmes, drawings, documents, instruments and / or materials furnished by the Disclosing Party containing the Confidential Information shall remain the Disclosing Party's property. All such samples, models, programmes, drawings, documents, instruments and / or materials together with all copies and reproductions thereof shall be promptly returned or destroyed at the costs and expense of the Receiving Party upon request by the Disclosing Party. The Receiving Party shall give a written confirmation to the Disclosing Party within two (2) days of the destruction of all the samples, models, programmes, drawings, documents, instruments and / or materials together with all copies and reproductions thereof the same.

7.3 In amplification and not in derogation of sub-clause 7.1 of this Agreement, the Receiving Party warrants and undertakes that it shall not sell, develop or otherwise exploit or allow the same any part or parts, samples, models, programmes, drawings, documents, instruments and / or materials which embody in whole or in part any of the Confidential Information except as provided for in this Agreement.

8. No Assignment

Neither Party shall assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. An assignment of this Agreement requested by one Party shall in no case entail any increase in costs for the other Party to fulfil its obligation under this Agreement.

9. Successors and Permitted Assigns

This Agreement shall be binding on and shall endure for the benefit of the successors, permitted assigns and personal representatives of both _____ and SACOFA respectively.

10. Non-Disclosure of Negotiations

Both Parties hereto agree that they will not disclose to third parties discussions with respect to the Project without the prior written consent of the other Party. This undertaking shall survive the expiry or the termination of this Agreement.

11. Relief for Breach

Both Parties hereto understand and agree that in the event of breach of their obligations hereunder, the innocent Party shall be entitled to:-

11.1 an injunctive relief against the threatened breach of this Agreement or the continuation of such breach, without the necessity of proving actual damage;

11.2 be indemnified by the Party in breach for any harm, loss, damage, costs including solicitor's fees, arising out of or in connection with any breach of obligations under this Agreement; and

11.3 any other remedies available at law or in equity for such breach.

12. No Waiver or Acquiescence

No failure or delay on the part of either Party hereto at any time or from time to time to enforce or to require the strict adherence and performance of any of the terms or conditions of the Agreement shall constitute a waiver of such terms or conditions and/or affect or impair such terms or conditions in any way or the right of the Party at any time to avail itself of such remedies it may have for each and every breach of such terms or conditions.

13. Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto and supersedes all prior negotiations, warranties, representations, understandings or agreements whether written or oral relating to this Agreement,

14. Amendment

Any amendment, alteration or modification to this Agreement shall only be effective if made in writing and signed by the Parties.

15. Governing Law

This Agreement shall be governed by and construed in all respects in accordance with the laws of Malaysia and the Parties hereto agree to submit to the exclusive jurisdiction of the Courts of Malaysia.

16. Validity of Agreement

16.1 This Agreement shall remain in full force for a period of **one (1)** year from the date of this Agreement.

16.2 This Agreement shall however cover the Confidential Information disclosed prior to this Agreement.

17. Legal Fees And Disbursements

17.1 Each Party shall be responsible for its own legal costs incurred in relation to the preparation of this Agreement.

17.2 All stamp duties, registration fee, duplicate fees and other expenses relating to the preparation and execution of this Agreement shall be borne by the Parties equally.

18. Service Of Notice

Any notice requiring to be served hereunder shall be in writing and shall be sufficiently served on _____ and SACOFA respectively if left at or sent by registered post to their respective addresses herein before mentioned or their respective last known places of business. A notice sent by post shall be deemed to be given at the time when it ought in due course of post to be delivered at the address to which it is sent.

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General Terms and Conditions

IN WITNESS WHEREOF the Parties hereto have caused this Confidentiality and Non - Disclosure Agreement to be executed by their duly authorized representatives on the date first above written.

SIGNED by)
for and on behalf of)
SACOFA SDN. BHD. [COMPANY])
NO. 200101017148 (552905-P)])
("SACOFA"))
)
)
)
)
)
)
In the presence of:)
)
)

SIGNED by)
for and on behalf of)
_____)
("_____"))
)
)
)
)
)
In the presence of:)
)
)

(This is the signing page for the Confidentiality and Non-Disclosure Agreement)

SACOFA'S RAO – SCHEDULE A

SCHEDULE A

SERVICE DESCRIPTION

PART I – TRUNK TRANSMISSION SERVICE

1. General

- 1.1 Part I of Schedule A sets out the terms and conditions which are applicable to Trunk Transmission Service.
- 1.2 Where the Access Seeker leases Trunk Transmission Service from SACOFA, the Access Seeker can also lease Network Co-Location Service from SACOFA to co-locate its equipment at SACOFA's premises in accordance with Schedule B (Technical and Operational Matters).
- 1.3 The Access Seeker shall have reasonable access to SACOFA's premises subject to the Access Seeker complying with SACOFA's guideline or where SACOFA's premises is located within a third party's land, the Access Seeker shall comply with the landowner's guideline (if applicable).

2. Scope of Trunk Transmission Service

- 2.1 Trunk Transmission Service is a Facility and/or Service for the carriage of communications between any two technically feasible network transmission points (not being Customer transmission points) via network interface at such transmission rates as may be agreed between SACOFA and the Access Seeker on a permanent or virtual basis which is more particularly described in clause 3.
- 2.2 Network interfaces may use any technology as may be agreed between SACOFA and the Access Seeker.
- 2.3 The functionalities of the Trunk Transmission Service include:
- (a) transmission and switching (whether packet or circuit);
 - (b) the signalling required to support the technology or to provide a service;
 - (c) termination at either end by a port, router, network termination unit, switch, submarine cable landing centre or earth station; and
 - (d) a digital protocol (including Internet Protocols).
- 2.4 A technically feasible network transmission point in clause 2.1 includes submarine cable between Sarawak and Peninsular Malaysia, submarine cable landing station centre and on-land fibre optic network within Sarawak.
- 2.5 The Trunk Transmission Service may be for the carriage of Communications which comprise of content applications and voice services.

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- 2.6 For the purposes of this Part I of Schedule A, an Access Seeker includes (but is not limited to) a network facilities provider or network service provider which is only authorised to provide limited (e.g. in the last mile) network facilities or network service, but wishes to acquire the Trunk Transmission Service in order to connect its limited network facilities or network services.
- 2.7 For the purpose of this Part II of Schedule B [Ordering & Provisioning-acknowledge receipt], the Access Provider shall acknowledge receipt of each Order for the Trunk Transmission Service within **two (2)** Business Days. For clarification, the Access Provider may acknowledge receipt of Orders in batches of no more than 20 Orders per batch.
- 2.8 Subject to any shorter timeframe required under Part II of Schedule B [Ordering & Provisioning-time for acceptance & rejection], the Access provider must notify an Access Seeker that an Order for the Trunk Transmission Service is accepted or rejected within **ten (10)** Business Days after:-
- (a) Issuing the Notice of Receipt in respect of the Order, where the Access Provider did not undertake any post-Order Service Qualification for that Order under Part II of Schedule B [Ordering & Provisioning-Service Qualifications]; or
 - (b) Providing the Access Seeker with the result of post-Order Service Qualification under Part II of Schedule B [Ordering & Provisioning-commencement and completion of Service Qualifications], where the Access Provider has undertaken post-Order Service Qualification for that Order under Part II of Schedule B [Ordering & Provisioning-Service Qualifications].
- 2.9 For the purpose of Part II of Schedule B [Ordering & Provisioning-Notice of Acceptance], the indicative delivery timeframe for Trunk Transmission Service is:-
- (a) If no new network facilities are required to supply the Trunk Transmission Service, **twenty (20)** Business Days for Urban Areas, **thirty (30)** Business Days for non-urban areas and mutually agreed upon timeline between Access Seeker and Access Provider for geographically difficult regions (like unpaved roads, hills, and remote islands); or
 - (b) If new network facilities are required to supply the Trunk Transmission Service, **sixty (60)** Business Days for Urban Areas, **ninety (90)** Business Days for non-urban areas and mutually agreed upon timeline between Access Seeker and Access Provider for geographically difficult regions (like unpaved roads, hills, and remote islands).

For clarification, the indicative delivery timeframe in this **Section 2.9** commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with Part II of Schedule B [Ordering & Provisioning-commencement of delivery timeframes].

- 2.10 The Operators shall comply with Section 6.7 of the MSA:

“6.7 TRANSMISSION SERVICES

- 6.7.1 **Application:** *This subsection applies where access to a Transmission Service has been requested or is to be provided.*

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- 6.7.2 **Forecasts:** For the purposes of subsection 5.6.6 of the MSA, an Access Provider shall only request Forecasts where:
- (a) the maximum period of time covered by Forecasts regarding Transmission Services is **one (1)** year;
 - (b) the minimum intervals or units of time to be used in Forecasts regarding Transmission Services is **one (1)** year; and
 - (c) the maximum frequency to update or to make further Forecasts regarding Transmission Services is once a year.
- 6.7.3 **Acknowledgement of receipt:** For the purposes of subsection 5.7.5 of the MSA, an Access Provider shall acknowledge receipt of each Order for a Transmission Service within **two (2)** Business Days. For clarification, an Access Provider may acknowledge receipt of Orders in batches of no more than 20 Orders per batch.
- 6.7.4 **Time for acceptance or rejection:** Subject to any shorter timeframe required under subsection 5.7.12 of the MSA, an Access Provider must 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 the Access Provider did not undertake any post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA; or
 - (b) providing the Access Seeker with the result of post-Order Service Qualification under subsection 5.7.9 of the MSA, where the Access Provider has undertaken post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA.
- 6.7.5 **Indicative delivery timeframe:** For the purposes of paragraph 5.7.13(a)(i) of the MSA, and unless otherwise agreed between the Access Provider and Access Seeker having regard to the volume of the relevant Order(s), the indicative delivery timeframe for Transmission Services is:
- (a) if no new network facilities are required to supply the Transmission Services, **twenty (20)** Business Days for Urban Areas, **thirty (30)** Business Days for non-urban areas and mutually agreed upon timeline between Access Seeker and Access Provider for geographically difficult regions (like unpaved roads, hills, and remote islands); or
 - (b) if new network facilities are required to supply the Transmission Services, **sixty (60)** Business Days for Urban Areas, **ninety (90)** Business Days for non-urban areas and mutually agreed upon timeline between Access Seeker and Access Provider for geographically difficult regions (like unpaved roads, hills, and remote islands).

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For clarification, the indicative delivery timeframe in this subsection 6.7.5 commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with subsection 5.7.14 of the MSA.

6.7.6 **Billing Cycle:** For the purposes of subsection 5.11.3 of the MSA, between the Operators, the Billing Cycle for Transmission Services will be quarterly.

6.7.8 **No bundling:** An Access Provider shall not require an Access Seeker to purchase a Transmission Service together with any other Transmission Service. For example, an Access Provider shall not require an Access Seeker to purchase a Trunk Transmission Service between a pair of technically feasible network transmission points with another Trunk Transmission Service between another pair of technically feasible network transmission points.

6.7.9 **Quality of service:** An Access Provider shall provide access to the Trunk Transmission Service and End-to-End Transmission Service to Access Seekers in accordance with the quality of service parameters set out in the table below, and otherwise on an equivalent basis as it provides for itself:

Parameter	Threshold %
Network Availability	≥ 99.99%
Latency (Intra-region): <ul style="list-style-type: none"> • Within Peninsular Malaysia • Within Sabah • Within Sarawak 	Between >1ms and <40ms
Latency (Inter-region) <ul style="list-style-type: none"> • Between Peninsular Malaysia and Sabah • Between Peninsular Malaysia and Sarawak • Between Sabah and Sarawak 	≥ 40ms

6.7.10 **Rebate:** An Access Provider shall discuss and negotiate with the Access Seeker in good faith the provision of a rebate in respect of each Billing Cycle in which the service level availability of any Transmission Service provided by the Access Provider does not meet the relevant service level availability specified in the Commission Determination on the Mandatory Standards for Quality of Service (Digital Leased Line Service), Determination No.3 of 2009 or the service level availability mutually agreed between the Access Seeker and the Access Provider, including such modification or variation and any other mandatory standards that may be determined by the Commission from time to time, other than to the extent to which such non-compliance arises due to:

- (a) any act or omission of the Access Seeker other than in accordance with the directions of the Access Provider;
- (b) Force Majeure; or
- (c) any other excluded reason specified in that Determination.

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6.7.11 **Amount of rebate:** *The amount of any rebate for the purposes of section 6.7.10 shall, at a minimum, reflect:*

- (a) *the reduced costs that would have been incurred by the Access Seeker in acquiring the relevant Transmission Service with a service level availability equivalent to that provided by the Access Provider; and*
- (b) *any other diminution in value (including any rebates paid by the Access Seeker) in the Transmission Service provided to the Access Seeker due to the Access Provider's failure to comply with the service level availability required under the Commission Determination on the Mandatory Standards for Quality of Service (Digital Leased Line Service), Determination No.3 of 2009, including such modification or variation and any other mandatory standards that may be determined by the Commission from time to time.*
- (c) *The maximum cap on the rebate amount offered shall be a sum mutually agreed upon between the Access Provider and Access Seeker.*

6.7.12 **Equivalence of Inputs:** *An Access Provider must provide Transmission Service on an Equivalence of Inputs basis to Access Seekers, including the product, speed tiers, speed, price, timeframes, service level performance and terms and conditions that are equivalent to what it provides to itself and/or another Access Seeker.”*

3. Provisioning of Trunk Transmission Service

3.1 Trunk Transmission Service

- 3.1.1 SACOFA will provide Trunk Transmission Service requested by the Access Seeker in accordance with SACOFA's RAO and the Access Agreement including the terms and conditions in **Schedule B**.
- 3.1.2 Where the Access Seeker leased Trunk Transmission Service from SACOFA, SACOFA's Equipment can be co-located in the Access Seeker's premises in accordance with **Schedule B**.
- 3.1.3 The Access Seeker shall provide SACOFA reasonable access to its premises when SACOFA reasonably requires it for the purpose of installing, maintaining, modifying or removing Equipment related to the provision of Trunk Transmission Service by SACOFA.
- 3.1.4 SACOFA shall ensure Trunk Transmission Service conform to the agreed service level availability and Technical Specifications, subject to the Access Seeker's use of those Trunk Transmission Services in accordance with the Technical Specifications and Commission Determination on the Mandatory Standard For Quality of Service (Digital Leased Line Service), Determination No. 3 of 2009 other agreed requirements.
- 3.1.5 The minimum period in which the Access Seeker may lease Trunk Transmission Service is **one (1) year**.

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3.1.6 The Access Seeker shall pay to SACOFA for Trunk Transmission Service stated in this **Part I of Schedule A** provided by SACOFA, Charges in accordance with the applicable provisions set in **Part I of Schedule A**.

4. Security Sum

4.1 The Access Seeker may be required to provide the Security Sum equivalent **two (2)** months from the annual Charges for each Access Request.

5. Charges and Charging Principles

5.1 The Access Seeker will pay to SACOFA for Trunk Transmission Services based on the charges and charging principles stated in clause 5 as follows:- .

Within Peninsular Malaysia and within Sabah and Sarawak

	Ringgit Malaysia per month		
	2023	2024	2025
10 Mbps	52	34	15
100 Mbps	524	338	152
200 Mbps	1,049	677	305
500 Mbps	2,622	1,692	762
750 Mbps	3,932	2,538	1,143
1 Gbps	5,357	3,440	1,524
3 Gbps	16,071	10,322	4,572
5 Gbps	26,785	17,203	7,620
6 Gbps	32,142	20,643	9,145
7 Gbps	37,499	24,084	10,669
8 Gbps	42,856	27,524	12,193
9 Gbps	48,213	30,965	13,717
10 Gbps	53,570	34,405	15,241

Between Peninsular Malaysia and Sabah and Sarawak

	Ringgit Malaysia per month		
	2023	2024	2025
10 Mbps	224	134	43
100 Mbps	2,242	1,336	429
200 Mbps	4,485	2,671	858
500 Mbps	11,212	6,678	2,145
750 Mbps	16,817	10,017	3,217
1 Gbps	22,927	13,608	4,290
3 Gbps	68,782	40,826	12,869
5 Gbps	114,632	68,040	21,448
6 Gbps	137,559	81,648	25,738
7 Gbps	160,485	95,256	30,028
8 Gbps	183,411	108,864	34,317
9 Gbps	206,338	122,472	38,607
10 Gbps	229,264	136,080	42,897

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Installation (non-recurring charge)	2,738	2,820	2,905
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- 5.2 Notwithstanding the above, in the event the Access Seeker requires the provision of Facilities and/or Services which require SACOFA to incur new investment, SACOFA may charge a **one (1)** time capital contribution or review the above rates.

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SACOFA'S RAO – SCHEDULE A

SCHEDULE A

SERVICE DESCRIPTION

PART II – INFRASTRUCTURE SHARING

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 (including rooftop 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:

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

including but not limited to billboards, public transit shelters, poles, traffic light poles, bridges, and road gantries.

1.3 Physical access includes power (including right-of-way for power installation by the Access Seeker), 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. Pre-Requisites for Applying for Infrastructure Sharing

1.1 SACOFA shall not be obliged to provide to the Access Seeker Infrastructure Sharing for the Designated and Associated Tower Sites unless:

- (a) SACOFA is the legal owner of the tower;
- (b) the Access Seeker has the appropriate license from the relevant authorities to operate the service for the purpose for which the equipment is to be installed;
- (c) there is no space constraint; and
- (d) allowable loading in accordance to Space Allocation Policy.

2. Infrastructure Sharing

2.1.1 SACOFA agrees to provide Infrastructure Sharing at the designated tower or associated tower sites ("**Designated Tower or Associated Tower Sites**") to the Access Seeker in accordance with the terms of SACOFA's RAO including the relevant **Terms and Conditions for Technical Matters** and the terms and conditions of this **Part II**.

2.1.2 SACOFA shall publish on its website and keep updated a list of the Designated Tower and Associated Tower Sites.

2.1.3 The Operators shall comply with Section 6.8 of the MSA:

6.8 INFRASTRUCTURE SHARING

6.8.1 **Application:** *This subsection 6.8 applies where Infrastructure Sharing has been requested or is to be provided.*

6.8.2 **Forecasts:** *For the purposes of subsection 5.6.6 of the MSA, an Access Provider shall only request Forecasts 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.*

6.8.3 **Acknowledgement of receipt:** *For the purposes of subsection 5.7.5 of the MSA, an Access Provider shall acknowledge receipt of each Order for Infrastructure Sharing within **two (2)** Business Days.*

6.8.4 **Time for acceptance or rejection:** *Subject to any shorter timeframe required under subsection 5.7.12 of the MSA, an Access Provider must notify an Access Seeker that*

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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 the Access Provider did not undertake any post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA; or
- (b) providing the Access Seeker with the result of post-Order Service Qualification under subsection 5.7.9 of the MSA, where the Access Provider has undertaken post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA.

6.8.5 **Indicative delivery timeframe:** For the purposes of paragraph 5.7.13(a)(i) of the MSA, the indicative delivery timeframe for Infrastructure Sharing is:

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

For clarification, the indicative delivery timeframe in this subsection 6.8.5 commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with subsection 5.7.14 of the MSA. The Access Provider shall provide progress updates of the site delivery to an Access Seeker on a monthly basis.

6.8.6 **Billing Cycle:** For the purposes of subsection 5.11.3 of the MSA, between the Operators, the Billing Cycle for Infrastructure Sharing will be **one (1)** year in advance for the first year and monthly (or such other mutually agreed period) in advance for subsequent years.

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

6.8.8 **Nominated personnel:** The employees and/or contractors nominated by the Access Seeker under subsections 6.8.7, 6.8.9 and 6.8.10 of the MSA will be reasonable, having regard to:

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

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

- (a) *bear the costs of such escort service;*
- (b) *subject to paragraph 6.8.9(d) of the MSA, provide immediate physical access to the Access Seeker for emergency maintenance requests, **twenty-four (24)** hours a day, **seven (7)** days a week;*
- (c) *subject to paragraph 6.8.9(d) of the MSA, 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 pursuant to paragraph 6.8.9(b) or 6.8.9(c) of the MSA (as applicable) plus a reasonable window to allow for travel time (which must be estimated in an operations and maintenance manual given to the Access Seeker, or estimated at the time of responding to the Access Seeker's physical access request); and
 - (ii) *the period of time it requires for its escorts to arrive for planned and emergency maintenance at unmanned sites.*

6.8.10 **Absence of escort:** *For the purposes of subsection 6.8.7 of the MSA, if an escort does not arrive at the Access Provider's property within the timeframe specified in subsection 6.8.9, the Access Seeker's nominated employees and/or contractors may proceed to enter the Access Provider's property without an escort.*

General Terms and Conditions

- 6.8.11 **Site register:** *The Access Seeker must establish and maintain a register of all persons who visit the Access Provider's property on the Access Seeker's behalf, which must be made available for inspection by the Access Provider, upon request.*
- 6.8.12 **Utilities and ancillary services:** *The Access Provider must, where the relevant utilities and ancillary services are within the Access Provider's control, ensure that all necessary utilities and ancillary services are provided to enable the Access Seeker to benefit from such access to the same extent that the Access Provider provides to itself, including but not limited to:*
- (a) *access to roads;*
 - (b) *access to land;*
 - (c) *power, including the provision of back-up power, subject to mutual agreement between the Access Seeker and the Access Provider;*
 - (d) *environmental services (including but not limited to heat, light, ventilation and air-conditioning, fire protection);*
 - (e) *security, taking care to ensure that its agents, representatives or sub-contractors do not damage any Equipment, and keeping the location secure and protected from vandalism or theft; and*
 - (f) *site maintenance.*
- 6.8.13 **Cost:** *The utility and ancillary costs in respect of the network facilities provided by the Access Provider to the Access Seeker as contemplated in subsection 6.8.12 of the MSA shall be apportioned (in accordance with fair and equitable principles) and mutually agreed between the Access Provider and all Access Seekers at the relevant location.*
- 6.8.14 **Augmentation of Common Antenna Systems:** *The Access Provider shall use all reasonable endeavours to augment in-building Common Antenna Systems to the extent required to enable the Access Provider to supply access to such in-building Common Antenna Systems on request by an Access Seeker.*
- 6.8.16 **Maintenance and rectification:** *An Access Provider shall:*
- (a) *ensure that it maintains in reasonable working condition all fixed telecommunications poles which comprise specified network facilities (as that term is used in the description of the Infrastructure Sharing Service), subject to paragraph 6.8.16(b); and*
 - (b) *on notice by an Access Seeker, or upon otherwise becoming aware, that any fixed telecommunications pole does not comply with paragraph 6.8.16(a), perform within **forty (40)** Business Days such activities as required to rectify such non-compliance.*

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6.8.17 Service Assurance Targets for Infrastructure Target:

Severity	Service Definition	Fault Type (Including but not limited)	Response Time	Progress Update Frequency	Temporary Restoration Time	Rectification Time	Incident Report (RCA) Issuance
Level 1	Hub Sites <i>(a site with more than 5 child sites)</i>	<ul style="list-style-type: none"> • Outage caused by fault of AC power supply system owned by Access Provider • Outage caused by power issue at landlord/building • Outage caused by CME issues • Outage due to flooding 	1 hour	Every 1 hour	4 hours	48 hours	48 hours
Level 2	End Sites <i>(Site that is not a Hub Site)</i>	<ul style="list-style-type: none"> • Outage caused by fault of AC power supply system owned by Access Provider • Outage caused by power issue at landlord/building • Outage caused by CME issues • Outage due to flooding 	1 hour	Every 2 hours	4 hours	7 Business Days	5 Business Days
Level 3	No Service Affecting Fault	Issues related to power system asset belonging to Access Provider, landlord/building site access or CME issues	1 hour	Every 24 hours	24 hours	14 Business Days	N/A

- (i) *All faults reported shall be ascribed with a Severity Level set out above and Parties shall cooperate with one another to achieve Rectification Times based on the severity of the fault reported.*
- (ii) *"Progress Update Frequency" means the frequency at which the Access Seeker may call the Access Provider for restoring the fault to obtain a verbal or written progress update.*
- (iii) *"Response Time" refers to the time for the Access Provider to respond to the fault and is measured from the time the fault is reported by the Access Seeker to the Access Provider.*
- (iv) *"Rectification Time" refers to the time for the Access Provider to rectify a fault and is determined by the period the reporting of a fault by the Access Seeker to the Access Provider and the rectification of the fault on a permanent basis.*
- (v) *"Temporary Restoration Time" refers to the time for the Access Provider to temporarily rectify a fault and is determined by the period between the*

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reporting of a fault by the Access Seeker to the Access Provider and the rectification of the fault on a temporary basis.

- 6.8.18 **Rebates:** *If the Access Provider is unable to provide the Service due to negligence on its part (e.g., poorly designed structure or platform that does not function properly, the Access Provider failed to pay rental to its landlord on time, the Access Provider failed to provide site access), without limiting the Access Provider's obligation to provide any applicable rebates under subsection 5.7.33 of the MSA, affected Access Seekers are entitled to a rebate for not meeting the Service Assurance Target under subsection 6.8.17 above, which shall at a minimum reflect the rental amount paid or to be paid by the Access Seeker to the Access Provider for the period of site downtime.*
- 6.8.19 **Grounds for refusal:** *In addition to the grounds for refusal in subsection 5.4.11 of the MSA, an Access Provider may, based on reasonable safety and security reasons, refuse an Order Request to fixed telecommunication poles being utilised for critical government services, including in connection with government agencies, the military or the police.*
- 6.8.20 **Capacity Allocation Policy:** *In addition to subsection 5.7.32 of the MSA, the Access Provider's Capacity Allocation Policy for Infrastructure Sharing Services shall set out the principles to be applied on an equivalent basis between itself and other Access Seekers, where:*
- (a) *the Access Provider has already taken steps to optimise space by using the current available technology, including removing any unused cables;*
 - (b) *the Access Provider shall determine the available space only after considering:*
 - (i) *the requirements for Infrastructure Sharing Services for the Access Provider's then existing maintenance purpose;*
 - (ii) *the reservation of the Infrastructure Sharing Service for future use by the Access Provider or another Access Seeker, applicable on an equivalent basis for **six (6)** months, upon receipt of an Order; and*
 - (iii) *the structural integrity of the infrastructure to safely accommodate additional capacity; and*
 - (c) *the allocation of available space shall be:*
 - (i) *on a first-come, first-served basis;*
 - (ii) *applicable to reserved capacity that is not used by either the Access Provider or an Access Seeker within the **seven (7)** months from the date of the Order; and*
 - (iii) *to the extent possible, based on efficient allocation principles to minimise space wastage.”*

2.2 Duration of Infrastructure Sharing

2.2.1 The minimum period for Infrastructure Sharing at a Designated Tower or Associated Tower Site, agreed between the Parties, shall be for **seven (7)** years for Facilities and/or Services involving new infrastructure and **three (3)** years for Facilities and/or Services involving existing infrastructure.

2.2.2 The terms of the Infrastructure Sharing shall commence on the date ("**Commencement Date**"):

- (a) the Party agrees to commence Infrastructure Sharing; or
- (b) the Access Seeker enters into the shared space ("**Shared Space**") at the Designated Tower or Associated Tower Site,
- (c) whichever is the earlier.

3. Request for Infrastructure

3.1 Infrastructure Order Form

The Access Seeker shall complete the Infrastructure Order Form and submit to SACOFA whenever the Access Seeker intends to use SACOFA's Designated Tower or Associated Tower Site. For existing Designated Tower or Associated Tower Site, a completed Technical Proposal shall be attached together with the IOF.

3.2 New Infrastructure:-

- (a) Immediately upon acceptance of the IOF as specified in Clause 3.1, SACOFA shall provide at minimum of **three (3)** sites within the area as specified in the IOF submitted by the Access Seeker and arrange for joint site survey with the Access Seeker. SACOFA shall submit a site survey report to the Access Seeker **one (1)** week after the joint site survey and the Access Seeker shall confirm the required site via site confirmation letter within **seven (7)** days from the date SACOFA submits the site survey report to the Access Seeker. SACOFA shall procure the site for the Designated Tower or Associated Tower Site upon receipt of the site confirmation letter issued by the Access Seeker;
- (b) SACOFA shall submit the necessary application to the relevant local authorities in accordance with the domicile requirements including but not limited to those arising from any Act, Ordinance, Order, Rule, Regulation or By-Law relating to the construction and commissioning of the Infrastructure within **fourteen (14)** days from the date SACOFA successfully acquires the site;
- (c) SACOFA shall obtain and secure all and any local authority approval specified in Clause 3.2 (b) above;
- (d) Upon receipt of the approval given by the local authorities, SACOFA shall proceed with the site layout and site design in accordance with the IOF and site confirmation letter submitted by the Access Seeker together with estimated Variation Order, if any, for approval by the Access Seeker, within **fourteen (14)** days from the approval given by

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the local authorities. SACOFA shall not commence with the construction of the Designated Tower or Associated Tower Site without approval of the Variation Order by the Access Seeker.

- (e) Upon approval of the site Layout, site design and Variation Order if any submitted in Clause 3.2 (d) above, SACOFA shall issue the Subscription Form to the Access Seeker for execution. SACOFA shall then complete the construction of the Designated Tower or Associated Tower Site within **fifty-nine (59)** days from the date of the Subscription Form;
- (f) In the event the Access Seeker cancels or terminates the Subscription Form before the completion of the Designated Tower or Associated Tower Site, SACOFA shall be entitled for all costs and expenses incurred subject to SACOFA submitting to the Access Seeker the relevant bills, invoices or receipts for such cost and expenses incurred by SACOFA;
- (g) Upon completion of the Designated Tower or Associated Tower Site, SACOFA shall notify the Access Seeker that the Designated Tower or Associated Tower Site is completed and the Infrastructure is ready for joint inspection and acceptance within **fourteen (14)** days from the date of the notice. In the event the Access Seeker fails to attend the joint inspection and acceptance, SACOFA shall not be liable to pay the liquidated damages as per Clause 3.2 (m);
- (h) During the joint inspection and acceptance of the Infrastructure, the Access Seeker shall identify and state in the Site Acceptance Checklist any defects and/or other faults to the Designated Tower or Associated Tower Site and/or site (including any requirements stated in the Infrastructure Order Form) for rectifications works to be done by SACOFA;
- (i) The Access Seeker may accept the Designated Tower or Associated Tower Site with condition if such defects and/or faults to the Designated Tower or Associated Tower Site, at the opinion of the Access Seeker, do not hinder the Access Seeker from carrying out the installation of the Permitted Equipment to the Designated Tower or Associated Tower Site;
- (j) Where the Access Seeker rejected the acceptance of the Designated Tower or Associated Tower Site as stated in the Site Acceptance Checklist, SACOFA shall immediately rectify such defects and/or faults within **seven (7)** days from the date of Site Acceptance Checklist. SACOFA shall arrange for a new joint inspection and acceptance of the Designated Tower or Associated Tower Site upon completion of the rectification works to such defects and/or faults;
- (k) Where the Access Seeker accepts the Designated Tower or Associated Tower Site (with or without conditions), the Access Seeker and SACOFA shall sign the Site Acceptance Checklist. The Site keys shall be handed over to the Access Seeker upon completion of the Site Acceptance Checklist. The Access Seeker shall submit the Technical Proposal to SACOFA prior to the installation of its Permitted Equipment;
- (l) In the event of any change to the Subscription Form due to new requirements by the Access Seeker or Variation Orders, SACOFA will issue Amended Subscription Form.

(m) **Liquidated Damages for Late Delivery**

- (i) SACOFA shall hand over the Designated Tower or Associated Tower Site thereon to the Access Seeker on the scheduled handover date in the Subscription Form;
- (ii) In the event the Site Acceptance Date or the Site Entry Date in the Subscription Form occurs later than the Scheduled Handover Date:
 - (A) as a direct result of the Access Seeker's failure to fulfil its obligations or other act of prevention by the Access Seeker or their agents, SACOFA shall be entitled to claim a reasonable extension of the Scheduled Handover Date at no additional cost. Such extended Scheduled Handover Date may be deliberated upon by the Access Seeker.
 - (B) as a result of an act or omission of SACOFA, its sub-contractors or agents, SACOFA shall pay the Access Seeker of the Designated Tower or Associated Tower Site as agreed liquidated damages in the sum of **Ringgit Malaysia One Thousand (RM1,000.00)** per site per day, subject to a maximum of **Ringgit Malaysia Fifteen Thousand (RM15,000.00)** only per Designated Tower or Associated Tower Site.
 - (C) by **sixty (60)** days from the Scheduled Handover Date, then notwithstanding any other provision in SACOFA's RAO, the Access Seeker shall be entitled to terminate that Subscription Form immediately by giving written notice thereof to SACOFA.
- (iii) If at any time SACOFA has reason to believe that there will be a delay in complying with the scheduled handover date stated in the Subscription Form, SACOFA shall promptly notify the Access Seeker in writing of the cause of delay and the expected period of delay and the proposed steps to be taken by SACOFA to minimise the delay.

3.3 Existing Designated Tower or Associated Tower Site

- (i) SACOFA, after receiving an IOF together with the Technical Proposal from the Access Seeker and subject to clearance of sub-clause 3.3 (iv), issue the Site Entry Form to the Access Seeker for signature. The Access Seeker shall fix the date for site entry in the Site Entry Form and return the signed Site Entry Form within **fourteen (14) days** from the issuance of the Site Entry Form by SACOFA;
- (ii) SACOFA shall hand over the site key to the Access Seeker after the execution of the Site Entry Form together with the approved Technical Proposal.
- (iii) SACOFA shall issue the Subscription Form to the Access Seeker to be signed by the Access Seeker within **fourteen (14)** days from the date of issuance of the Subscription Form by SACOFA.

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- (iv) SACOFA shall not be obliged to provide the Access Seeker, Infrastructure sharing unless:-
- a. SACOFA is the legal owner of the Designated Tower or Associated Tower Site.
 - b. the antennas/dishes which the Access Seeker needs to install are within the loading of the allowable design.
 - c. there is no space constraint.
- (v) In the event of any change to the Subscription Form due to new requirements by the Access Seeker site sharing by the other third party users, or changes in the site information, SACOFA will issue Amended Subscription Form.

4. Access Seeker's Obligations

4.1 Security Sum

The Access Seeker shall pay the Security Sum equivalent to **two (2)** months Charges per Designated Tower or Associated Tower Site which shall be made within **thirty (30)** days from the date of the invoice by SACOFA. For avoidance of doubt, in event the Access Seeker does not made payment of the Security Sum, the Facilities and/or Services shall not be provided by SACOFA.

4.2 Utilities

4.2.1 The Access Seeker shall be responsible to apply for its own individual meter and power supply and to bear the cost in relation thereto. The Access Seeker shall be further responsible for and bear the cost of all electricity utilised by the Access Seeker at the Designated Tower or Associated Tower Site.

4.2.2 In the event that the Access Seeker's application to the relevant authority for an individual meter is not successful, the Access Seeker may, subject to SACOFA's prior written approval, utilised the electricity supplied to SACOFA at that Designated Tower or Associated Tower Site provided that:

- (a) SACOFA is of the opinion that the electricity power load is sufficient to be shared with the Access Seeker and other access seekers within its Designated Tower or Associated Tower Sites: and
- (b) the Access Seeker to reimburse SACOFA for the cost of power supply and all electricity charges utilised (and any additional charges for back-up power) by the Access Seeker at the Designated Tower or Associated Tower Site. The electricity charges shall be as follows:-
 - (i) Access Seeker shall pay to SACOFA a monthly advance payment of **Ringgit Malaysia Six Hundred (RM600)** per Designated Tower or Associated Tower Site as payment for the monthly electricity charges by Access Seeker at the Designated Tower or Associated Tower Site, the charges of which to be

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shared by Access Seeker and Third Party Users at the Designated Tower or Associated Tower Site.

- (ii) Access Seeker shall pay to SACOFA **Ringgit Malaysia Fifteen Only (RM15.00)** per Designated Tower or Associated Tower Site per month as the administrative fee for managing the electricity charges on behalf of Access Seeker.
 - (iii) Reconciliation of the electricity charges shall be carried out every **six (6)** months and credit notes or debit notes (whichever is applicable) shall be issued by SACOFA to Access Seeker. The reconciliation shall be based on the actual invoices received from SESCO and the apportionment of the charges shall be based on Annexure A.
- (c) Upon request by the Access Seeker and payment a sum to be agreed by SACOFA and the Access Seeker on a case to case basis as mobilization and demobilization to SACOFA, SACOFA may within **thirty (30)** days provide generator set at the cost of Access Seeker in the following circumstances:-
- (i) where SESCO is unable to provide the power supply at the Designated Tower or Associated Tower Site;
 - (ii) where the Access Seeker rejected the connection charges quoted by SESCO; and
 - (iii) where there is no power supply connected to the Designated Tower or Associated Tower Site after the successful site acceptance and where connection charges has been paid to the utility company.

4.2.3 Utilities such as back up power supply, security and power supply are optional and subject to the agreement by SACOFA and the Access Seeker.

4.3 Use of Designated Tower or Associated Tower Site

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

4.4 Storage

4.4.1 The Access Seeker shall not keep on the Designated Tower or Associated Tower Site or any part inclusive but not limited to the followings:

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

- (c) any explosive, combustible or radioactive substances.

4.5 Increase in Premium

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

4.6 Repair

- 4.6.1 In the event of any damage to the Designated Tower or Associated Tower Site by the Access Seeker, the Access Seeker shall, at its own cost and expenses, restore and to forthwith make good any replacement and/or repair (fair wear and tear excepted) as specified in the notice in writing given by SACOFA to the Access Seeker specifying therein all the necessary replacements and/or repairs to be effected.
- 4.6.2 If the Access Seeker fails to effect the replacements and/or repairs within the time period stipulated in the notice, SACOFA may, whether or not together with its workmen, enter the Designated Tower or Associated Tower Site and make all necessary replacements and/or repairs. The costs for all such necessary replacements and/or repairs shall be a debt due from the Access Seeker and shall be recoverable by SACOFA save where the replacements and/or repair were due to the natural failure of the structure or due to SACOFA.

4.7 Tenatable Condition

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

4.8 Consents, Licenses and Approvals

- 4.8.1 The Access Seeker shall be fully responsible to obtain all necessary consents, permits, approvals and licenses from third parties and governmental authorities or agencies to carry out/provide its communications services at the Designated Tower or Associated Tower Site including operating and using all equipments, systems, cables, links and devices.
- 4.8.2 The Access Seeker shall further observe and comply with all laws, by-laws, rules and regulations affecting the Access Seeker which are now in force or which may hereafter be enacted.
- 4.8.3 The Access Seeker shall further observe and perform and cause all its employees, independent contracts, agents or invitees to observe and perform all rules and regulations such as and not limited to Occupational Safety And Health Act 1994 ("OSHA"), Factory and Machinery Act 1997 ("FMA") and Public Road Works ("JKR") Provided Always that SACOFA

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shall not be liable to the Access Seeker in any way for violation of the rules and regulations by any person including the Access Seeker or its employees contractors, agents or invitees.

4.9 Installation of Equipment

4.9.1 The Access Seeker shall ensure that all equipments, systems or devices on the Designated Tower or Associated Tower Site shall:

- (a) be type-approved and comply with all relevant laws and regulations;
- (b) not cause any frequency interference to SACOFA's and/or any other access seekers' equipment or services provided in or around the Designated Tower or Associated Tower Site. Where the Access Seeker's equipment causes frequency interference to SACOFA and/or other access seekers' equipment or services provided in or around the Designated Tower or Associated Tower Site, the Access Seeker shall immediately (and in any event no longer than **twenty-four (24)** hours from receiving notice from notifying Operator) take all such necessary steps to stop any such interference; and/or
- (c) be electromagnetically compatible [in accordance with the prescribed standards] and shall not cause electromagnetic interference to SACOFA's and/or any other access seekers' equipment or services provided in or around the Designated Tower or Associated Tower Site. Where the Access Seeker's equipment causes electromagnetic interference to SACOFA and/or other access seekers' equipment or services provided in or around the Designated Tower or Associated Tower Site, the Access Seeker shall immediately (and in any event no longer than **twenty-four (24)** hours from receiving notice from notifying Operator) take all such necessary steps to stop any such interference.

If the Other Operator is not able to locate the source of the interference within **twenty-four (24)** hours mentioned 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.

4.9.2 The Access Seeker shall only be permitted to install its equipment, system and/or devices on the Designated Tower or Associated Tower Site and shall not be permitted to install other Access Seekers' equipment, system and/or devices on the Designated Tower or Associated Tower Site without the prior written approval of SACOFA.

4.9.3 The Access Seeker shall not damage, tamper, modify, alter or handle any equipment, system or devices belonging to SACOFA or any other access seeker in the Designated Tower or Associated Tower Site without the prior written approval of SACOFA and/or the other access seeker.

4.10 Notice of Interference and Rectification

4.10.1 If an Operator notifies ("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:

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- (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 is not able to locate the source of the interference within **twenty-four (24)** hours under Section 4.10.1 (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.

4.11 Installation of Electrical Point and Plumbing Connection

- 4.11.1 The Access Seeker shall not install any electrical sockets, plugs or electrical power points or electrical motor or engine or appliances or make any additional plumbing connections on or to the Designated Tower or Associated Tower Site without the prior written consent of SACOFA.

4.12 Safety and Health and Security Procedures

- 4.12.1 The Access Seeker shall comply with the provisions and requirements of the Occupational Safety and Health Act 1994 ("**OSHA**"). These provisions include the usage of personal protective equipment such as safety helmet, safety boots, safety goggles and other gadgets as prescribed by OSHA.
- 4.12.2 The Access Seeker shall exercise due care in the execution of their work so as to prevent accidents and are required to report any incidents including but not limited to accidents and near misses accident as a result of their works to SACOFA within **twenty-four (24)** hours from the time of the occurrence.
- 4.12.3 The Access Seeker shall comply and cause its employees, agents and contractors to comply with all guidelines, rules and regulations issued by SACOFA from time to time on site access and security procedures with respect to access to and use of the Designated Tower or Associated Tower Site.

4.13 Sub-letting and Assignment

- 4.13.1 The Access Seeker shall not sub-let, assign or part with the possession of the Designated Tower or Associated Tower Site. Where SACOFA allows the Access Seeker to sub-let the Designated Tower or Associated Tower Site, the Access Seeker shall be fully responsible for the acts and omission of its sub-lessee and shall ensure that its sub-lessee complies with all the Seeker's obligations with respect to the Designated Tower or Associated Tower Site under the Access Agreement.

5. SACOFA's Obligations

5.1 Exclusive Possession

- 5.1.1 The Access Seeker recognises that it does not have exclusive possession of the Designated Tower or Associated Tower Site since SACOFA occupies the Designated Tower or Associated Tower Site and may sub-let or intends to sub-let to other parties. However, SACOFA agrees

that it shall not tamper, modify, alter or handle any requirement, system or devices belonging to the Access Seeker at the Designated Tower or Associated Tower Site for the duration of the Infrastructure Sharing unless an emergency situation arises.

5.2 Payment of Quit Rents, Rates and Taxes

5.2.1 SACOFA will pay all quit rents, rates (save for utilities), taxes, assessments which are or may hereafter be charges upon the Shared Space. Any increase in quit rent, assessment, taxes on the Designated Tower or Associated Tower Site from the Commencement Date of the Infrastructure Sharing shall be borne equally between the Parties.

5.3 SACOFA's Covenant

5.3.1 Access to the Designated Tower or Associated Tower Site

SACOFA shall grant the Access Seeker **twenty-four (24)** hour access to the Designated Tower or Associated Tower Site for the purposes of repairing and maintaining its Equipment installed subject to the Access Seeker complying with all procedures and guidelines stipulated by SACOFA.

5.3.2 Quiet Enjoyment

Provided the Access Seeker punctually pay the Charges and perform and observe the covenants and conditions herein contained, SACOFA shall allow the Access Seeker quiet and peaceful enjoyment to the Designated Tower or Associated Tower Site during the whole Licence Period under clause 3.4 above (including any extended duration as the case may be) without any interruption or disturbance by SACOFA or any other person rightfully claiming under or in trust.

5.3.3 Upkeep and Maintenance of the Associated Tower Site

SACOFA shall keep and maintain the Designated Tower or Associated Tower Site in good working and tenable condition and shall be responsible for the repair of the same during the Licence Period.

5.3.4 Payment of Quit Rents, Rates and Taxes

SACOFA shall pay to the relevant authorities all present and future quit rents, rate (save for utilities), taxes and assessments relating to the Designated Tower or Associated Tower Site. In avoidance of doubt, any introduction of service tax by the government shall be borne by the Access Seeker.

5.3.5 Consent from the Relevant Authority

SACOFA shall maintain all requisite licences, approvals, permits and consents from the relevant authorities for the Designated Tower or Associated Tower Site and its operation during the duration of the Licence Period.

5.3.6 Consent, Licences and Approvals

SACOFA shall obtain and secure all and any local authority approval in accordance with the domicile requirements including but not limited to those arising from any Act, Ordinance, Enactment, Order, Rule, Regulation or By-Law relating to the construction and commissioning of the Designated Tower or Associated Tower Site before the Commencement Date. SACOFA further represents and warrants that:

- (a) it has or will acquire good and sufficient title to the Designated Tower or Associated Tower Site and every part thereof to enable it to perform its obligations under SACOFA's RAO;
- (b) the Designated Tower or Associated Tower Site as a whole shall be fit for the purpose for which they are intended to be used as set out in SACOFA's RAO; and
- (c) the Designated Tower or Associated Tower Site as a whole shall operate satisfactorily throughout the duration of the Licence Period and/ or any extended duration (if any).

6. Vacating the Designated Tower or Associated Tower Site

6.1 The Access Seeker shall on the expiration or termination of the Infrastructure Sharing at each Designated Tower or Associated Tower Site, at its own cost and expense, remove all its equipment, system and devices which may have been installed by the Access Seeker and to peaceably and quietly yield up the Designated Tower or Associated Tower Site to SACOFA with all SACOFA's fixtures and additions thereto in good and tenable repair and condition in accordance with the covenants herein contained.

6.2 The Access Seeker shall be given a grace period of **ten (10)** Business Days to vacate the Designated Tower or Associated Tower Site effective from the expiry or termination of the Infrastructure Sharing during which no monthly rental will be charges by SACOFA. Should the equipments, systems or devices not be removed within the grace period, SACOFA shall have the right to:

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

7. Charges and Charging Principles

7.1 The Access Seeker shall pay to SACOFA for the Infrastructure Sharing in accordance to the charges and the charging principles stated in **Annexure A**.

ANNEXURE A

PAYMENT STRUCTURE

1. Zoning for the determination of Licence Fee

Location	Zone	Rationale
Kuching, Sri Aman	A	Within 25km from major town or main post office/Police station
Bintulu, Miri, Sarikei, Sibü & Division of Kuching & Samarahan	B	Within 25km from town of Bintulu, Miri, Sarikei & Sibü and 25km away from main Post Office/Police station of Kuching & Samarahan
Division of :- Sri Aman Sarikei Sibü	C	25km away from main Post Office/Police Station
Others	D	25km away from main Post Office/Police Station of Bintulu, Miri and others

2. Basic Licence Fee

The basic licence fee is provided in Appendix A (I), A (II) and A (III).

The basic licence fee in Schedule A (I) and A (II) is not inclusive of the cost of the cabin. In the event the Access Seeker request SACOFA to provide the cabin, the agreed cost of each cabin amounting to **Ringgit Malaysia Ninety-Two Thousand (RM92,000.00)** shall be treated as Variation Order. The extra fee due to Variation Order shall be calculated in accordance to Item 3 below.

3. Variation Order (VO)

The Basic Licence Fee is for Designated Tower or Associated Tower Site on normal conditions e.g. pad or raft footing which is most cost effective and Designated Tower or Associated Tower Site that require piling, slope cutting or protection, earth work, sub-station or transformer (connection charges for power supply), extra-ordinary logistics mode (barges, ferry or helicopter) will have Variation Order (VO) based on the cost incurred and the additional fee shall be calculated and stated in the Subscription Form based on the rates in Ringgit Malaysia (RM) per **Ringgit Malaysia One Thousand (RM1,000.00)** of the cost of the additional Designated Tower or Associated Tower Site under the VO as below:-

Cost per Access Seeker	Additional Fee (RM)
Cost per single Access Seeker	17.32
Cost per Party (2 sharing Access Seekers/users)	10.83
Cost per Party (3 sharing Access Seekers/users)	8.66

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Cost per Party (4 sharing Access Seekers/users)	7.58
Cost per Party (5 sharing Access Seekers/users)	6.93
Cost per Party (6 sharing Access Seekers/users)	6.49

4. Calculation of Licence Fee for Designated Tower or Associated Tower Site not specified herein

The Licence Fee for any Designated Tower or Associated Tower Site not provided above or herein SACOFA's RAO for example guyed mast of different heights, the Licence Fee shall be calculated in the following manner:-

Description	Cost
Cost of relevant Designated Tower or Associated Tower Site (including Civil, Structural, Mechanical and Electrical Works) (RM), A	A
OPEX Cost (RM) for seven (7) years only, B	B
Total Interest based on rate of 6.5% per annum over seven (7) years (RM), C	C
Total cost of the relevant Designated Tower or Associated Tower Site (RM), D	D=A+B+C
Total repayment per month (RM), E	$E=D/(12 \times 7)$
Cost per single Party, F	F=E
Cost per Party (2 sharing parties/user), G	$G=(1.25 \times F)/2$
Cost per Party (3 sharing parties), H	$H=(1.50 \times F)/3$
Cost per Party (4 sharing parties), I	$I=(1.75 \times F)/4$
Cost per Party (5 sharing parties), J	$J=(2 \times F)/5$
Cost per Party (6 sharing parties) K	$K=(2.25 \times F)/6$

In the event the sharing Access Seekers/users exceed **six (6)**, the additional fee shall be further extended based on the same formula above.

General Terms and Conditions

Schedule

A (I)

Basic Licence Fee for towers built by SACOFA using T2 and Non-T2 Specifications

Zone A

No of Access Seekers	Single Access Seeker (RM/Month)		2 Sharing Access Seekers (RM/Month)		3 Sharing Access Seekers (RM/Month)		4 Sharing Access Seekers (RM/Month)		5 Sharing Access Seekers (RM/Month)		6 Sharing Access Seekers (RM/Month)	
	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec
150 ft	8,354.00	8,077.00	4,774.00	4,615.00	3,791.00	3,732.00	3,213.00	3,163.00	2,904.00	2,859.00	2,527.00	2,487.00
200 ft	10,215.00	9,939.00	5,837.00	5,679.00	4,720.00	4,592.00	4,000.00	3,892.00	3,616.00	3,518.00	3,146.00	3,061.00
250 ft	10,868.00	10,592.00	6,210.00	6,052.00	4,968.00	4,842.00	4,210.00	4,104.00	3,806.00	3,710.00	3,311.00	3,228.00
300 ft	13,886.00	13,610.00	7,935.00	7,777.00	6,325.00	6,199.00	5,360.00	5,254.00	4,846.00	4,750.00	4,216.00	4,133.00
350 ft	17,509.00	17,233.00	10,005.00	9,847.00	7,935.00	7,849.00	6,725.00	6,652.00	6,079.00	6,013.00	5,289.00	5,231.00
400 ft	19,924.00	19,648.00	11,385.00	11,227.00	9,085.00	8,959.00	7,700.00	7,593.00	6,960.00	6,864.00	6,055.00	5,972.00

The rates for seven and subsequent sharing Access Seekers/users shall be calculated based on 13% reduction from the rates prior to the additional user

General Terms and Conditions

Basic Licence Fee for towers built by SACOFA using T2 and Non-T2 Specifications

Zone B

No of Access Seekers	Single Access Seeker (RM/Month)		2 Sharing Access Seekers (RM/Month)		3 Sharing Access Seekers (RM/Month)		4 Sharing Access Seekers (RM/Month)		5 Sharing Access Seekers (RM/Month)		6 Sharing Access Seekers (RM/Month)	
	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec
150 ft	8,354.00	8,077.00	4,774.00	4,615.00	3,791.00	3,732.00	3,213.00	3,163.00	2,904.00	2,859.00	2,527.00	2,487.00
200 ft	10,660.00	10,384.00	6,091.00	5,933.00	4,925.00	4,797.00	4,174.00	4,065.00	3,773.00	3,675.00	3,283.00	3,197.00
250 ft	11,340.00	11,064.00	6,480.00	6,322.00	5,184.00	5,058.00	4,393.00	4,287.00	3,972.00	3,875.00	3,456.00	3,371.00
300 ft	14,490.00	14,214.00	8,280.00	8,122.00	6,600.00	6,474.00	5,594.00	5,487.00	5,057.00	4,960.00	4,400.00	4,315.00
350 ft	18,270.00	17,994.00	10,440.00	10,282.00	8,280.00	8,196.00	7,017.00	6,946.00	6,344.00	6,279.00	5,519.00	5,463.00
400 ft	20,790.00	20,514.00	11,880.00	11,722.00	9,480.00	9,354.00	8,034.00	7,928.00	7,263.00	7,167.00	6,319.00	6,235.00

The rates for seven and subsequent sharing Access Seekers/users shall be calculated based on 13% reduction from the rates prior to the additional user

General Terms and Conditions

Basic Licence Fee for towers built by SACOFA using T2 and Non-T2 Specifications

Zone C

No of Access Seekers	Single Access Seeker (RM/Month)		2 Sharing Access Seekers (RM/Month)		3 Sharing Access Seekers (RM/Month)		4 Sharing Access Seekers (RM/Month)		5 Sharing Access Seekers (RM/Month)		6 Sharing Access Seekers (RM/Month)	
	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec
150 ft	8,354.00	8,077.00	4,774.00	4,615.00	3,791.00	3,732.00	3,213.00	3,163.00	2,904.00	2,859.00	2,527.00	2,487.00
200 ft	11,104.00	10,828.00	6,345.00	6,187.00	5,130.00	5,003.00	4,348.00	4,240.00	3,930.00	3,833.00	3,419.00	3,335.00
250 ft	11,813.00	11,537.00	6,750.00	6,592.00	5,400.00	5,274.00	4,577.00	4,470.00	4,137.00	4,041.00	3,599.00	3,516.00
300 ft	15,094.00	14,818.00	8,625.00	8,467.00	6,875.00	6,749.00	5,827.00	5,720.00	5,267.00	5,171.00	4,582.00	4,499.00
350 ft	19,031.00	18,755.00	10,875.00	10,717.00	8,625.00	8,543.00	7,310.00	7,240.00	6,608.00	6,545.00	5,749.00	5,694.00
400 ft	21,656.00	21,380.00	12,375.00	12,217.00	9,875.00	9,749.00	8,369.00	8,262.00	7,566.00	7,469.00	6,582.00	6,498.00

The rates for seven and subsequent sharing Access Seekers/users shall be calculated based on 13% reduction from the rates prior to the additional user

General Terms and Conditions

Basic Licence Fee for towers built by SACOFA using T2 and Non-T2 Specifications

Zone D

No of Access Seekers	Single Access Seeker (RM/Month)		2 Sharing Access Seekers (RM/Month)		3 Sharing Access Seekers (RM/Month)		4 Sharing Access Seekers (RM/Month)		5 Sharing Access Seekers (RM/Month)		6 Sharing Access Seekers (RM/Month)	
	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec	T2 Spec	Non-T2 Spec
150 ft	8,354.00	8,077.00	4,774.00	4,615.00	3,791.00	3,732.00	3,213.00	3,163.00	2,904.00	2,859.00	2,527.00	2,487.00
200 ft	11,548.00	11,272.00	6,599.00	6,441.00	5,335.00	5,208.00	4,521.00	4,414.00	4,087.00	3,990.00	3,556.00	3,471.00
250 ft	12,285.00	12,009.00	7,020.00	6,862.00	5,616.00	5,490.00	4,760.00	4,653.00	4,303.00	4,206.00	3,744.00	3,659.00
300 ft	15,698.00	15,422.00	8,970.00	8,812.00	7,150.00	7,024.00	6,060.00	5,953.00	5,478.00	5,382.00	4,766.00	4,682.00
350 ft	19,793.00	19,517.00	11,310.00	11,152.00	8,970.00	8,889.00	7,602.00	7,533.00	6,872.00	6,810.00	5,979.00	5,925.00
400 ft	22,523.00	22,247.00	12,870.00	12,712.00	10,270.00	10,170.00	8,704.00	8,619.00	7,868.00	7,792.00	6,845.00	6,779.00

The rates for seven and subsequent sharing Access Seekers/users shall be calculated based on 13% reduction from the rates prior to the additional user

General Terms and Conditions

Schedule A (II)

Basic Licence Fee for relocation monopole with cabin

Items	80 feet	100 feet	120 feet
Capex	311,727.87	325,395.02	374,500.00
Opex	294,000.00	294,000.00	294,000.00
Total Interest on rate of 6.5% per annum over 7 years	141,836.18	148,054.73	170,397.50
Total cost	747,564.05	767,449.75	838,897.50
BASIC LICENCE FEE	8,899.57	9,136.31	9,986.88
Cost per single Access Seeker	8,900.00	9,136.00	9,987.00
Cost per Access Seeker/user (2 sharing)	5,562.00	5,710.00	6,242.00
Cost per Access Seeker/user (3 sharing)	4,450.00	4,568.00	4,993.00
Cost per Access Seeker/user (4 sharing)	3,894.00	3,997.00	4,369.00
Cost per Access Seeker/user (5 sharing)	3,560.00	3,655.00	3,995.00

Basic Licence Fee for relocation monopole without cabin

Items	80 feet	100 feet	120 feet
Capex	219,727.87	233,395.02	282,500.00
Opex	294,000.00	294,000.00	294,000.00
Total Interest on rate of 6.5% per annum over 7 years	99,976.18	106,194.73	128,537.50
Total cost	613,704.05	633,589.75	705,037.50
BASIC LICENCE FEE	7,306.00	7,542.74	8,393.30
Cost per single Access Seeker	7,306.00	7,543.00	8,393.00
Cost per Access Seeker/user (2 sharing)	4,566.00	4,714.00	5,246.00
Cost per Access Seeker/user (3 sharing)	3,653.00	3,771.00	4,197.00
Cost per Access Seeker/user (4 sharing)	3,196.00	3,300.00	3,672.00
Cost per Access Seeker/user (5 sharing)	2,922.00	3,017.00	3,357.00

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Schedule A (III)

Basic Licence Fee for Acquired TM's Structures

User/Type of structure	Single user (RM/month)	2 users (RM/month)	3 users (RM/month)	4 users (RM/month)	5 users (RM/month)	6 users (RM/month)	7 users (RM/month)
Guyed Masts	6,618.00	4,136.00	3,309.00	N/A	N/A	N/A	N/A
80ft Tower	7,158.00	4,474.00	3,579.00	3,132.00	2,863.00	N/A	N/A
100ft Tower	7,526.00	4,704.00	3,763.00	3,293.00	3,010.00	N/A	N/A
120ft Tower	7,576.00	4,735.00	3,788.00	3,315.00	3,030.00	N/A	N/A
150ft Tower	7,627.00	4,767.00	3,814.00	3,337.00	3,051.00	2,860.00	N/A
200ft Tower	8,565.00	5,353.00	4,283.00	3,747.00	3,426.00	3,212.00	N/A
250ft Tower	8,885.00	5,553.00	4,443.00	3,887.00	3,554.00	3,332.00	3,173.00
300ft Tower	11,825.00	7,391.00	5,913.00	5,173.00	4,730.00	4,434.00	4,223.00
350ft Tower	12,614.00	7,884.00	6,307.00	5,519.00	5,046.00	4,730.00	4,505.00
400ft Tower	15,185.00	9,491.00	7,593.00	6,643.00	6,074.00	5,694.00	5,423.00
150ft Monopole	9,605.00	6,003.00	4,803.00	4,202.00	3,842.00	N/A	N/A

General Terms and Conditions

DISTRIBUTION OF ELECTRICITY CHARGES

No. of sharing users	Type of equipment (cabin or outdoor type)	Distribution of electricity charges
Single	Either type	Full
Two	(i) All cabin (ii) All outdoor (iii) 1 cabin & 1 outdoor	(i) Total charges divided by 2 (ii) Total charges divided by 2 (iii) 60:40 ratio for cabin:outdoor
Three	(i) All cabin (ii) All outdoor (iii) 1 cabin & 2 outdoor (iv) 2 cabin & 1 outdoor	(i) Total charges divided by 3 (ii) Total charges divided by 3 (iii) 60:20:20 ratio for cabin:outdoor:outdoor (iv) 40:40:20 ratio for cabin:cabin:outdoor
Four	(i) All cabin (ii) All outdoor (iii) 1 indoor & 3 outdoor (iv) 2 indoor & 2 outdoor (v) 3 indoor & 1 outdoor	(i) Total charges divided by 4 (ii) Total charges divided by 4 (iii) 40:20:20:20 ratio for cabin:outdoor:outdoor:outdoor (iv) 30:30:20:20 ratio for cabin:cabin:outdoor:outdoor (v) 27:27:27:19 ratio for cabin:cabin:cabin:outdoor
Five	(i) All indoor (ii) All outdoor (iii) 1 indoor & 4 outdoor (iv) 2 indoor & 3 outdoor (v) 3 indoor & 2 outdoor (vi) 4 indoor & 1 outdoor	(i) Total charges divided by 5 (ii) Total charges divided by 5 (iii) 40:15:15:15:15 (iv) 29:29:14:14:14 ratio for cabin:cabin:cabin:outdoor:outdoor (v) 24:24:24:14:14 ratio for cabin:cabin:cabin:outdoor:outdoor (vi) 22:22:22:22:12 ratio for cabin:cabin:cabin:cabin:outdoor

The above distribution does not apply to Sites that are used as Base Station Controller (“BSC”) or Mobile Switching Center (“MSC”) by any of the Users.

The distribution of electricity charges for Sites used as BSC and MSC shall be treated on case-by-cases basis agreed by the Users.

In the event that there is dispute over the distribution of electricity charges, the Users shall settle the matter on case-by-case basis.

SACOFA'S RAO – SCHEDULE A

SCHEDULE A

SERVICE DESCRIPTION

PART III – NETWORK CO-LOCATION SERVICE

1. General

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

2. Scope of Network Co-Location Service

2.1 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 SACOFA's premises to enable the Access Seeker to install and maintain equipment necessary for the provision of the Access Seeker's services through the Facilities and/or Services of any Operator. Physical co-location includes physical space, power, environmental services (such as heat, light, ventilation and air-conditioning), security, site maintenance and access for the personnel of the Access Seeker;
- (b) virtual co-location, which refers to the provision of Facilities or Services at SACOFA's premises to enable the acquisition by the Access Seeker of Facilities and Services in the Access List, where equipment is owned and maintained by SACOFA; or
- (c) in-span interconnection, which is the provision of a POI at an agreed point on a physical cable linking SACOFA's network facilities to an Access Seeker's network facilities.

2.2 Network premises at which co-location is to be provided includes switching sites, submarine cable landing centres, earth stations, exchange buildings, other Customer Access Modules including roadside cabinets, any location where a main distribution frame is housed and such other network facilities locations associated with the provision of a Facility or Service in the Access List.

3. Provisioning of Network Co-Location Service

3.1 Network Co-Location Service

3.1.1 SACOFA will provide Network Co-Location Service requested by the Access Seeker in accordance with SACOFA's RAO and the Access Agreement including the terms and conditions in **Schedule B**.

3.1.2 SACOFA agrees to provide Network Co-Location Service at the designated sites subject to the following terms and conditions:-

General Terms and Conditions

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- i. SACOFA is the sole or beneficial owner of the space to be occupied or the Access Seeker has obtained the permission from the legally rightful owner(s) of the space for physical co-location;
 - ii. The Access Seeker has the required license and/or permit from the relevant authorities to operate the service for the purpose for which the equipment is to be installed;
 - iii. There is no space constraints at the designated sites; and
 - iv. That it is not technically infeasible to implement Network Co-Location at the designated site.
- 3.1.3 Each Operator shall make sure that its Facilities at each designated site where the Network Co-Location Service is commissioned complies with the QOS Standards and Technical Specifications.
- 3.1.4 The Access Seeker shall provide the following minimum information to SACOFA when seeking for Network Co-Location Service:-
- a. the designated site at which the Network Co-Location Service is located;
 - b. the list and details of Equipment to be installed by the Access Seeker at the designated site;
 - c. the required space for the Network Co-Location Service at the designated site and the floor loading for the Access Seeker's equipment;
 - d. list of utilities required for the provisioning of the Network Co-Location Service;
 - e. type and diameter of optical fibre cable inclusive of the capacity and specifications of any tie cables;
 - f. work plan for the installation of the equipment including drawings.
- 3.1.5 Each Operator shall be responsible for the provisioning, installation, testing, operating and maintaining their respective Facilities at the designated site at which the Network Co-Location Service located, unless the Operators agreed otherwise.
- 3.1.6 The Operators shall comply with Section 6.9 of the MSA:

"6.9 NETWORK CO-LOCATION SERVICE

- 6.9.1 **Application:** *This subsection 6.9 applies where access to the Network Co-Location Service has been requested or is to be provided.*
- 6.9.2 **Forecasts:** *For the purposes of subsection 5.6.6 of the MSA, an Access Provider shall only request Forecasts where:*

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- (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.*
- 6.9.3 **Acknowledgement of receipt:** *For the purposes of subsection 5.7.5 of the MSA, an Access Provider shall acknowledge receipt of each Order for a Network Co-Location Service within **two (2) Business Days**.*
- 6.9.4 **Time for acceptance or rejection:** *Subject to any shorter timeframe required under subsection 5.7.12 of the MSA, an Access Provider 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 the Access Provider did not undertake any post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA; or*
 - (b) *providing the Access Seeker with the result of post-Order Service Qualification under subsection 5.7.9 of the MSA, where the Access Provider has undertaken post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA.*
- 6.9.5 **Indicative delivery timeframe:** *For the purposes of paragraph 5.7.13(a)(i) of the MSA, the indicative delivery timeframe for Network Co-Location Service is **twenty (20) Business Days**. For clarification, the indicative delivery timeframe in this subsection 6.9.5 commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with subsection 5.7.14 of the MSA.*
- 6.9.6 **Billing Cycle:** *For the purposes of subsection 5.11.3 of the MSA, between the Operators, the 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.*
- 6.9.7 **Inspection:** *An Access Provider shall allow nominated employees and/or contractors of a potential Access Seeker to physically inspect network facilities of the Access Provider 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.*
- 6.9.8 **Physical access:** *Where required to fulfil an Order for a Network Co-Location Service or for the Access Seeker to perform operations or maintenance activities, an Access Provider shall allow an Access Seeker, its nominated employees and/or contractors to physically access the Access Provider's network facilities and the Access Seeker's Equipment, and to have physical control over the Access Seeker's Equipment located at such network facilities, at equivalent times and in accordance with equivalent processes and procedures as are applicable to itself. An Access Provider must not*

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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 under paragraph 6.9.31(b) of the MSA.

6.9.9 **Nominated personnel:** The employees and/or contractors nominated by the Access Seeker under subsections 6.9.7, 6.9.8, 6.9.10 and 6.9.11 of the MSA 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 the Access Provider's own personnel and the number of the Access Provider's personnel to which the Access Provider provides physical access to such network facilities.

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

- (a) bear the costs of such escort service;
- (b) subject to paragraph 6.9.10(d) of the MSA, provide immediate physical access to the Access Seeker for emergency maintenance requests, **twenty-four (24)** hours a day, **seven (7)** days a week;
- (c) subject to paragraph 6.9.10(d) of the MSA, 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 pursuant to paragraph 6.9.10(b) or 6.9.10(c) of the MSA (as applicable) plus a reasonable window to allow for travel time (which must be estimated in an operations and maintenance manual given to the Access Seeker, or estimated at the time of responding to the Access Seeker's physical access request); and
 - (ii) the period of time it requires for its escorts to arrive for planned and emergency maintenance at unmanned sites.

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- 6.9.11 **Absence of escort:** For the purposes of subsection 6.9.10 of the MSA, if an escort does not arrive at the Access Provider's property within the timeframe specified in subsection 6.9.10, the Access Seeker's nominated employees and/or contractors may proceed to enter the Access Provider's property without an escort.
- 6.9.12 **Site register:** The Access Seeker must establish and maintain a register of all persons who visit the Access Provider's property on the Access Seeker's behalf, which must be made available for inspection by the Access Provider, upon request.
- 6.9.13 **Publication of co-location locations and provision of co-location by Access Provider:**
- (a) Subject to subsection 6.9.31 of the MSA, each Access Provider shall publish on its publicly accessible website and keep updated a list of the general locations and technically feasible points at which physical co-location is available;
 - (b) Subject to subsection 6.9.15 of the MSA, where required due to physical constraints, Access Providers should jointly agree with Access Seekers as to which Access Seekers should be given the right to physically co-locate at each POI and each network facility and such access shall be granted on a non-discriminatory basis; and
 - (c) The Access Seeker shall be granted either physical co-location, virtual co-location or in-span interconnection as requested by the Access Seeker.
- 6.9.14 **Deemed Access Providers:** If an Access Seeker (referred to in this subsection 6.9.14 as the "**Deemed Access Provider**") obtains physical co-location at a POI or network facility from an Access Provider (referred to in this subsection 6.9.14 as the "**Principal Access Provider**"), and the Principal Access Provider is unable to provide virtual co-location or in-span interconnection as required under paragraph 6.9.13(c) of the MSA, it shall be deemed to be an Access Provider for the purposes of this subsection 6.9. The Deemed Access Provider shall be required to permit access to Access Seekers following the same procedures for permitting access as those required to be followed by the Principal Access Provider. Within **two (2)** Business Days of reaching a co-location agreement with an Access Seeker, the Deemed Access Provider must notify the Principal Access Provider of the existence of the agreement and the identity of the Access Seeker, and must ensure that the Access Seeker complies with the relevant co-location obligations contained in subsection 6.9 of the MSA. The Deemed Access Provider shall be responsible to the Principal Access Provider for all acts and omissions of any Access Seekers in connection with providing access to Facilities and/or Services under its co-location agreement.
- 6.9.15 **Lack of space:** Subject to subsection 6.9.16 of the MSA, if there are space constraints at a particular location, the Access Provider shall take reasonable steps to optimise its usage of the space, including through the upgrading of facilities and transferring Equipment to an alternative location. If the Access Provider has used its best efforts to accommodate all Access Seekers, and it is not physically possible for any further Access Seekers to be accommodated, the Access Provider shall:

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- (a) *notify the Commission of the lack of space at the location;*
 - (b) *provide any supplementary information which may be requested by the Commission (which may include physical inspections by the Commission); and*
 - (c) *be excused from providing physical co-location at that location unless and until the Commission notifies the Access Provider that the Commission considers that physical co-location can and must be provided, in which case the Access Provider shall provide physical co-location as directed by the Commission.*
- 6.9.16 **Reservation of space:** *An Access Provider 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 that Access Provider.*
- 6.9.17 **Allocation of space:** *An Access Provider 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.*
- 6.9.18 **No minimum space requirements:** *An Access Provider shall not impose minimum space requirements on an Access Seeker.*
- 6.9.19 **Notice of refusal:** *If an Access Provider proposes to refuse, or refuses, a request for physical co-location from an Access Seeker on the basis of current or future needs of the Access Provider and/or the needs of other Access Seekers who are currently occupying or have ordered additional space from the Access Provider, it must also notify the Access Seeker and the Commission of:*
- (a) *the space currently used by the Access Provider;*
 - (b) *the amount of space reserved for the Access Provider'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.*
- 6.9.21 **Preparatory work by the Access Seeker:** *If preparatory work is necessary for the purposes of allowing the Access Seeker to obtain access to or co-locate at or on an Access Provider's network facilities, such Access Provider shall permit the Access Seeker's employees and/or contractors to perform such preparatory work if the Access Seeker satisfies the Access Provider (acting reasonably and in accordance with the policy referred to in this subsection 6.9.21) that such employees and/or contractors have the necessary qualifications. Each Access Provider shall publish and make available a policy about the necessary qualifications applicable to employees and/or contractors who will be permitted to perform preparatory work under this subsection 6.9.21, and such policy to be non-discriminatory in its application to the Access Provider's personnel and the Access Seeker's employees and/or contractors who perform similar functions.*

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6.9.22 **Preparatory work by the Access Provider:** *If the Access Provider 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) *the Access Provider 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) *the Access Provider 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.*

6.9.23 **Delays:** *If the Access Provider agrees to perform preparatory work and the Access Provider is or is likely to be unable to perform such work within the agreed timeframe, the Access Provider 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 the Access Provider becomes aware of the possible delay;*
- (b) *permit the Access Seeker notified under paragraph 6.9.23(a) above 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 endeavours to mitigate those costs.*

6.9.24 **Utilities and ancillary services:** *If an Access Provider has permitted access or physical co-location at a particular location or network facilities, that Access Provider must, where the relevant utilities and ancillary services are within the Access Provider's control, ensure that all necessary utilities and ancillary services are provided to enable the Access Seeker to benefit from such access or co-location to the same extent that the Access Provider 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);*

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- (e) security, taking care to ensure that its agents, representatives or sub-contractors do not damage any Equipment, and keeping the location secure and protected from vandalism or theft; and
 - (f) site maintenance.
- 6.9.25 **Cost:** The utility and ancillary costs in respect of the network facilities as contemplated in subsection 6.9.24 of the MSA shall be apportioned (in accordance with fair and equitable principles) between the Access Provider and all Access Seekers at the relevant location.
- 6.9.26 **Security caging:** An Access Provider shall not require the use of cages or similar structures to physically segregate co-located Equipment, or Equipment located at or on network facilities of the Access Provider.
- 6.9.27 **Equipment allowance:** An Access Provider shall permit an Access Seeker to locate Equipment on or at the Access Provider's network facilities which is necessary for the purposes of obtaining the benefit of access to the network services and network facilities provided in accordance with the MSA, including but not limited to multi-functional Equipment which may also be used for purposes other than those specified in this subsection 6.9.27.
- 6.9.28 **Marking:** All Operators shall mark or label their Equipment, wires, cables, batteries and distribution boards in such a manner that they can be easily identified as the property of the relevant Operator. At all times during the Access Seeker's tenancy, it is the responsibility of the Access Seeker to ensure that the marking and labelling is done with reasonable quality.
- 6.9.29 **Maintenance:** An Access Provider shall permit, and do 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 under subsection 6.9.8 of the MSA.
- 6.9.30 **Extensions:** The Access Provider shall reasonably permit the Access Seeker, at the Access Seeker's cost, to extend network facilities of the Access Provider as may reasonably be required to meet the Access Seeker's requirements in the circumstances and to the extent technically feasible.
- 6.9.31 **Security and critical national information infrastructure:**
 - (a) An Access Provider 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, an Access Provider must:
 - (i) promptly provide such information to other Operators on request, subject only to the Operators entering into a confidentiality agreement in accordance with this Standard;

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- (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 yearly basis, the locations at which the Access Provider 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 the Access Provider is actively supplying Network Co-Location Service.
- (b) An Access Provider 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 the Access Provider has been directed in writing to do so by the Government (in which case, the Access Provider shall notify the Commission); and
 - (ii) be no more restrictive or onerous than the procedures and processes that the Access Provider imposes on its own personnel who physically access the same Points of Interface and locations.”

3.1.7 The minimum tenure to lease the Network Co-Location Service is **three (3)** years.

4. Security Sum

4.1 The Access Seeker may be required to provide the Security Sum equivalent **two (2)** months from the annual Charges for each Access Request

5. Charges and Charging Principles

5.1 The Access Seeker will pay to SACOFA for Network Co-Location Service based on the charges stated in the table below:

Ringgit Malaysia Per Square Meter Per Year	
Physical co-location (space) including services	RM233

5.2 Notwithstanding the above, in the event the Access Seeker requires the provision of Facilities and/or Services which require SACOFA to incur new investment, SACOFA may charge a **one (1)** time capital contribution or review the above rates for the preparatory work. If SACOFA agrees to perform preparatory work and does so on the basis of an estimated charge (e.g. based on time and material basis):

- (a) SACOFA shall not exceed the estimate without providing the Access Seeker with prior written notice that:-

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- (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) SACOFA 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.
- 5.3 If SACOFA agrees to perform preparatory work and SACOFA is or likely to be unable to perform such work within the agreed timeframe, SACOFA shall:-
- (a) Notify the relevant Access Seeker of the delay to a delivery date, together with the reasons for the delay, as soon as possible after SACOFA becomes aware of the possible delay;
 - (b) Permit the Access Seeker notified under section 5.3 (a) above 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 endeavours to mitigate those costs.
- 5.4 The charges for virtual co-location and in-span interconnection shall be negotiated and agreed by the Operators.

6. Payment Terms

- 6.1 The payment terms for the Network Co-Location Service shall be as follows:-
- a. For the 1st year payable in advance before the commencement of the Network Co-Location Service; and
 - b. For subsequent year onwards on a quarterly advance basis.

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SACOFA'S RAO – SCHEDULE A

SCHEDULE A

SERVICE DESCRIPTION

PART IV – WHOLESALE LOCAL LEASED CIRCUIT SERVICE

1. General

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

2. Scope of Wholesale Local Leased Circuit Service

- 2.1 A Wholesale Local Leased Circuit Service is a Facility and/or Service for the carriage of communications by way of a private circuit between a POI at SACOFA's premises and an End User location or an Access Seeker's premises, available only at one end of a private circuit, at such transmission rates as may be agreed between SACOFA and the Access Seeker on a permanent or virtual basis.

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

- (a) transmission and any type of routing or switching, whether packet, circuit, multi-layer or otherwise;
- (b) the signalling required to support the Interconnect Link Service or onward transmission via a Trunk Transmission Service provided by the same Access Provider; and
- (c) a digital protocol including Internet Protocols.

Examples of technologies used in the Wholesale Local Leased Circuit Service would be ISDN, Metro Ethernet ("Metro-E"), IP based networks and Ethernet interfaces.

- 2.3 Without limiting clause 2.1 above, the Wholesale Local Leased Circuit Service includes the provision of any Trunk Transmission Service by the same Access Provider to the extent required to enable connectivity between the relevant End User location or Access Seeker's premises and a POI at the Access Provider's premises.

- 2.4 The Wholesale Local Leased Circuit Service includes any Wholesale Local Leased Circuit Service supplied to the Access Seeker with:

- (a) any network availability between 99.90% and 99.992%, whether per month or otherwise;
- (b) any latency of between <1 ms and <40 ms;
- (c) zero or more routes of redundancy; and
- (d) any other technical parameters specified or utilised by SACOFA from time to time, including parameters of a type referred to in sub-clause (a) to (c) above.

2.5 The Operators shall comply with Section 6.7 of the MSA:

6.7 TRANSMISSION SERVICES

6.7.1 **Application:** *This subsection applies where access to a Transmission Service has been requested or is to be provided.*

6.7.2 **Forecasts:** *For the purposes of subsection 5.6.6 of the MSA, an Access Provider shall only request Forecasts where:*

(a) *the maximum period of time covered by Forecasts regarding Transmission Services is **one (1)** year;*

(b) *the minimum intervals or units of time to be used in Forecasts regarding Transmission Services is **one (1)** year; and*

(c) *the maximum frequency to update or to make further Forecasts regarding Transmission Services is once a year.*

6.7.3 **Acknowledgement of receipt:** *For the purposes of subsection 5.7.5 of the MSA, an Access Provider shall acknowledge receipt of each Order for a Transmission Service within **two (2)** Business Days. For clarification, an Access Provider may acknowledge receipt of Orders in batches of no more than 20 Orders per batch.*

6.7.4 **Time for acceptance or rejection:** *Subject to any shorter timeframe required under subsection 5.7.12 of the MSA, an Access Provider must 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 the Access Provider did not undertake any post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA; or*

(b) *providing the Access Seeker with the result of post-Order Service Qualification under subsection 5.7.9 of the MSA, where the Access Provider has undertaken post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA.*

6.7.5 **Indicative delivery timeframe:** *For the purposes of paragraph 5.7.13(a)(i) of the MSA, and unless otherwise agreed between the Access Provider and Access Seeker having regard to the volume of the relevant Order(s), the indicative delivery timeframe for Transmission Services is:*

(a) *if no new network facilities are required to supply the Transmission Services, **twenty (20)** Business Days for Urban Areas, **thirty (30)** Business Days for non-urban areas and mutually agreed upon timeline between Access Seeker and Access Provider for geographically difficult regions (like unpaved roads, hills, and remote islands); or*

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- (b) *if new network facilities are required to supply the Transmission Services, **sixty (60) Business Days** for Urban Areas, **ninety (90) Business Days** for non-urban areas and mutually agreed upon timeline between Access Seeker and Access Provider for geographically difficult regions (like unpaved roads, hills, and remote islands).*

For clarification, the indicative delivery timeframe in this subsection 6.7.5 commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with subsection 5.7.14 of the MSA.

- 6.7.6 **Billing Cycle:** *For the purposes of subsection 5.11.3 of the MSA, between the Operators, the Billing Cycle for Transmission Services will be quarterly.*
- 6.7.8 **No bundling:** *An Access Provider shall not require an Access Seeker to purchase a Transmission Service together with any other Transmission Service. For example, an Access Provider shall not require an Access Seeker to purchase a Trunk Transmission Service between a pair of technically feasible network transmission points with another Trunk Transmission Service between another pair of technically feasible network transmission points.*
- 6.7.9 **Quality of service:** *An Access Provider shall provide access to the Trunk Transmission Service and End-to-End Transmission Service to Access Seekers in accordance with the quality of service parameters set out in the table below, and otherwise on an equivalent basis as it provides for itself:*

Parameter	Threshold %
Network Availability	≥ 99.99%
Latency (Intra-region): <ul style="list-style-type: none"> • Within Peninsular Malaysia • Within Sabah • Within Sarawak 	Between >1ms and <40ms
Latency (Inter-region) <ul style="list-style-type: none"> • Between Peninsular Malaysia and Sabah • Between Peninsular Malaysia and Sarawak • Between Sabah and Sarawak 	≥ 40ms

- 6.7.10 **Rebate:** *An Access Provider shall discuss and negotiate with the Access Seeker in good faith the provision of a rebate in respect of each Billing Cycle in which the service level availability of any Transmission Service provided by the Access Provider does not meet the relevant service level availability specified in the Commission Determination on the Mandatory Standards for Quality of Service (Digital Leased Line Service), Determination No.3 of 2009 or the service level availability mutually agreed between the Access Seeker and the Access Provider, including such modification or variation and any other mandatory standards that may be determined by the Commission from time to time, other than to the extent to which such non-compliance arises due to:*

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-
- (a) *any act or omission of the Access Seeker other than in accordance with the directions of the Access Provider;*
 - (b) *Force Majeure; or*
 - (c) *any other excluded reason specified in that Determination.*

6.7.11 **Amount of rebate:** *The amount of any rebate for the purposes of section 6.7.10 shall, at a minimum, reflect:*

- (a) *the reduced costs that would have been incurred by the Access Seeker in acquiring the relevant Transmission Service with a service level availability equivalent to that provided by the Access Provider; and*
- (b) *any other diminution in value (including any rebates paid by the Access Seeker) in the Transmission Service provided to the Access Seeker due to the Access Provider's failure to comply with the service level availability required under the Commission Determination on the Mandatory Standards for Quality of Service (Digital Leased Line Service), Determination No.3 of 2009, including such modification or variation and any other mandatory standards that may be determined by the Commission from time to time.*
- (c) *The maximum cap on the rebate amount offered shall be a sum mutually agreed upon between the Access Provider and Access Seeker.*

6.7.12 **Equivalence of Inputs:** *An Access Provider must provide Transmission Service on an Equivalence of Inputs basis to Access Seekers, including the product, speed tiers, speed, price, timeframes, service level performance and terms and conditions that are equivalent to what it provides to itself and/or another Access Seeker.”*

3. Provisioning of Wholesale Local Leased Circuit Service

3.1 Wholesale Local Leased Circuit Service

- 3.1.1 SACOFA will provide Wholesale Local Leased Circuit Service requested by the Access Seeker in accordance with SACOFA's RAO and the Access Agreement including the terms and conditions in **Schedule B**.
- 3.1.2 Where the Access Seeker leased Wholesale Local Leased Circuit Service from SACOFA, SACOFA's Equipment can be co-located in the Access Seeker's premises and/or the Access Seeker Customer's premises.
- 3.1.3 The Access Seeker shall provide SACOFA reasonable access to its premises when SACOFA reasonably requires it for the purpose of installing, maintaining, modifying or removing Equipment related to the provision of Wholesale Local Leased Circuit Service by SACOFA.
- 3.1.4 SACOFA shall ensure Wholesale Local Leased Circuit Service conform to the agreed service level availability as prescribed under the Commission Determination On The Mandatory Standards For Quality Of Service (Digital Leased Line Service), Determination No. 3 of 2009 and Technical Specifications, subject to the Access Seeker's use of those Wholesale Local

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Leased Circuit Services in accordance with the Technical Specifications and other agreed requirements.

- 3.1.5 The minimum period in which the Access Seeker may lease Wholesale Local Leased Circuit Service is **one (1) year**.
- 3.1.6 The Access Seeker shall pay to SACOFA for Wholesale Local Leased Circuit Service stated in this **Part IV of Schedule A** provided by SACOFA, Charges in accordance with the applicable provisions set in **Part IV of Schedule A**.
- 3.1.7 SACOFA and the Access Seeker shall agree on the location of the Point of Interfaces for the Wholesale Local Leased Circuit Service.
- 3.1.8 SACOFA has the right to change the physical routing of the Wholesale Local Leased Circuit at any time subject to a prior notice is issued to the Access Seeker.

4. Security Sum

- 4.1 The Access Seeker may be required to provide the Security Sum equivalent **two (2) months** from the annual Charges for each Access Request.

5. Charges and Charging Principles

- 5.1 The applicable charges for the Wholesale Local Leased Circuit shall be as stated in the Commission Determination on the Mandatory Standard on Access Pricing (Determination No. 1 of 2023) which is stated below:-

	Ringgit Malaysia per month		
	2023	2024	2025
Up to 1 Mbps	43	35	0
From 1 Mbps to 1 Gbps	492	392	291
From 1 Gbps to 10 Gbps	10,119	5,370	620
From 1 Gbps (using Dense Wavelength Division Multiplexing equipment)	817	746	675
Installation (non-recurring charge)	3,422	3,525	3,631

- 5.2 Notwithstanding the above, in the event the Access Seeker requires the provision of Facilities and/or Services which require SACOFA to incur new investment, SACOFA may charge a **one (1)** time capital contribution or review the above rates.

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SACOFA'S RAO – SCHEDULE A

SCHEDULE A

SERVICE DESCRIPTION

PART V – DUCT AND MANHOLE ACCESS

1. **General**

1.1 Part V of Schedule A sets out the terms and conditions which are applicable to Duct And Manhole Access.

2. **Scope of Duct And Manhole Access**

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

- (a) Lead-in Ducts;
- (b) Mainline Ducts;
- (c) Inter-exchange Ducts;
- (d) manholes, including any manholes associated with Lead-in Ducts, Mainline Ducts or Inter-exchange Ducts; and
- (e) sub-ducts where there is no room for the Access Seeker to install its own sub-ducts.

2.2 Provision of physical access includes the provision of, or procurement of the provision of:-

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

2.3 The Operators shall comply with Section 6.11 of the MSA:

“6.11 DUCT AND MANHOLE ACCESS

6.11.1 **Application:** *This subsection 6.11 applies where Duct and Manhole Access has been requested or is to be provided.*

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- 6.11.2 **Forecasts:** For the purposes of subsection 5.6.6 of the MSA, an Access Provider shall only request Forecasts where:
- (a) the maximum period of time covered by Forecasts regarding Duct and Manhole Access is **one (1)** year;
 - (b) the minimum intervals or units of time to be used in Forecasts regarding Duct and Manhole Access is **one (1)** year; and
 - (c) the maximum frequency to update or to make further Forecasts regarding Duct and Manhole Access is once a year.
- 6.11.3 **Acknowledgement of receipt:** For the purposes of subsection 5.7.5 of the MSA, an Access Provider shall acknowledge receipt of each Order for Duct and Manhole Access within **two (2)** Business Days.
- 6.11.4 **Time for acceptance or rejection:** Subject to any shorter timeframe required under subsection 5.7.12 of the MSA, an Access Provider must notify an Access Seeker that an Order for Duct and Manhole Access is accepted or rejected within **ten (10)** Business Days after:
- (a) issuing the Notice of Receipt in respect of the Order, where the Access Provider did not undertake any post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA; or
 - (b) providing the Access Seeker with the result of post-Order Service Qualification under subsection 5.7.9 of the MSA, where the Access Provider has undertaken post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA. For the purposes of paragraph 5.7.9(a) of the MSA, subject to the distance and scale of the required infrastructure and obtaining relevant third-party authority approvals, the post-Order Service Qualification timeframe for Duct and Manhole Access is within the shorter of:
 - (i) **twenty (20)** Business Days after the date of the Notice of Receipt; and
 - (ii) the time within which the Access Provider performs and notifies the result of an equivalent Service Qualification undertaken for itself.
- 6.11.5 **Indicative delivery timeframe:** For the purposes of paragraph 5.7.13(a)(i) of the MSA, the indicative delivery timeframe for Duct and Manhole Access less than 10km in length is **ten (10)** Business Days. For clarification, the indicative delivery timeframe in this subsection 6.11.5 commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with subsection 5.7.14 of the MSA.
- 6.11.6 **Billing Cycle:** For the purposes of subsection 5.11.3 of the MSA, between the Operators, the Billing Cycle for Duct and Manhole Access will be **one (1)** year in advance for the first year and monthly in advance for subsequent years.
- 6.11.8 **Physical access:** Where required to fulfil an Order for Duct and Manhole Access or for the Access Seeker to perform operations or maintenance activities, an Access

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

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

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

- (a) bear the costs of such escort service;
- (b) subject to paragraph 6.11.9(d) of the MSA, provide immediate physical access to the Access Seeker for emergency maintenance requests, **twenty-four (24)** hours a day, **seven (7)** days a week;
- (c) subject to paragraph 6.11.9(d) of the MSA, 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 pursuant to paragraph 6.11.9(b) or 6.11.9(c) of the MSA (as applicable) plus a reasonable window to allow for travel time (which must be estimated in an operations and maintenance manual given to the Access Seeker,

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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.

6.11.10 **Absence of escort:** For the purposes of subsection 6.11.9 of the MSA, if an escort does not arrive within the timeframe specified in subsection 6.11.9, the Access Seeker's nominated employees and/or contractors may proceed to enter the Access Provider's property without an escort.

6.11.11 **Nominated personnel:** The employees and/or contractors nominated by the Access Seeker under subsection 6.11.8, 6.11.9 and 6.11.10 of the MSA 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 the Access Provider's own personnel and the number of the Access Provider's personnel to which the Access Provider provides physical access to such network facilities.

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

6.11.13 **Joint survey:** For the purposes of subsection 5.7.8 of the MSA and subject to the timeframe specified under subsection 5.7.9 of the MSA, a joint survey may be conducted by the Access Provider and the Access Seeker, along with surveyors, where necessary, to determine the availability of requested ducts and manholes at a particular area, provided that the scope of the survey be jointly decided, and any costs are necessarily incurred, itemised and agreed between the parties. The timeframe specified under subsection 5.7.9 of the MSA shall apply only after the Access Provider and the Access Seeker have agreed on the scope of the joint survey, the date of the joint survey and any costs necessarily incurred to be itemised between the parties.

6.11.14 **Capacity Allocation Policy:** In addition to subsection 5.7.32 of the MSA, the Access Provider's Capacity Allocation Policy for Duct and Manhole Access shall set out the principles to be applied on an equivalent basis between itself and other Access Seekers, where:

- (a) the Access Provider has already taken steps to optimise space by using the current available technology, including removing any unused cables;
- (b) the Access Provider shall determine the available space only after considering:
 - (i) the requirements for ducts and space in manholes for the Access Provider's then existing maintenance purposes; and

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

6.11.15 **Operational manuals:** *An Access Provider shall establish operations and maintenance manuals which are made available to Access Seekers and with which Access Seekers must comply, containing reasonable processes and procedures relating to Duct and Manhole Access including but not limited to:*

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

The Access Provider's processes and procedures for Duct and Manhole Access shall:

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

6.11.16 **Ground for refusal:** *In addition to the grounds for refusal in subsection 5.4.11 of the MSA, an Access Provider may refuse an Access Request to Duct and Manhole Access to the extent (and only to the extent that):*

- (a) *the Access Provider has entered into an exclusive arrangement for access to duct and manhole infrastructure in Putrajaya with the Government of Malaysia and such arrangement has been entered into (without extension or amendment) prior to the Effective Date of this Determination. For clarification, subsection 5.4.19 of the MSA applies to any refusal under this subsection; or*
- (b) *there are reasonable grounds for the Access Provider to refuse access based on safety and security, to the extent that the duct and manhole infrastructure is being utilised for critical government services, including in connection with government agencies, the military or the police.*

The grounds for refusing access and/or imposing any restrictions on access by the Access Provider on Duct and Manhole Access in relation to safety and security must be no more restrictive or onerous than the Access Provider imposes on its own personnel who physically access the same ducts and manholes.

6.11.17 **Equivalence of Inputs:** *An Access Provider must provide Duct and Manhole Access on an Equivalence of Inputs basis to Access Seekers, including with information that is of the same degree of reliability and currency as that which it provides itself, including but not limited to:*

- (a) *information relating to the locations at which Duct and Manhole Access is available;*
- (b) *information relating to the physical space available at such locations; and*
- (c) *any other information that is reasonably required by the Access Seeker to enable the Access Seeker to place an Order for Duct and Manhole Access or otherwise access duct and manhole infrastructure.*

6.11.18 **Maintenance and rectification:** *An Access Provider shall:*

- (a) *ensure that it maintains in reasonable working condition all ducts and manholes, subject to paragraph 6.11.18(b);*
- (b) *on notice by an Access Seeker, or upon otherwise becoming aware, that any duct or manhole does not comply with paragraph 6.11.18(a), perform within **forty (40) Business Days** such activities as required to rectify such non-compliance; and*
- (c) *in the case of broken/blocked ducts resulting in lack of capacity, conduct reasonable remediation, to the extent technically feasible, and in a timely manner.*

If the ducts and manholes that are only used by the Access Seeker are beyond repair and both Access Provider and Access Seeker agree that replacement is required, the

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Parties shall mutually agree on the reasonable costs to be shared between the Access Provider and the Access Seeker.

6.11.19 **Indemnity:**

- (a) *In relation to matters of, and relating to, liability between an Access Provider and Access Seeker not governed by the terms of an Access Agreement, where an Operator (the **first Operator**), through its acts or omissions (whether negligent or otherwise), causes damage to Equipment used by the other Operator in connection with the provision of Duct and Manhole Access, then, subject to paragraph 6.11.19(b), the first Operator must indemnify the other Operator against such damage and any reasonable costs or expenses associated with such repair or replacement.*
- (b) *In respect of the indemnity under paragraph 6.11.19(a):*
 - (i) *under no circumstances will the first Operator be liable for any indirect, consequential or special loss or damage, or loss or any other damage that does not arise naturally from the breach according to the usual order of things;*
 - (ii) *to the extent permitted by law and subject to paragraph 6.11.19(b)(iii), the first Operator's maximum liability to the other Operator shall be limited to the amount specified in an Access Agreement, or RM1,000,000, whichever is lower; and*
 - (iii) *the limitation of liability in paragraph 6.11.19(b)(ii) will not apply to any acts or omissions of the first Operator that cause or contribute to death or personal injury of any person.*

6.11.20 **Restriction on resale:** *Notwithstanding subsection 4.4.2 of the MSA, the Access Seeker may not assign, share or sublet part or all of the duct space or manholes to any person, without the approval of the Access Provider.*

6.11.21 **Accredited sub-contractors:** *Access Seekers are required to use an accredited list of sub-contractors provided by the Access Provider, in relation to installation, maintenance, and rectification of the Access Provider's duct infrastructure.*

6.11.22 **Technical specifications:** *The Access Agreement between the Access Provider and Access Seeker may include mutually agreed technical proposals for Duct and Manhole Access including but not limited to the following:*

- (a) *fibre optic technical specifications;*
- (b) *distance measurements;*
- (c) *acceptance test;*
- (d) *trenching method;*

- (e) *ductways; and*
- (f) *manhole specifications."*

3. Joint Survey

A joint survey may be conducted by SACOFA and the Access Seeker, along with surveyors, where necessary, to determine the availability of requested ducts and manholes at a particular area, provided that the scope of the survey be jointly decided, and any costs are necessarily incurred, itemised and agreed between SACOFA and the Access Seeker.

4. Capacity Allocation Policy

In addition to Section 5.7.32 of the MSA, SACOFA's capacity allocation policy for Duct and Manhole Access sets out the principles to be applied on an equivalent basis between SACOFA and other Access Seeker, where:

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

5. Operational Manuals

5.1 SACOFA's operation and maintenance manuals contains reasonable processes and procedures relating to Duct and Manhole Access including but not limited to:

- (a) safety, security and occupational health and safety;
- (b) laying, maintenance, restoration and removal of cables;
- (c) entry to manholes; and

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(d) sealing or closing of manholes.

5.2 SACOFA's processes and procedures for Duct and Manhole Access shall:

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

6. Security Sum

6.1 The Access Seeker may be required to provide the Security Sum equivalent **two (2)** months from the annual Charges for each Access Request.

7. Charges and Charging Principles

7.1 The applicable charges for per sub- Duct and Manhole Access are as follows:-

	Ringgit Malaysia per km per month		
	2023	2024	2025
25% of Lead-in ducts and manhole	121.53	123.87	126.27
25% of Mainline ducts and manhole	140.46	143.18	145.96
25% of Inter-exchange ducts and manhole	245.50	250.41	255.42

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SACOFA'S RAO – SCHEDULE A

SCHEDULE A

SERVICE DESCRIPTION

PART VI – END-TO-END TRANSMISSION SERVICE

1. General

1.1 Part VI of Schedule A sets out the terms and conditions which are applicable to End-To-End Transmission Service.

2. Scope of End-To-End Transmission Service

2.1 The End-To-End Transmission Service is a Facility and/or Service for the carriage of communications between:-

- (a) two End User locations;
- (b) between two Access Seekers' premises; or
- (c) between one End User location and one Access Seeker's premises,

via such network interfaces at such transmission rates as may be agreed between SACOFA and the Access Seeker on a permanent or virtual basis.

2.2 Network interfaces may use any technology as may be agreed between SACOFA and the Access Seeker including, for example, Ethernet interfaces.

2.3 The functionalities of the End-To-End Transmission Service include:-

- (a) transmission and any type of routing or switching, whether packet, circuit, multi-layer or otherwise;
- (b) the signalling required to support the technology or to provide a service;
- (c) termination at either end by a port, router, network termination unit, switch, submarine cable landing centre or earth station; and
- (d) a digital protocol including Internet Protocols.

2.4 An End User location or Access Seeker's premises in clause 2.1 may include submarine cable or satellite link between Sabah and Sarawak and Peninsular Malaysia, submarine cable landing centre or an earth station.

2.5 The End-To-End Transmission Service may be for the carriage of communications which comprise a content applications service.

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- 2.6 Technologies used to supply End-To-End Transmission Service, such as Metro-E, or any other applicable technology which is currently available or which may be developed in future, may be requested by Access Seekers and SACOFA must supply End-To-End Transmission Service using these technologies on request.
- 2.7 An Access Seeker for the End-to-End Transmission Service which includes but is not limited to a network facilities provider or network service provider which is only authorised to provide limited network facilities or network services such as in the last mile, but wishes to acquire the End-to-End Transmission Service in order to connect its limited network facilities or network services.
- 2.8 For the avoidance of doubt, the End-to-End Transmission Service comprises but is not limited to the Facilities and/or Services specified in the Trunk Transmission Service and the Wholesale Local Leased Circuit Service.
- 2.9 The End-to-End Transmission Service includes any End-to-End Transmission Service supplied to the Access Seeker with:
- (a) any network availability between 99.90% and 99.992%, whether per month or otherwise;
 - (b) any latency of between <1 ms and <40 ms;
 - (c) zero or more routes of redundancy; and
 - (d) any other technical parameters specified or utilised by SACOFA from time to time, including parameters of a type referred to in sub-clause (a) to (c) above.
- 2.10 The Operators shall comply with Section 6.7 of the MSA:

6.7 TRANSMISSION SERVICES

- 6.7.1 **Application:** *This subsection applies where access to a Transmission Service has been requested or is to be provided.*
- 6.7.2 **Forecasts:** *For the purposes of subsection 5.6.6 of the MSA, an Access Provider shall only request Forecasts where:*
- (a) *the maximum period of time covered by Forecasts regarding Transmission Services is **one (1)** year;*
 - (b) *the minimum intervals or units of time to be used in Forecasts regarding Transmission Services is **one (1)** year; and*
 - (c) *the maximum frequency to update or to make further Forecasts regarding Transmission Services is once a year.*
- 6.7.3 **Acknowledgement of receipt:** *For the purposes of subsection 5.7.5 of the MSA, an Access Provider shall acknowledge receipt of each Order for a Transmission Service*

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within **two (2)** Business Days. For clarification, an Access Provider may acknowledge receipt of Orders in batches of no more than 20 Orders per batch.

6.7.4 **Time for acceptance or rejection:** Subject to any shorter timeframe required under subsection 5.7.12 of the MSA, an Access Provider must 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 the Access Provider did not undertake any post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA; or
- (b) providing the Access Seeker with the result of post-Order Service Qualification under subsection 5.7.9 of the MSA, where the Access Provider has undertaken post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA.

6.7.5 **Indicative delivery timeframe:** For the purposes of paragraph 5.7.13(a)(i) of the MSA, and unless otherwise agreed between the Access Provider and Access Seeker having regard to the volume of the relevant Order(s), the indicative delivery timeframe for Transmission Services is:

- (a) if no new network facilities are required to supply the Transmission Services, **twenty (20)** Business Days for Urban Areas, **thirty (30)** Business Days for non-urban areas and mutually agreed upon timeline between Access Seeker and Access Provider for geographically difficult regions (like unpaved roads, hills, and remote islands); or
- (b) if new network facilities are required to supply the Transmission Services, **sixty (60)** Business Days for Urban Areas, **ninety (90)** Business Days for non-urban areas and mutually agreed upon timeline between Access Seeker and Access Provider for geographically difficult regions (like unpaved roads, hills, and remote islands).

For clarification, the indicative delivery timeframe in this subsection 6.7.5 commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with subsection 5.7.14 of the MSA.

6.7.6 **Billing Cycle:** For the purposes of subsection 5.11.3 of the MSA, between the Operators, the Billing Cycle for Transmission Services will be quarterly.

6.7.8 **No bundling:** An Access Provider shall not require an Access Seeker to purchase a Transmission Service together with any other Transmission Service. For example, an Access Provider shall not require an Access Seeker to purchase a Trunk Transmission Service between a pair of technically feasible network transmission points with another Trunk Transmission Service between another pair of technically feasible network transmission points.

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6.7.9 **Quality of service:** An Access Provider shall provide access to the Trunk Transmission Service and End-to-End Transmission Service to Access Seekers in accordance with the quality of service parameters set out in the table below, and otherwise on an equivalent basis as it provides for itself:

Parameter	Threshold %
Network Availability	≥ 99.99%
Latency (Intra-region): <ul style="list-style-type: none"> • Within Peninsular Malaysia • Within Sabah • Within Sarawak 	Between >1ms and <40ms
Latency (Inter-region) <ul style="list-style-type: none"> • Between Peninsular Malaysia and Sabah • Between Peninsular Malaysia and Sarawak • Between Sabah and Sarawak 	≥ 40ms

6.7.10 **Rebate:** An Access Provider shall discuss and negotiate with the Access Seeker in good faith the provision of a rebate in respect of each Billing Cycle in which the service level availability of any Transmission Service provided by the Access Provider does not meet the relevant service level availability specified in the Commission Determination on the Mandatory Standards for Quality of Service (Digital Leased Line Service), Determination No.3 of 2009 or the service level availability mutually agreed between the Access Seeker and the Access Provider, including such modification or variation and any other mandatory standards that may be determined by the Commission from time to time, other than to the extent to which such non-compliance arises due to:

- (a) any act or omission of the Access Seeker other than in accordance with the directions of the Access Provider;
- (b) Force Majeure; or
- (c) any other excluded reason specified in that Determination.

6.7.11 **Amount of rebate:** The amount of any rebate for the purposes of section 6.7.10 shall, at a minimum, reflect:

- (a) the reduced costs that would have been incurred by the Access Seeker in acquiring the relevant Transmission Service with a service level availability equivalent to that provided by the Access Provider; and
- (b) any other diminution in value (including any rebates paid by the Access Seeker) in the Transmission Service provided to the Access Seeker due to the Access Provider's failure to comply with the service level availability required under the Commission Determination on the Mandatory Standards for Quality of Service (Digital Leased Line Service), Determination No.3 of 2009, including

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such modification or variation and any other mandatory standards that may be determined by the Commission from time to time.

- (c) The maximum cap on the rebate amount offered shall be a sum mutually agreed upon between the Access Provider and Access Seeker.

6.7.12 **Equivalence of Inputs:** An Access Provider must provide Transmission Service on an Equivalence of Inputs basis to Access Seekers, including the product, speed tiers, speed, price, timeframes, service level performance and terms and conditions that are equivalent to what it provides to itself and/or another Access Seeker.”

3. Provisioning of End-To-End Transmission Service

- 3.1 The minimum period in which the Access Seeker may lease End-To-End Transmission Service is **one (1) year**.
- 3.2 The Access Seeker shall pay to SACOFA for End-To-End Transmission Services stated in this **Part VI of Schedule A** provided by SACOFA, Charges in accordance with the applicable provisions set in **Part VI of Schedule A**.
- 3.3 SACOFA shall ensure End-To-End Transmission Service conform to the agreed service level availability and Technical Specifications, subject to the Access Seeker’s use of those End-To-End Transmission Service in accordance with the Technical Specifications and Commission Determination on the Mandatory Standard For Quality of Service (Digital Leased Line Service), Determination No. 3 of 2009 and other agreed requirements.

4. Security Sum

- 4.1 The Access Seeker may be required to provide the Security Sum equivalent **two (2) months** from the annual Charges for each Access Request.

5. Charges and Charging Principles

- 5.1 The Charges for End-To-End Transmission Service will be as stated in the Commission Determination on the Mandatory Standard on Access Pricing (Determination No. 1 of 2023) as stated below:-

Within Peninsular Malaysia and within Sabah and Sarawak

	Ringgit Malaysia per month		
	2023	2024	2025
1 Mbps	82	55	0
10 Mbps	1,037	817	598
100 Mbps	1,508	1,122	735
200 Mbps	2,033	1,460	888
500 Mbps	3,606	2,476	1,345
750 Mbps	4,917	3,321	1,726
1 Gbps	6,561	4,663	2,765
3 Gbps	17,669	11,741	5,813
5 Gbps	28,383	18,622	8,861

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6 Gbps	33,977	22,181	10,385
7 Gbps	39,571	25,740	11,909
8 Gbps	45,165	29,299	13,433
9 Gbps	50,759	32,858	14,957
10 Gbps	56,353	36,417	16,482

Between Peninsular Malaysia and Sabah and Sarawak

	Ringgit Malaysia per month		
	2023	2024	2025
1 Mbps	95	59	0
10 Mbps	1,209	917	626
100 Mbps	3,227	2,119	1,012
200 Mbps	5,469	3,455	1,441
500 Mbps	12,196	7,462	2,728
750 Mbps	17,801	10,801	3,800
1 Gbps	24,130	14,830	5,530
3 Gbps	70,377	42,243	14,110
5 Gbps	116,230	69,460	22,689
6 Gbps	139,394	83,186	26,979
7 Gbps	162,557	96,913	31,268
8 Gbps	185,720	110,639	35,558
9 Gbps	208,884	124,366	39,848
10 Gbps	232,047	138,092	44,137
Installation (non-recurring charge)	6,571	6,768	6,971

- 5.2 Notwithstanding the above, in the event the Access Seeker requires the provision of Facilities and/or Services which require SACOFA to incur new investment, SACOFA may charge **one (1)** time capital contribution or review the above rates.

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SACOFA'S RAO – SCHEDULE A

SCHEDULE A

SERVICE DESCRIPTION

PART VII – LAYER 2 HSBB NETWORK SERVICE WITH QUALITY OF SERVICE ("QoS")

1. General

1.1 Part VII of Schedule A sets out the terms and conditions which are applicable to Layer 2 HSBB Network Service with Quality of Service ("QoS").

2. Scope of Layer 2 HSBB Network Service with Quality of Service ("QoS")

2.1 The Layer 2 HSBB Network Service with QoS is an access and transmission Facility and/or Service for the provision of Layer 2 connectivity for the carriage of certain communications, being data in digital form and conforming to Internet Protocols, between customer equipment at an End User's premises and a POI at the Access Seeker's premises or the Access Provider's premises, as selected by the Access Seeker, where in respect of the service:

- (a) the customer equipment is directly connected to an Access Provider's High-Speed Broadband Network;
- (b) the Access Seeker selects the bit rate;
- (c) the Access Seeker selects the QoS Class; and
- (d) the Access Seeker assigns the Customer with an IP address.

2.2 The Layer 2 HSBB Network Service with QoS includes shared splitting services, interfaces to operational support systems and network information.

2.3 Nothing in this service description is intended to limit:

- (a) the number of concurrent Layer 2 HSBB Network Services with QoS acquired by an Access Seeker from an Access Provider associated with a single Customer;
- (b) concurrent acquisition of Layer 2 HSBB Network Service with QoS and other HSBB Network Services by an Access Seeker from an Access Provider associated with a single Customer; or
- (c) the number of HSBB Network Services that may be acquired by a single Access Seeker, either in a single location or at multiple locations (or permit an Access Provider to require an Access Seeker to acquire any minimum or maximum number of HSBB Network Services, either in a single location or at multiple locations), as a condition of an Access Provider supplying the Layer 2 HSBB Network Service with QoS.

2.4 The Layer 2 HSBB Network Service with QoS shall be supplied to the Access Seeker as follows:

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- (a) at pre-defined speeds which are capable of providing the bit rates specified below, as selected by the Access Seeker:

Bit rate		Note and example applications
Downstream	Upstream	
Unconstrained	Unconstrained	Access Provider does not constrain the speed of the service itself but would provide an unconstrained network service which the Access Seeker rate shapes, i.e. determines the speed. This option is only available with QoS Class 5.
30 Mbps	5 Mbps	Low-speed broadband services
30 Mbps	10 Mbps	
30 Mbps	30 Mbps	
50 Mbps	10 Mbps	High-speed residential, business broadband services, or enterprise grade business broadband services
50 Mbps	20 Mbps	
50 Mbps	50 Mbps	
100 Mbps	40 Mbps	
100 Mbps	50 Mbps	
100 Mbps	100 Mbps	
250 Mbps	100 Mbps	
500 Mbps	100 Mbps	
600 Mbps	100 Mbps	
700 Mbps	100 Mbps	
800 Mbps	200 Mbps	
1000 Mbps	500 Mbps	
Any other higher, lower or different bit rates specified or utilised by the Access Provider from time to time		

- (b) in accordance with the following QoS Class, as selected by the Access Seeker:

QoS Class	Latency	Jitter	Packet Loss	Notes and example applications
0	≤ 100 ms	≤ 50 ms	≤ 10 ⁻³	Real-time, jitter sensitive, high interaction – Voice over IP ("VoIP")
1	≤ 200 ms	≤ 50 ms	≤ 10 ⁻³	Real-time, jitter sensitive, interactive – IP television ("IPTV")
2	≤ 100 ms	-	≤ 10 ⁻³	Transaction data, highly interactive – signalling
3	≤ 400 ms	-	≤ 10 ⁻³	Transaction data, interactive – business data
4	≤ 1 s	-	≤ 10 ⁻³	Low loss only (short transactions, bulk data) – video streaming
5	-	-	-	Best efforts – traditional applications of default IP networks

- (c) any other technical parameters or standards specified, utilised or agreed by the Access Provider from time to time.

2.5 The Operators shall comply with Section 6.6 of the MSA:

"6.6 HSBB NETWORK SERVICES

6.6.1 **Application:** *This subsection 6.6 applies where access has been requested or is to be provided to HSBB Network Services.*

6.6.2 **Forms of HSBB Network Services:** *There are **two (2)** forms of HSBB Network Services:*

(a) *Layer 2 HSBB Network Services with QoS; and*

(b) *Layer 3 HSBB Network Service.*

The Access Provider shall clarify in their RAO whether the Access Provider offers the Layer 2 HSBB Network Services with QoS and/or the Layer 3 HSBB Network Service in respect of the premises, street, exchange area or part thereof.

6.6.3 **Forecasts:** *For the purposes of subsection 5.6.6 of the MSA, an Access Provider shall only request Forecasts where:*

(a) *the maximum period of time covered by Forecasts regarding HSBB Network Services is **three (3)** years which will be non-binding in accordance with 5.6.5 unless confirmed by the Access Seeker in accordance with subsection 5.6.3;*

(b) *the minimum intervals or units of time to be used in Forecasts regarding HSBB Network Services is **three (3)** months; and*

(c) *the maximum frequency to update or to make further Forecasts regarding HSBB Network Services is once every **three (3)** months.*

6.6.4 **Acknowledgement of receipt:** *For the purposes of subsection 5.7.5 of the MSA, an Access Provider shall acknowledge receipt of each Order for a HSBB Network Service within **one (1)** Business Day.*

6.6.5 **Commencement and completion of post-Order Service Qualifications:** *For the purposes of subsection 5.7.9 of the MSA, the Access Provider shall commence a Service Qualification on the date of issuing a Notice of Receipt and complete and notify the Access Seeker of the result of any post-Order Service Qualification within the shorter of:*

(a) ***five (5)** Business Days after the commencement of the post-Order Service Qualification; and*

(b) *the time within which the Access Provider performs and notifies the result of an equivalent post-Order Service Qualification undertaken for itself.*

In addition to subsection 5.7.8 of the MSA, the Access Provider shall only require post-Order Service Qualification to be requested in respect of a serviceable address that is not connected to the HSBB Network Service.

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6.6.6 **Time for acceptance or rejection:** Subject to any shorter timeframe required under subsection 5.7.12 of the MSA, an Access Provider must notify an Access Seeker that an Order for a HSBB Network Service is accepted or rejected within **one (1)** Business Day after:

- (a) issuing the Notice of Receipt in respect of the Order, where the Access Provider did not undertake any post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA; or
- (b) providing the Access Seeker with the result of post-Order Service Qualification under subsection 5.7.9 of the MSA, where the Access Provider has undertaken post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA.

6.6.7 **Indicative activation timeframe:** For the purposes of paragraph 5.7.13(a)(i) of the MSA, the indicative activation timeframe for HSBB Network Services is:

- (a) in respect of a serviceable address that is connected to the HSBB Network, **five (5)** Business Days including the date of the Broadband Termination Unit ("**BTU**") installation appointment (whether or not a BTU has been installed at such premises as at the date of the relevant Notice of Acceptance); or
- (b) otherwise, up to **fourteen (14)** Business Days including the date of the BTU installation appointment and the successful BTU installation.

The Access Provider will perform activations, and must ensure it has sufficient BTU stock to perform activations, within the shorter of the timeframe specified in this subsection 6.6.7, the time within which the Access Provider performs activations for itself and the time which would permit the Access Seeker or a downstream operator to comply with the Commission Determination on the Mandatory Standards for Quality of Service (Customer Service), Determination No. 4 of 2021 including such modification or variation as may be determined by the Commission from time to time. For clarification, the indicative activation timeframe in this subsection 6.6.7 commences from the Notice of Acceptance or confirmation of the Order (as applicable) in accordance with subsection 5.7.14 of the MSA.

6.6.8 **Billing Cycle:** For the purposes of subsection 5.11.3 of the MSA, between the Operators, the Billing Cycle for HSBB Network Services will be monthly.

6.6.9 **Portal information:** Each Access Provider must make available, through an interactive self-service portal in accordance with subsections 6.6.13 and 6.6.14 of the MSA, access to a mechanism which allows Access Seekers to query:

- (a) whether:
 - (i) a premises is on a street which is connected to a HSBB Network and where a BTU is installed;
 - (ii) a premises is on a street which is connected to the HSBB Network, but where a BTU is not installed; or

- (iii) a premises is in an exchange service area or part of an exchange service area (if applicable) in which the Access Provider has a HSBB Network;
- (b) the maximum bit rate at which the Access Provider offers the HSBB Network Service (subject to any necessary provisos or qualifications related to technology or network facility limitations);
- (c) information and parameters concerning service restoration including, without limitation, throughput achieved at the service boundaries of the HSBB Network Service, equivalent to that which the Access Provider provides to itself; and
- (d) the availability of BTU ports, on a premises-by-premises basis.

The Access Provider shall ensure that the information specified in subsections 6.6.9 and 6.6.10 of the MSA is accurate and made available as soon as the Access Provider makes that information available to itself and in any case, on and from the date of inclusion of the premises or exchange service area (or part thereof) in the implementation and migration plan or any subsequent updates. The Access Provider shall pay to an Access Seeker on request, a rebate of **RM 44.75**, or such other amount as agreed between the parties, for each item of information that the Access Provider fails to provide, or which is inaccurate, in contravention of subsections 6.6.9 and 6.6.10 of the MSA. The Access Provider may, at its discretion, require the Access Seeker to submit a claim for such rebates, provided that:

- (e) the Access Provider must not request information, evidence or other materials from the Access Seeker beyond the minimum amount that is reasonably necessary to validate the Access Seeker's claim;
- (f) the Access Provider must, within such timeframes as agreed with the Access Seeker, pay any rebates validly claimed by the Access Seeker or notify the Access Seeker that some or all of the Access Seeker's claim is rejected; and
- (g) if the Access Provider rejects a claim by an Access Seeker, the Access Provider must provide reasons for such rejection.

6.6.10 Implementation and migration plan: The Access Provider shall maintain and provide to the Access Seeker on a monthly basis or other timeframe as mutually agree, in accordance with subsections 6.6.13 and 6.6.14 of the MSA, a detailed up-to-date implementation plan that provides its procedures and timing for the HSBB Network Services that includes:

- (a) the implementation plan covering a total period of time for which the Access Provider has any internal rollout plans;
- (b) the migration from copper to fibre at all existing nodes by location;
- (c) the construction of new nodes by location;

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-
- (d) notification processes to Customers and Access Seekers for such migration and the minimum notice periods to be provided;
 - (e) the exchange buildings and other Access Provider premises at which Access Seekers may establish a POI to acquire the HSBB Network Services;
 - (f) ordering and provisioning procedures for HSBB Network Services including the applicable terms and conditions; and
 - (g) the total number of available BTU ports, on a premises-by-premises basis subject to reasonable justification provided by the Access Seeker on a case-by-case basis.

The Access Provider shall manage the implementation plan in a non-discriminatory manner. This includes giving the same information and priority to Access Seekers as it gives to itself in the handling of the migration or orders for HSBB Network Services. The information provided to Access Seekers must allow Access Seekers to:

- (h) market HSBB Network-based retail services to Customers and potential Customers;
- (i) compete for the delivery of HSBB Network-based retail services to Customers and potential Customers; and
- (j) order HSBB Network Services in order to deliver HSBB Network-based retail services to Customers and potential Customers,

on the same basis as the Access Provider (including with regard to Customers and potential Customers who are at the time acquiring retail services to which any copper-based services are an input).

6.6.11 **Availability to Access Seeker:** The implementation and migration plan specified in subsection 6.6.10 of the MSA shall be made available in electronic form to any Access Seeker on request.

6.6.13 **Service fulfilment timeline:** An Access Provider shall comply with the following service fulfilment timelines and obligations for the HSBB Network Service:

Parameters	Timelines and obligations
Service Gateway ("SG") configuration	The SG configuration shall be performed and completed by the Access Provider within fourteen (14) Business Days for existing node, commencing from the date on which connectivity to the Access Seeker's equipment has been established. The relevant timeframe for new nodes is to be mutually agreed between the Access Provider and the Access Seeker.
Service availability check	<ul style="list-style-type: none"> • The Access Provider shall enable the Access Seeker to check whether a premises or exchange service area (or part thereof) is serviceable by the HSBB Network Service via an interactive self-service portal

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	<p><i>in accordance with subsection 6.6.9 of the MSA.</i></p> <ul style="list-style-type: none"> • <i>The Access Provider shall provide the Access Seeker with access to the interactive self-service portal upon establishment of the SG and service acceptance handover.</i> • <i>The Access Seeker may request an appointment in an available appointment slot for a BTU installation in respect of a premises that is serviceable by the HSBB Network Service.</i> • <i>Where information about a premises or exchange service area (or part thereof) is not available through the interactive self-service portal, the Access Seeker shall submit a demand request through a Customer Demand List.</i>
BTU installation appointment	<p><i>The Access Provider shall provide the available time slot for the Access Seeker to schedule the installation appointment with the Customer within five (5) Business Days from the date of Order created or submitted by the Access Seeker in the portal. BTU installation appointments to be confirmed within one (1) Business Day of the Access Seeker requesting an appointment in an available appointment slot.</i></p>
BTU installation	<ul style="list-style-type: none"> • Fifty percent (50%) of BTU installations per month to be completed within four (4) hours from the agreed installation time. • Eighty percent (80%) of BTU installations per month to be completed within six (6) hours from the agreed installation time. • One hundred percent (100%) of BTU installations per month to be completed within eight (8) hours from the agreed installation time.
Return Order management	<p><i>For any faulty or incomplete BTU installations, the Access Provider shall resolve the problem and complete the installation within five (5) Business Days of Access Seeker's notification unless the installation was faulty or incomplete for reasons outside the Access Provider's reasonable control. In case where new infrastructure is required, Access Provider shall resolve the issue and complete the installation within fourteen (14) Business Days of Access Seeker's notification excluding cases where significant infrastructure deployment is required as listed under subsection 6.6.7.</i></p>
SG upgrade/downgrade	<p><i>Within five (5) Business Days from the date that the Access Seeker's request is received if the HSBB Network has sufficient capacity to support the request (otherwise a notification of rejection on the basis of insufficient capacity will be provided to the Access Seeker and the Commission within one (1) Business Day of such request).</i></p>
BTU upgrade/downgrade	<p><i>Within two (2) Business Days from the date that the Access Seeker's request is received if the HSBB Network</i></p>

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	<i>has sufficient capacity to support the request (otherwise a notification of rejection on the basis of insufficient capacity will be provided to the Access Seeker and the Commission within one (1) Business Day of such request).</i>
Single truck roll	<i>The Access Provider shall enable the Access Seeker to request a single truck roll for the performance by the Access Provider of service fulfilment activities where it is reasonably practicable to do so (for example, enabling the Access Seeker to request that the Access Provider perform only a single truck roll in respect of BTU installations at two or more premises in close proximity to each other).</i>

6.6.14 **Service assurance timeline:** An Access Provider shall comply with the following service assurance timelines and obligations for the HSBB Network Service:

Parameters	Timelines and obligations
Mean time to restore for fault due to infrastructure from SG to BTU	<i>As required to permit the Access Seeker or a downstream operator to comply with the Commission Determination on the Mandatory Standards for Quality of Service (Customer Service), Determination No. 4 of 2021 including such modification or variation as may be determined by the Commission from time to time.</i>
A complete failure of network elements and causing all services to be totally disrupted	<i>As required to permit the Access Seeker or a downstream operator to comply with the Commission Determination on the Mandatory Standards for Quality of Service (Customer Service), Determination No. 4 of 2021 including such modification or variation as may be determined by the Commission from time to time.</i>
Any fault relating to breakdown of passive fibre	<i>As required to permit the Access Seeker or a downstream operator to comply with the Commission Determination on the Mandatory Standards for Quality of Service (Customer Service), Determination No. 4 of 2021 including such modification or variation as may be determined by the Commission from time to time.</i>
On-site support	<i>The Access Provider shall provide on-site support during Business Days.</i>
Appointment for service restoration	<i>The Access Provider shall provide an interactive service assurance portal, in accordance with subsection 6.6.9 of the MSA, to the Access Seeker which shall include the following functionality:</i> <ul style="list-style-type: none"> • <i>a common ticketing system to log, review and generate reports and progress updates; and</i> • <i>a common slotting system to enable the Access Seeker to view and book available appointment slots.</i>
Throughput	<i>As required to permit the Access Seeker or a downstream operator to comply with the Commission Determination on the Mandatory Standards for Quality of Service (Wired Broadband Access Service), Determination No. 1 of 2021 including such</i>

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	<i>modification or variation as may be determined by the Commission from time to time.</i>
Network Latency (Layer 2 HSBB Network Service with QoS only)	<i>As required to permit the Access Seeker or a downstream operator to comply with the Commission Determination on the Mandatory Standards for Quality of Service (Wired Broadband Access Service), Determination No. 1 of 2021 including such modification or variation as may be determined by the Commission from time to time.</i>
Packet Loss and Jitter	<i>As required to permit the Access Seeker or a downstream operator to comply with the Commission Determination on the Mandatory Standards for Quality of Service (Wired Broadband Access Service), Determination No. 1 of 2021 including such modification or variation as may be determined by the Commission from time to time.</i>
Network utilisation and performance	<i>The Access Provider shall provide to the Access Seeker, through an interactive service assurance portal that is in accordance with subsection 6.6.9 of the MSA, a network utilisation and performance report at intervals of no greater than one (1) month.</i>
Portal availability	<i>The interactive service assurance portal shall:</i> <ul style="list-style-type: none"> • <i>operate with a service uptime of at least 99.9% including 8am to 10pm, seven days a week measured monthly; and</i> • <i>include all backend databases and systems.</i>

6.6.15 **QinQ implementation:** *An Access Provider shall provide the QinQ implementation to the Access Seeker to allow the Access Seeker freedom in choosing their VLAN identifiers. The QinQ features include:*

- (a) *providing a simple layer 2 virtual private network tunnel for the end user;*
- (b) *shielding the VLAN identifier of the end user, so as to save the public network VLAN identifier resource of the Access Seeker; and*
- (c) *enabling the Access Seeker to plan their private network VLAN identifier to avoid any conflict with the Access Provider and other operators' VLAN identifiers and to ensure that the Access Seeker's VLANs are not fully visible to the Access Provider.*

6.6.16 **Reporting:**

- (b) *An Access Provider must, by the day that is on or about **twenty (20)** Business Days after the end of a calendar quarter (or such other period agreed with Access Seekers), provide to Access Seekers a report at no additional charge on the Access Provider's performance in each month of that quarter, against key operational metrics as specified in the Commission Determinations on the Mandatory Standards for Quality of Service (Wireless Broadband Access Services), Determination No.1 of 2021 and Mandatory Standards of Quality of*

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Service (Customer Service), Determination No.4 of 2021, in respect of services supplied by the Access Provider over the HSBB Network, including, without limitation:

- (i) network utilisation including optical line terminal backhaul utilisation and the area the optical line terminal is serving;*
- (ii) throughput;*
- (iii) latency;*
- (iv) packet loss;*
- (v) service fulfilment; and*
- (vi) service assurance.*

6.6.17 Equivalence of Inputs: *An Access Provider must:*

- (a) Provide HSBB Network Services on an Equivalence of Inputs basis to Access Seekers, including the product, speed tiers, speed, price, timeframes, service level performance and terms and conditions that are equivalent to what it provides to itself;*
- (b) Provide access to Operational Support Systems for HSBB Network Services to itself and to Access Seekers using the same systems and processes (including for billing, information management, service fulfilment, service assurance and network performance); and*
- (c) Ensure that Access Seekers are able to use the HSBB Network Services, the OSS, the systems and processes that are used by the Access Provider in the same way and with the same degree of reliability, performance, accuracy and up-to-date information as it provides to itself, including by means of API integration if requested by An Access Seeker.*

6.6.18 Modularity: *An Access Provider must provide HSBB Network Service on a Modular and unbundled basis so that the Access Seeker does not have to acquire network components, Facilities and/or Services that are not required for HSBB Network Services to be provided.*

6.6.19 Churn Obligations: *The following obligations apply in relation to a Churn:*

- (a) The Releasing Service Provider and Access Service Provider must not object to, impose any conditions on any party, or take any other steps, that have the effect of delaying or impeding, the implementation of a valid Churn request by a Gaining Service Provider, including imposing any conditions requiring the Customer of the Releasing Service Provider to visit any physical location to facilitate a Churn;*

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- (b) *Within **four (4)** Business Days of the date of receipt of the Gaining Service Provider's Transfer Request:*
- (i) *the Releasing Service Provider must either:*
- A. *approve the Transfer Request and request the Access Service Provider to implement the Churn; or*
- B. *notify the Gaining Service Provider that the Transfer Request is invalid or incomplete, in which case paragraph 6.6.19(c) shall apply; and*
- (ii) *the Access Service Provider must, upon approval of the Transfer Request, reserve an available BTU port for the Gaining Service Provider to be used solely in connection with the Churn;*
- (c) *If a notification is made under paragraph 6.6.19(b)(i)B of the MSA, the Releasing Service Provider must provide the Gaining Service Provider with evidence upon which the notification is based. In such circumstances, the Releasing Service Provider and the Gaining Service Provider must take immediate action to rectify the invalid Churn in accordance with the Customer's wishes. If the Customer wishes to proceed with the transfer to the Gaining Service Provider, and the Gaining Service Provider provides the Releasing Service Provider with a Transfer Form, the Transfer Request must be provided to the Access Service Provider immediately;*
- (d) *Upon receipt of a notice under paragraph 6.6.19(b)(i)A above, the Access Service Provider must promptly, and in any event within **one (1)** day of such receipt, request the Gaining Service Provider to reserve an available appointment slot for activation of the relevant service;*
- (e) *The Gaining Service Provider must, within **one (1)** day of receiving a notice under paragraph 6.6.19(c) above, submit with the Access Service Provider an Order for, and book an available appointment slot for activation of, the relevant service;*
- (f) *Each party shall use its best endeavours to ensure that the relevant Churn is implemented, and the relevant service activated, within **seven (7)** Business Days from the date of the Gaining Service Provider's first valid Transfer Request. This excludes situations such as deferment from customer request and return Order due to faulty BTU port;*
- (g) *Unless otherwise specifically provided in the MSA, the Access Service Provider and the Releasing Service Provider must not use information disclosed for the purposes of a Churn (including information contained in a Transfer Request or a Transfer Form) for other purposes. In particular, the Access Service Provider and the Releasing Service Provider must handle information disclosed for the purposes of a Churn as Confidential Information of the Gaining Service Provider, and must not use such information in connection with marketing to, or offering services to, a Customer;*

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- (h) *If a Service is subject to a Churn, a Releasing Service Provider or an Access Service Provider (acting as an Access Provider for the purposes of the MSA) must not refuse an Access Request (under subsection 5.4.10 of the MSA) on the ground that the Releasing Service Provider is currently using the Service specified in the Access Request; and*
- (i) *If, in respect of a Churn, the Releasing Service Provider and Access Service Provider are the same person, any acts required under this subsection 6.6.19 as between the Releasing Service Provider and Access Service Provider shall be deemed to occur instantaneously.*

6.6.20 **Customer Demand List:** *The following process shall apply to the submission of Customer Demand Lists by an Access Seeker:*

- (a) *The Access Provider must permit (but must not require) the Access Seeker to submit Customer Demand Lists on a daily basis;*
- (b) *The Access Provider must provide an acknowledgement to the Access Seeker of its receipt of each Customer Demand List within **one (1)** Business Day of such receipt;*
- (c) *The Access Provider shall inform the Access Seeker, within **three (3)** Business Days of an Access Seeker's request, whether the premises or exchange service area (or part thereof) is serviceable by the HSBB Network Service;*
- (d) *If the relevant premises or exchange service area (or part thereof) is not serviceable by the HSBB Network Service, the Access Provider must provide to the Access Seeker information regarding the Access Provider's plan for servicing that premises, including an indicative timeframe for service availability subject to submission of relevant demand forecast by Access Seeker and where information is available;*
- (e) *The Access Provider must investigate and resolve any issues identified in the Customer Demand List within **three (3)** Business Days of its receipt (for example, by availing or augmenting any ports identified as being full, or updating its records to correct instances of missing address information);*
- (f) *The Access Provider must permit the Access Seeker to submit Customer Demand Lists through an interactive self-service portal if requested by an Access Seeker;*
- (g) *The Access Provider must treat the Customer Demand List as the Confidential Information of the Access Seeker and must not use the Customer Demand List for any purpose other than as described in subsection 6.6.20(e). For clarity, the Access Provider must not use the Customer Demand List to contact any Customers identified therein or in connection with any of the Access Provider's marketing and promotional activities;*

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- (h) *The Access Provider must permit Access Seekers to make one change per Customer on the Customer Demand List without penalty;*
 - (i) *The Access Provider must not object to, impose any conditions on any party, or take any other steps, that have the effect of delaying or impeding, the request to cancel or amend a Customer Demand List;*
 - (j) *The Access Provider must provide the Access Seeker with all assistance reasonably required by the Access Seeker to facilitate a request to cancel or amend a Customer Demand List; and*
 - (k) *Upon an Access Seeker's request to cancel or amend a Customer Demand List, each Party must ensure that such cancellation is implemented promptly and without delay.*

6.6.21 **BTU installation appointments:** *Access Seekers shall book an BTU installation appointment within **thirty (30)** calendar days upon notification of appointment slots being made available in the interactive portal of the Access Provider.*

6.6.22 **Point of Interconnection for HSBB Network Services:** *The Access Provider shall not impose unreasonable requirements to the Access Seeker to establish their POI at each local area or optical line terminal for the purpose of access to the HSBB Network Services provided by the Access Provider. The maximum number of POIs that the Access Provider is allowed to require the Access Seeker to establish for the purpose of access to the HSBB Network Services provided by the Access Provider is **two (2)** POIs for each Closed Number Area.*

6.6.23 **Rebates:** *The Access Provider shall comply with the KPIs, SLAs and other deliverables in this subsection 6.6 including for Service Activation Timeframe, Service Fulfilment Timeline and Service Assurance Timeline. The Access Provider shall pay to an Access Seeker a compensation amount mutually agreed between the Access Seeker and the Access Provider for the noncompliance of any of the KPIs, SLAs and other deliverables under this subsection 6.6.”*

3. Provisioning of Layer 2 HSBB Network Service with QoS

3.1 Layer 2 HSBB Network Service with QoS

3.1.1 SACOFA will provide Layer 2 HSBB Network Service with QoS requested by the Access Seeker in accordance with SACOFA's RAO and the Access Agreement including the terms and conditions in **Schedule B**.

3.1.2 The Access Seeker shall pay to SACOFA for Layer 2 HSBB Network Service with QoS stated in this **Part VII of Schedule A** provided by SACOFA, Charges in accordance with the applicable provisions set in **Part VII of Schedule A**.

4. Security Sum

4.1 The Access Seeker may be required to provide the Security Sum equivalent **two (2)** months from the annual Charges for each Access Request.

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5. Charges and Charging Principles

- 5.1 The applicable charges for the Layer 2 HSBB Network Service with QoS shall be as stated in the Commission Determination on the Mandatory Standard on Access Pricing (Determination No. 1 of 2023) which is stated below:-

	Ringgit Malaysia per month		
	2023	2024	2025
Broadband termination unit port	45	45	45
Layer 2 service gateway:			
100 Mbps	237.52	201.38	170.65
250 Mbps	593.80	503.45	426.63
500 Mbps	1,187.60	1,006.90	853.26
600 Mbps	1,425.12	1,208.28	1,023.91
700 Mbps	1,662.64	1,409.66	1,194.56
800 Mbps	1,900.16	1,611.04	1,365.21
1 Gbps	2,375.20	2,013.80	1,706.51
2 Gbps	4,750.40	4,027.60	3,413.02
3 Gbps	7,125.60	6,041.39	5,119.54
5 Gbps	11,876.00	10,068.99	8,532.56
10 Gbps	23,752.00	20,137.98	17,065.12
20 Gbps	47,504.00	40,275.96	34,130.25
50 Gbps	118,759.99	100,689.90	85,325.62
100 Gbps	237,519.99	201,379.79	170,651.24
200 Gbps	475,039.98	402,759.58	341,302.49
500 Gbps	1,187,599.94	1,006,898.96	853,256.21
Installation:			
Broadband termination unit port (non-recurring charge)	437	450	463
Service gateway (non-recurring charge)	638	658	677

- 5.2 Notwithstanding the above, in the event the Access Seeker requires the provision of Facilities and/or Services which require SACOFA to incur new investment, SACOFA may charge a **one (1)** time capital contribution or review the above rates.

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SACOFA'S RAO – SCHEDULE B

SCHEDULE B

TECHNICAL AND OPERATIONAL MATTERS

PART I – FORECASTING

1. General

1.1 **Part I of Schedule B** sets out the forecasting procedures that are applicable in relation to the provision of network facilities and network services listed in the Access List Determination under SACOFA's RAO.

1.2 Where relevant, the forecasting obligations set out in Section 5.6 of the MSA Determination shall be applicable.

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PART II – ORDERING AND PROVISIONING

1. General

1.1 **Part II of Schedule B** sets out ordering and provisioning procedures that are applicable in relation to the provision of network facilities and network services listed in the Access List Determination under SACOFA's RAO.

1.2 For existing Facilities and/or Services utilised by the Access Seeker as at the Effective Date, the Access Seeker is not required to submit an Order for the same as an Order is deemed to have been placed and access to such Facilities and Services shall continue on the terms of SACOFA's RAO.

2. Ordering and Provisioning Obligations

2.1 Contact Point and Mechanism

(a) Orders for access to Facilities and Services are to be delivered to the authorised personnel of SACOFA and SACOFA shall notify the Access Seeker in writing from time to time of any change to the designated authorised personnel.

(b) The mechanism to be used for the submission of Orders for access to Facilities and/or Services can be made (such as a web portal or B2B gateway), provided that if such a mechanism is the only method which SACOFA provides for the receipt of Orders for that Facility and/or Service, SACOFA cannot require the Access Seeker to unreasonably invest in specialised technology or systems (such as an automated interface between the Operational Support Systems of the Operators).

2.2 Order Content

(a) The Access Seeker may place firm Orders for Facilities and Services from time to time.

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- (b) Prior to access being provided, SACOFA may require the Access Seeker to provide it with an Order which outlines the Access Seeker's access requirements. SACOFA may request the Access Seeker to provide, at a level of detail (sufficient for planning provisioning), the following in an Order for access to Facilities and Services:
- (i) the Facilities or Services or both to which access is requested;
 - (ii) a requested time and date of delivery;
 - (iii) the location of the points of delivery;
 - (iv) Equipment of the Access Seeker to be used in connection with the Order, to the extent it may adversely affect SACOFA's Network; and
 - (v) such other information that SACOFA reasonably required in order for it to provision access to the Facilities and /or Services as requested by the Access Seeker, provided that such information shall not include any information which:-
 - (ai) SACOFA does not require from itself for similar provisioning;
 - (aii) identifies or which enables the identification of a Customer or services of the Access Seeker; or
 - (aiii) is non-permitted information under subsection 5.4.16 of the MSA.
- (c) When the Order is placed, the Access Seeker must give SACOFA a priority list, allowing for progressive delivery and setting out its preferred order of delivery.

2.3 Use of Ordering Information

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

- (a) SACOFA's wholesale or interconnection group; and
- (b) That part of the Network engineering group of SACOFA responsible for interconnection or access;

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

2.4 Treatment for Orders and Service Qualifications

SACOFA shall:

- (a) establish a single queue for all Orders and Service Qualifications for a given type of Facility and/or Service, whether those Orders and Service Qualifications are required for itself or any Access Seeker;

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- (b) give the equivalent priority to the handling of all Orders and Service Qualifications in each queue; and
- (c) otherwise treat all Orders and Service Qualifications in each queue in compliance with its queuing policy established under Subsection 2.29 (Queuing Policy).

2.5 Acknowledgement of Receipt

Subject to Subsection 2.6 (Notice of Receipt) below, SACOFA will acknowledge receipt of the Order, in writing (or any other material or electronic form as agreed by the Operators), within **two (2)** Business Days of receipt of an Order from the Access Seeker or within the timeframe specified for a Facility or Service, whichever is the shorter.

2.6 Notice of Receipt

SACOFA must include in its notice of receipt ("Notice of Receipt") the following information:

- (i) the time and date of receipt;
- (ii) a list of any additional information reasonably required by SACOFA from the Access Seeker to clarify the Order;
- (iii) if the relevant Facilities or Services are below the capacity required to provide the relevant Facilities or Services, SACOFA shall inform the Access Seeker of the available capacity and timeframe for the fulfilment of the Order at the available capacity and (if relevant) with such augmentation as may be required to fulfil the Order as submitted;
- (iv) whether SACOFA needs to perform post-Order Service Qualification because information is not readily available to SACOFA, for example in its Operational Support Systems, together with the reasons for needing to undertake the Service Qualification; and
- (v) the position of the Order in SACOFA's queue.

2.7 Further Information

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

2.8 Service Qualifications

- (a) SACOFA shall make Service Qualifications available to the Access Seeker prior to placing Orders if such pre-Order Service Qualifications are undertaken for a given

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Facility and/or Service by SACOFA for itself. SACOFA shall only require post-Order Service Qualifications to be requested if:

- (i) no pre-Order Services Qualification has been completed in accordance with the process to be developed under Subsection 2.5 (Acknowledgment of Receipt);
 - (ii) SACOFA reasonably requires information from post-Order Service Qualifications which are not readily available, for example in its Operational Support Systems; and
 - (iii) SACOFA notifies the Access Seeker that the post-Order Service Qualifications are necessary (together with the reasons for needing to take such Service Qualifications) at the time of providing (and specified in) SACOFA's Notice of Receipt under Subsection 2.6 (Notice of Receipt), or, if further information has been requested under Subsection 2.7 (Further Information), within **two (2)** Business Days upon the expiry of the period specified in Subsection 2.7 (Further Information).
- (b) For clarification, an Access Seeker may also seek the consent of SACOFA to perform a Service Qualification itself, and such consent must not be unreasonably withheld.
- (c) The Access Seeker shall notify SACOFA whether way-leave or governmental authority approval is required to be obtained for the provision or delivery or establishment of the Facilities and/or Services ordered.

2.9 Commencement and completion of Service Qualifications

- (a) Subject to Subsection 2.6 (Notice of Receipt), SACOFA shall commence a Service Qualification on the date of issuing a Notice of Receipt and complete and notify the Access Seeker of the result of any Service Qualification within the shorter of:
- (i) **fifteen (15)** Business Days after the date of the Notice of Receipt; and
 - (ii) the time within which SACOFA performs and notifies the result of an equivalent Service Qualification undertaken for itself; and
- (b) Where there is a delay in the commencement and/or completion of the Service Qualification, and the delay is caused by either the Access Seeker or by a third party that is not acting under SACOFA's direction or control:
- (i) SACOFA shall notify the Access Seeker of the delay to the delivery date as soon as practicable after SACOFA becomes aware of it;
 - (ii) SACOFA and Access Seeker must work together to minimise the delay; and

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- (iii) the delivery date shall be extended for a further period as reasonably necessary, and SACOFA shall promptly notify the Access Seeker of the revised completion date.
 - (c) If the relevant Facilities and/or Services available to SACOFA are below the capacity required to provide the relevant Facilities and/or Services to the Access Seeker, SACOFA shall notify the Access Seeker, at the same time as providing notice under paragraph 2.9(a), of the available capacity and timeframe for the fulfilment of the Order at the available capacity and (if relevant) with such augmentation as may be required to fulfil the Order as submitted.

2.10 Withdrawal of Order following Service Qualifications

The Access Seeker may withdraw its Order, by giving written notice to SACOFA, without penalty (irrespective of whether SACOFA has accepted the Order or not):

- (a) within **ten (10)** Business days after receiving the result of a Service Qualification under Subsection 2.9 (Completion of Service Qualifications), failing which the Access Seeker waives its right to withdraw the Order; and
- (b) In the event the Order is withdrawn or cancelled after **ten (10)** Business days, the Access Seeker shall, upon issuance of an invoice by SACOFA, reimburse SACOFA the cost of Service Qualification.

2.11 Acceptance Obligation

SACOFA must use its reasonable efforts to accept and fulfil Orders from the Access Seeker for Facilities and Services which comply with a Forecast accepted by SACOFA pursuant to this PART II (Ordering & Provisioning).

2.12 Time for Acceptance/Rejection

- (a) Subject to Subsection 2.6 (Notice of Receipt), SACOFA must notify the Access Seeker that an Order is accepted or rejected within:
 - (i) the specified timeframe for the Facility or Service ordered as specified in Schedule A; or
 - (ii) the timeframe within which it accepts or rejects equivalent Orders for itself, whichever is the shorter, save that where:
 - (iii) SACOFA requests for additional information pursuant to Subsection 2.6(a)(ii) (Notice of Receipt), in which case this **fourteen (14)** Business days period shall commence from the Access Seeker's provision of the additional information pursuant to Subsection 2.7 (Further Information); and/or

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- (iv) if SACOFA undertakes a Service Qualification as contemplated in Subsection 2.8 (Service Qualifications), in which case the time periods in Subsection 2.9 (Completion of Service Qualifications) are to be added to this **fourteen (14)** Business days period.
 - (b) If SACOFA notifies the Access Seeker that an Order is rejected, SACOFA must advise the Access Seeker if it would be able to accept the Order in a modified form.
 - (c) The Access Seeker may request for a meeting with SACOFA to discuss or seek clarification on the results of the Service Qualification, where an Order cannot be fulfilled or can only be partially fulfilled by SACOFA.

2.13 Notice of Acceptance

- (a) SACOFA's notice of acceptance ("Notice of Acceptance") to the Access Seeker must contain the following information:
 - (i) the delivery date or activation date (as applicable), which must be the date that is requested by the Access Seeker, or, if that date cannot be met by SACOFA, then no later than:
 - (A) the indicative delivery timeframe or activation timeframe specified for Facility or Service; or
 - (B) the period of time taken by SACOFA to deliver, or activate, such Facilities and/or Services for itself, whichever is shorter;
 - (ii) the date when civil works (if any) are intended to commence;
 - (iii) the charges applicable to the fulfilment of the Order;
 - (iv) such information as is reasonably necessary for the Access Seeker to benefit from access to the Facilities or Services; and
 - (v) the validity period of the acceptance of the Order which shall be no less than **ninety (90)** Business days from the date of Notice of Acceptance ("Validity Period").

2.14 Commencement of Delivery Times

- (a) For the purposes of Subsection 2.13(a) (Notice of Acceptance), delivery timeframes for the different aspects of Facilities or Services shall commence from:
 - (i) where the Access Seeker's confirmation of an Order is required under Subsection 2.15 (Access Seeker Confirmation), the date the Access Seeker confirms the Order in accordance with the subsection;

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(ii) in any other case, from the start of the Validity Period,

unless a longer time period is requested by the Access Seeker and agreed to by SACOFA. Notwithstanding the foregoing, the delivery timeframes for the Facilities and Services shall be subject to Subsection 2.6 (Receipt of Notice).

- (b) The delivery timeframes specified in Subsection 2.14(a) (Commencement of Delivery Times) shall further be subject to the obtaining of any required way-leave and/or governmental authority approval in relation to an Order. In the foregoing instance the commencement date of the delivery timeframe shall be the date on which last of the requisite way-leave and/or governmental authority approval has been obtained and the conditions imposed under or in connection with that approval has been fulfilled by the Access Seeker.

For the avoidance of doubt, SACOFA is not required to commence work on an Order unless and until all requisite way-leave and/or governmental authority approval has been obtained and the conditions imposed under or in connection with that approval has been fulfilled by the Access Seeker.

- (c) Where a delay in the delivery of an Order is caused by the Access Seeker or by any government authority or agency or Third Party (not within the control of the 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 SACOFA. Third Party in this context refers to a Third Party who is not within the control of the Operators but shall not include a contractor or supplier of the Operators for the supply of Equipment, material, plant and services for the fulfilment of an Order unless that contractor or supplier is not able to perform its obligations to the Operator due to Force Majeure (wherein such contractor or supplier shall then be regarded as a Third Party not within the control of the Operator).
- (d) Where an Order has been confirmed by the Access Seeker in accordance with Subsection 2.15 (Access Seeker Confirmation), the Access Seeker may request for a change in the delivery dates of the Facilities and/or Services Ordered subject to SACOFA first agreeing in writing to the same.

2.15 Access Seeker Confirmation

- (a) The Access Seeker's confirmation of an Order is not required if SACOFA accepts the Order without change. A change may include circumstances where delivery dates are delayed, estimated charges are exceeded, a post-Order Service Qualification is required or any other matter that requires further confirmation from the Access Seeker before SACOFA can proceed with the Order.
- (b) Where the Access Seeker's confirmation is required for SACOFA to proceed with fulfilling an Order as provided for under Subsection 2.15(a) (Access Seeker Confirmation), the Access Seeker shall confirm its agreement to proceed with the Order within the Validity Period, failing which the Order is deemed cancelled or

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withdrawn. Upon such confirmation, SACOFA shall fulfil the Order in accordance with the Notice of Acceptance provided under Subsection 2.13 (Notice of Acceptance) subject to Subsection 2.15(b) (Access Seeker Confirmation).

- (c) For the avoidance of doubt, the Access Seeker shall be deemed to have confirmed its agreement to proceed with the Order in relation to an accepted Forecast upon the issuance of an Acceptance Notice of a Forecast in accordance with Subsection 2.11 (Acceptance Obligation).
- (d) Notwithstanding anything to the contrary, in the event the necessary:
 - (i) governmental authority or agency's approval; and/or
 - (ii) way-leave from Third Parties to fulfil the Order is not obtained, within **six (6)** months from the date of the Access Seeker's confirmation of the Order pursuant to Subsection 2.15 (Access Seeker Confirmation), either Operator may, without liability, cancel the Order- at anytime by giving written notice to the Other Operator.

2.16 Estimated Charges

- (a) If the Notice of Acceptance provided by SACOFA under Subsection 2.13 (Notice of Acceptance) contains estimates of charges (e.g. based on time and materials) for a specific scope of work:
 - (i) SACOFA shall not exceed the estimate without providing the Access Seeker with written notice prior to exceeding the estimate that:
 - (A) the estimate will likely be exceeded;
 - (B) an explanation of the reasons for exceeding the estimate; and
 - (C) a further estimate of the charges for the work necessary to fulfil the Order;
 - (ii) 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 SACOFA under Subsection 2.16(a)(i) (Estimated Charges). If the Access Seeker fails to notify SACOFA of its withdrawal or acceptance within the said time period, the Access Seeker is deemed to have rejected the revised estimated charges.
- (b) Notwithstanding Subsection 2.16(a) (Estimated Charges), where the actual cost incurred by SACOFA exceeds an estimate or revised estimate for a specific scope of work provided by SACOFA 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

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change in the scope of work by the Access Seeker, the Access Seeker shall be obliged to pay SACOFA for the actual cost incurred.

- (c) SACOFA shall not be obliged to commence work until the Access Seeker has confirmed in writing that the Access Seeker is agreeable to the estimate for a specific scope of work or revised estimate provided by SACOFA before the expiry of the Validity Period or the period stated in Subsection 2.16(a)(ii) (Estimated Charges).

2.17 Reasons for Rejection

- (a) SACOFA may only reject an Order from an Access Seeker where:
- (i) subject to Section 4.6.3 of the SACOFA's RAO, it is not technically feasible to provide access to the Facilities or Services requested by the Access Seeker;
 - (ii) subject to Section 17 of the SACOFA's RAO, SACOFA has insufficient capacity to provide the requested Facilities or Services;
 - (iii) subject to Subsection 2.19 (Order In Access Of Forecast), the Order is in excess of agreed Forecast levels;
 - (iv) the Order or variation request duplicates an Order awaiting fulfilment;
 - (v) there are reasonable grounds to believe that the Access Seeker would fail, to a material extent, to comply with the terms and conditions of this RAO Agreement and such concern cannot be addressed to SACOFA's satisfaction, acting reasonably (e.g. through the application of a security requirement in accordance with Section 4 of SACOFA's RAO); or
 - (vi) there are reasonable grounds to believe that the Access Seeker would fail, in connection with the supply of the Facilities or Services to protect the integrity of the Network; or the safety of individuals working on, or using services supplied by means of, the Network or Equipment and such concern cannot be addressed to SACOFA's satisfaction, acting reasonably (e.g. through the application of reasonable security or escorted access requirements).

2.18 Notice of Rejection

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

2.19 Order in Excess of Forecast

Notwithstanding Subsection 2.17(a)(ii) (Reasons for Rejection), SACOFA must use its reasonable efforts to provide sufficient capacity to enable it to accept and fulfil Orders from the Access Seeker for Facilities or Services or both which are in excess of the relevant Forecast. SACOFA is only required to do so if, after meeting the Forecast requirements of other operators and of its own business units, there is available capacity or SACOFA could readily upgrade existing capacity. SACOFA shall allocate the available capacity on a non-discriminatory basis to meet the over Forecast requirements of the Access Seeker, other operators and its own business units. SACOFA is not required to supply Facilities or Services or both in excess of Forecast, if despite adopting any reasonable improvements (including upgrading capacity) would cause a material degradation in the quality of Facilities or Services provided to other operators or its own business or both or the commercial investment to be incurred by SACOFA is not an investment in respect to which SACOFA or its business units will have any commercial use.

2.20 Required Extra Capacity

SACOFA may by written notice require the Access Seeker to procure such additional capacity on the Access Seeker's side of the Network as SACOFA, in good faith and reasonably estimates, that the Operators may be required to meet demand and a failure by the Access Seeker to procure that additional capacity may cause an adverse impact on the operation of SACOFA's Network. Where the Access Seeker fails to so procure additional capacity and the demand exceeds the capacity on the Access Seeker's Network, SACOFA must notify the Access Seeker in writing, and the Access Seeker and SACOFA must meet (no later than **five (5) Business Days** after receipt of the notice from SACOFA) to attempt to identify alternative sources of capacity. If the matter cannot be resolved within **ten (10) Business Days** of the date of that meeting, SACOFA may undertake technically reasonable measures including barring or blocking calls to the Access Seeker's Network to the extent necessary to minimise congestion within SACOFA's Network.

2.21 Other Uses

SACOFA 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.

2.22 Delivery Dates

Subject to Subsection 2.14 (Commencement of Delivery Times), SACOFA shall deliver the ordered access to Facilities or Services by the date specified in the Notice of Acceptance (as provided under Subsection 2.13 (Notice of Acceptance) or the extended delivery date (if any) as determined in accordance with Subsection 2.24 (Delayed Delivery Dates).

2.23 Early Delivery Dates

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

2.24 Delayed Delivery Dates

- (a) Where there is a delay in the delivery of an Order and the delay is caused by SACOFA, SACOFA shall:
 - (i) notify the Access Seeker of the delay to a delivery date and the revised delivery date, together with the reasons for the delay, as soon as practicable after SACOFA becomes aware of the possible delay;
 - (ii) permit the Access Seeker notified under Subsection 2.24(a)(i) (Delayed Delivery Dates) to cancel the Order without penalty if the delay is longer than **fourteen (14)** Business days or equivalent time period for delivery of similar Facility and/or Service, whichever is the longer; and
 - (iii) if the Access Seeker chooses not to cancel the Order, the delivery date shall be extended for a further period as reasonably necessary, and SACOFA shall promptly notify the Access Seeker of the revised delivery date.
- (b) Where there is a delay in the delivery of an Order and the delay is caused by the Access Seeker:
 - (i) SACOFA shall notify the Access Seeker of the delay to the delivery date as soon as practicable after SACOFA becomes aware of it;
 - (ii) SACOFA and Access Seeker must work together to minimise the delay; and
 - (iii) the delivery date shall be extended for a further period as reasonably necessary, and SACOFA shall promptly notify the Access Seeker of the revised delivery date.

2.25 Cancellation and Variation of Orders

- (a) The Access Seeker may cancel or vary an Order at any time provided that SACOFA has not issued any purchase orders for any work in relation to the Order. Where a purchase order has been issued, SACOFA shall provide, subject to any confidentiality requirement, a copy of the relevant purchase order.
- (b) If the Access Seeker wishes to change an Order already issued but not yet implemented, then the Access Seeker should issue a formal amendment to the original Order indicating:

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- (i) original order reference number;
 - (ii) original route, quantity, locations and ready for testing date;
 - (iii) new requirements; and
 - (iv) Order identified as "Amendment".
- (c) SACOFA will then respond to whether the changes can be accommodated in the original time scale or propose a new ready for service date.

2.26 Cancellation Charges

Except where provided in this RAO Agreement that cancellation is to be at without charge, SACOFA shall only charge the Access Seeker which has cancelled or varied an Order no more than the costs necessarily incurred by SACOFA in relation to the cancelled or varied Order, reduced by the level at which those costs have been or would have been (had SACOFA used its best endeavors to do so), mitigated over a **six (6)** month period after the date of cancellation or variation. Notwithstanding the foregoing and to the extent that SACOFA is not able to mitigate its losses in relation to ordered Facilities and Services which have yet to be installed or activated, SACOFA shall be entitled to charge and the Access Seeker shall pay the charges for the minimum period required for certain Facilities and Services in accordance with Schedule A of SACOFA's RAO.

2.27 Testing and Provisioning

SACOFA shall:

- (a) co-operate with the Access Seeker in relation to the testing and provisioning of ordered Facilities or Services or both;
- (b) treat an Access Seeker's testing and provisioning on an equivalent basis to that which SACOFA treats itself; and
- (c) may require reasonable co-operation by the Access Seeker in respect of such activities.

2.28 Non-Refundable Processing Fee and/or Resource Charge

- (a) SACOFA may charge the Access Seeker a one-off non-refundable resource charge (including processing fees and additional and non-routine processing fees) to be determined by reference to the costs incurred by SACOFA for the allocation of manpower and other resources to enable the Access Seeker to test and provide new facilities and services for the purposes of Interconnection. Upon request, SACOFA shall provide a detailed statement (including specifying the methodology and unit costs for calculating any fees) in writing to the Access Seeker of the scope of works to be

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undertaken, the expected duration, the number and designation of the personnel involved and the rate of charges. SACOFA shall not be obliged to commence work until the scope of works and the said resource charges have been agreed to in writing by the Access Seeker.

- (b) The Operators agree that the one-off non-refundable resource charge shall also be inclusive of a non-refundable processing fee for undertaking necessary work to process the Order as SACOFA is required to allocate manpower and resources for the same. The non-refundable processing fee for the respective Facilities and Services are set out in Annexure 2. Processing fees for facilities and services not currently specified in Annexure 2 will be mutually agreed by the Operators from time to time. Notwithstanding the foregoing, in the event that additional and non-routine administrative work is required to process the Order where there is insufficient and/or erroneous information provided by the Access Seeker or where the Access Seeker varies or changes the information provided, SACOFA shall be entitled to charge an additional reasonable fee for undertaking such additional and non-routine work as additional resources are required to do the same.
- (c) If the Access Seeker does not confirm the Order, the non-refundable resource charge will not be refunded to the Access Seeker. However, if the Access Seeker confirms the Order in accordance with Subsection 2.15 (Access Seeker Confirmation), the processing fee (excluding the additional and non-routine processing fee) will be set-off against the Charges for the ordered Facilities and Services after confirmation of the Order.

2.29 Queuing Policy

- (a) SACOFA shall establish and demonstrate and maintain a queuing policy system which:
 - (i) shall be non-discriminatory;
 - (ii) shall be applied to Orders and Service Qualifications of all access seekers and Orders and Service Qualifications for itself for the same or similar Facilities and/or Services, and shall treat the Orders and Services Qualifications of access seekers on an equivalent basis to that which SACOFA treats Orders and Service Qualifications for itself for the same or similar Facilities and/or Services; and
 - (iii) shall seek to maximise the efficiency of its ordering and provisioning process.

2.30 Acceptance on Queue

SACOFA shall promptly notify an Access Seeker, at the time of providing an acknowledgement of receipt of the Order under Subsection 2.5 (Acknowledgment of Receipt), of their acceptance on SACOFA's queue.

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2.31 Constrained Capacity

- (a) If SACOFA reasonably believes that the capacity in any Facilities and Services required by:
- (i) the Access Seeker pursuant to the relevant Forecast;
 - (ii) other access seekers, pursuant to their relevant forecasts and orders; and
 - (iii) SACOFA, for the purposes of its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest, would, in aggregate, exceed the capacity which SACOFA will be in a position to be able to provide, SACOFA must:
 - (iv) notify the Access Seeker and other persons to whom relevant capacity is supplied; and
 - (v) allocate the available capacity between itself, the Access Seeker and other access seekers in accordance with SACOFA's Capacity Allocation Policy.

SACOFA, where possible, will also indicate when extra capacity is likely to be made available to the Access Seeker.

2.32 Capacity Allocation Policy

- (a) SACOFA shall maintain a Capacity Allocation Policy, which:
- (i) shall be disclosed, free of charge, to the Access Seeker on request if SACOFA claims or is likely to claim that it has insufficient capacity to meet an Access Seeker's Forecasts or Orders and each time the Capacity Allocation Policy is amended;
 - (ii) shall set out the principles in accordance with which SACOFA shall determine how to allocate capacity between its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest, the Access Seeker and other operators, in circumstances where the amount of capacity available is less than the aggregate of capacity required by SACOFA, its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest, the Access Seeker and other operators;
 - (iii) shall:
 - (A) be fair and reasonable;
 - (B) be consistent, so far as practicable, with SACOFA's general duty of non-discrimination in accordance with subsection 149(2) of the CMA;

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- (C) treat the requirements of all access seekers on an equivalent basis to the requirements of SACOFA's own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest; and
 - (D) allocate the available capacity in the relevant Facilities or Services or both in proportion to each Operator's Forecast requirements.
- (iv) shall set out SACOFA's plans to expand their capacity over time (if any), where such information must be provided to Access Seeker on a non-discriminatory basis in terms of its content and frequency of updates.

2.33 Late Delivery

If SACOFA fails to meet any timeframe in Subsection 2.14 (Commencement of Delivery Times) with respect to the delivery of access to Facilities or Services pursuant to an Order made in accordance with this PART II (Ordering & Provisioning), except where such failure has been caused solely by the Access Seeker's delay or governmental and/or regulatory bodies or Third Party (as defined in Subsection 2.14(c) (Commencement of Delivery Times) (outside the control of SACOFA), then SACOFA shall, without limitation to any other rights the Access Seeker may have under this Agreement or law, pay liquidated damages to the affected Access Seeker in the form of a rebate provided always that the liquidated damages shall not exceed **five percent (5%)** of the annual charges payable for access to the affected Facility or Service. The rebate shall be for an amount equivalent to the recurring charges payable for access to the affected Facility or Service over a period equal to the period of SACOFA's delay only. The rebates may only be used by the Access Seeker for future Invoices for the same Facility or Service only. If SACOFA alleges that a failure has been caused solely by the Access Seeker's delay or a delay by a third party not acting under SACOFA's direction or control, SACOFA shall have the burden of demonstrating:

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

2.34 Contractors under direction or control

For clarity, any employees and contractors of SACOFA shall be deemed to be acting under the direction or control of SACOFA for the purposes of section 5.7 of the MSA.

2.35 Payment Terms

- (a) The Access Seeker shall pay:
 - (i) **ten percent (10%)** of the total Charges applicable to the confirmed Order for Facilities and Services the subject of non-usage based Charges, upon

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confirmation of the Order in accordance with Subsection 2.15 (Access Seeker Confirmation); and

- (ii) the remaining **ninety percent (90%)** of the total Charges applicable to the confirmed Order, within **thirty (30)** Business days after the delivery date of the Order.

PART III – POINT OF INTERFACE PROCEDURES

- 1.1 **Part III of Schedule B** sets out Point of Interface procedures that are applicable in relation to the provision of network facilities and network services listed in the Access List Determination under SACOFA's RAO.
- 1.2 Where relevant, the Point of Interface procedures set out in Section 5.8 of the MSA Determination shall be applicable.

“5.8 POINT OF INTERFACE PROCEDURES

5.8.1 **Interconnection:** *Each Operator shall interconnect and keep its Network interconnected with the Network of another Operator in accordance with the terms of an Access Agreement with that Operator.*

5.8.2 **Point of Interface locations:**

(a) *Subject to subsection 6.9.31 of the MSA, each Access Provider shall publish on its publicly accessible website and keep updated a list of the general locations and technically feasible points:*

(i) *at which physical co-location is available;*

(ii) *in respect of which virtual co-location is available; and*

(iii) *in respect of which in-span interconnection is available, on and from the date of publication for the following **twelve (12)** months.*

(b) *The Access Provider shall ensure that network co-location at each POI is offered to the Access Seeker in accordance with subsection 6.9 of the MSA.*

5.8.3 **Access Seeker requested Point of Interface:** *An Access Provider shall reasonably consider a request by an Access Seeker to interconnect at a point other than that specified under subsection 5.8.2 of the MSA. The Access Provider shall promptly notify the Access Seeker whether it accepts or refuses a request by an Access Seeker under this subsection, and provide the Access Seeker with reasons if it refuses the Access Seeker's request.*

5.8.4 **Network responsibility:** *Each Operator is responsible for the provisioning and maintenance of Facilities (including those Facilities which form part of the interconnection links and the transmission equipment) on its side of the Point of Interface.*

- 5.8.5 **Third party Point of Interface:** *An Access Provider shall permit an Access Seeker to nominate a Point of Interface of a third party for the purposes of interconnection and access between the Access Provider and the Access Seeker, provided that the Access Seeker remains responsible for the costs of such interconnection and access, and for the third party's act and omissions at the Point of Interface.*
- 5.8.6 **Point of Interface factors:** *When determining which locations are to be listed under paragraph 5.8.2(a) of the MSA, or when determining a request under subsection 5.8.3 of the MSA, each Access Provider must have regard to each of the following:*
- (a) *the Access Provider shall offer (but shall not require) POI and co-location for every Closed Number Area throughout Malaysia in which the Access Provider has network facilities;*
 - (b) *in addition to offering POI and co-location in accordance with paragraph 5.8.6(a) above, the Access Provider shall offer (but shall not require) interconnection and co-location at each other technically feasible point;*
 - (c) *the Access Provider shall offer (but shall not require) physical co-location in at least one POI location for every Closed Number Area throughout Malaysia in which the Access Provider has network facilities, but may additionally offer (but shall not require) other forms of co-location in relation to a particular location (e.g. virtual co-location) if requested by the Access Seeker;*
 - (d) *the Access Provider shall not reserve space other than current needs for itself, future needs for itself 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 additional space from that Access Provider; and*
 - (e) *any possible re-arrangement of the configuration of its Equipment to eliminate space inefficiencies.”*

PART IV – DECOMMISSIONING

- 1.1 **Part IV of Schedule B** sets out decommissioning procedures that are applicable in relation to the provision of network facilities and network services listed in the Access List Determination under SACOFA's RAO.
- 1.2 Where relevant, the decommissioning obligations set out in Section 5.9 of the MSA Determination shall be applicable.

“5.9 DECOMMISSIONING OBLIGATIONS

- 5.9.1 **Decommissioning notice:** *Except where an Access Provider is required to vacate a site where a Point of Interface is located, or any other Facility and/or Service which relies on the Access Provider's use of that site, as a result of a third party landlord's notice (under an arm's length tenancy agreement) or a local authority's notice, an Access Provider must provide no less than:*

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- (a) **one (1)** year's notice in writing to all relevant Access Seekers prior to any decommissioning of a Point of Interface; or
- (b) **six (6)** months' notice in writing to all relevant Access Seekers prior to the decommissioning of any Facilities and/or Services which rely on the Access Provider's use of that site.

Where an Access Provider is required to vacate the site as a result of a third party landlord's notice (under an arm's length tenancy agreement) or a local authority's notice, the Access Provider must provide all relevant Access Seekers with as much notice as possible in relation to the matters in paragraphs 5.9.1(a) and 5.9.1(b) above.

5.9.2 **Co-operation:** An Access Provider must co-operate and negotiate with all relevant Access Seekers in relation to the timetable for decommissioning of the relevant Point of Interface, Facilities and/or Services.

5.9.3 **Alternative arrangements:** An Access Provider which notifies an Access Seeker of its intention:

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

5.9.4 **Decommissioned Point of Interface compensation:** An Access Provider shall pay the Access Seeker reasonable costs, necessarily incurred in:

- (a) decommissioning any links to the Point of Interface that is proposed to be decommissioned, that are, or will be, rendered redundant by the proposed decommissioning;
- (b) installing or otherwise procuring links between the Point of Interface that is proposed to be decommissioned and the substitute Point of Interface to be provided pursuant to paragraph 5.9.3(a) of the MSA; and
- (c) the carriage of traffic between the Point of Interface that is proposed to be decommissioned and the substitute Point of Interface to be provided pursuant to paragraph 5.9.3(a) of the MSA for a period that is not less than **three (3)** years from the date of decommissioning.

5.9.5 **Decommissioned Facilities and/or Services compensation:** *Except where decommissioning is caused by Force Majeure, an Access Provider shall pay the Access Seeker's reasonable costs, necessarily incurred in:*

- (a) *moving the Access Seeker's Equipment from the decommissioned Facilities to alternative Facilities offered in accordance with paragraph 5.9.3(b) of the MSA; or*
- (b) *re-arranging Equipment to connect to alternative Services offered in accordance with paragraph 5.9.3(b) of the MSA."*

PART V – OPERATIONS AND MAINTENANCE

- 1.1 **Part V of Schedule B** sets out operations and maintenance procedures that are applicable in relation to the provision of network facilities and network services listed in the Access List Determination under SACOFA's RAO.
- 1.2 Where relevant, the operations and maintenance obligations set out in Section 5.12 of the MSA Determination shall be applicable.
[Removed]

PART VI – OTHER TECHNICAL MATTERS

- 1.1 **Part VI of Schedule B** sets out the other technical matters and procedures that are applicable in relation to the provision of network facilities and network services listed in the Access List Determination under SACOFA's RAO.
- 1.2 Where relevant, the technical obligations set out in Section 5.13 of the MSA Determination shall be applicable.
[Removed]

ANNEXURE 5

FAST TRACK APPLICATION FORM

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SERVICE ORDER FORM (SOF)

SECTION A: Service Order Type

Order Type: New Service Service Change for
 Upgrade Downgrade Other Change Transport Platform

SECTION B: Particulars of Customers

Company Name:	<input type="text"/>	Company Registration:	<input type="text"/>
Nature of Business:	<input type="text"/>	Industry:	<input type="text"/>
Business Address:	<input type="text"/>	Billing Address:	<input type="text"/>
Authorised Personnel:	<input type="text"/>	Billing Contact Person:	<input type="text"/>
Designation:	<input type="text"/>	Designation:	<input type="text"/>
Contact No.:	<input type="text"/>	Contact No.:	<input type="text"/>
Fax:	<input type="text"/>	Fax:	<input type="text"/>
Email:	<input type="text"/>	Email:	<input type="text"/>
Technical Contact Person 1:	<input type="text"/>	Technical Contact Person 2:	<input type="text"/>
Designation:	<input type="text"/>	Designation:	<input type="text"/>
Contact No.:	<input type="text"/>	Contact No.:	<input type="text"/>
Mobile:	<input type="text"/>	Mobile:	<input type="text"/>
Email:	<input type="text"/>	Email:	<input type="text"/>

SECTION C: Subscription of Service

Requested RFS Date: Day Month Year
Please refer Schedule A 3 for RFS

Type of service:	<input type="checkbox"/> PIP	Committed Bandwidth	<input type="text"/>	Burstable Bandwidth	<input type="text"/>	Mbps
	<input type="checkbox"/> SIP	Committed Bandwidth	<input type="text"/>	Burstable Bandwidth	<input type="text"/>	Mbps
	<input type="checkbox"/> LRO	Committed Bandwidth	<input type="text"/>	Burstable Bandwidth	<input type="text"/>	Mbps
	<input checked="" type="checkbox"/> Leased Circuit	As per attached				

Additional Requirements: BGP Additional IP Address

POP: MAH CSF TPM PEN Other

Delivery Channel: Data Center Leased Circuit Other, please specify

Interface Type: G.703 GE Other

Interconnection Required? Yes No *For Data Center Delivery Channel Only*

Rack Location / Name: - to be advised -

Cabling Type: UTP Cat5e Cat 6 Connection Type: Straight Cross
 Fiber SM MM Interface Type: SC LC
 Others:

Other services:

<input type="text"/>
<input type="text"/>

SECTION D: Additional Information

Please select all that apply: Supplement 1: Leased Circuits Supplement 2: BGP Connectivity
 Supplement 3: IP Justification

SECTION E: Service Charges

Services	OTC (RM)	YRC (RM)	OTC GST (RM)	YRC GST (RM)	Total OTC (RM)	Total YRC (RM)

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Total						

Billing Cycle:

Monthly

Quarterly

Half- yearly

Yearly

Service Term:..00

1 Year

2 Years

3 Years

Other **3 years**

Total Contract Value (RM)

RM

Deposit (RM)

NIL

SECTION F: Additional Remarks

Undertaking:

**I / We agree to purchase from Sacofa Sdn Bhd, the Service(s) set out in this SOF, on the terms and conditions as set out in this SOF, the Master Service Agreement and relevant Service Schedules (collectively referred to as "this Agreement"), attached hereto or previously provided by Sacofa Sdn Bhd. I / We hereby agree that by signing on this SOF, I / We, am / are deemed to have read and understood all the terms and conditions of this Agreement, and I / We agree to be bound by the terms and conditions of this Agreement upon acceptance of this SOF by Sacofa Sdn Bhd.*

Authorised Signature:

Official Company Stamp:

Authorised Officer:

Date:

Acceptance:

Agreed and accepted by Sacofa Sdn Bhd:

Authorised Signature:

Official Company Stamp:

Authorised Officer:

Date: