



Reference Access Offer

of

XMT TECHNOLOGIES SDN. BHD.

Dated: 17th January 2019

Issued pursuant to the Malaysian Communications and Multimedia Commission Determination on Access List Determination No. 1 of 2005 As Varied By Variatfion To Commission Determination on Access List (Determination No. 1 of 2005) Determination No. 1 of 2009, Determination No. 2 of 2015 (**"Access List Determination"**) and the Malaysian Communications and Multimedia Commission Determination On Mandatory Standard On Access Determination No. 2 of 2005 As Varied By Variation To The Commission Determination On Mandatory Standard On Access (Determination No. 2 of 2005), Determination No. 2 of 2009 and Determination No. 3 of 2016 (**"MSA Determination"**) and the Commission Determination on Mandatory Standard on Access Pricing Determination No.1 of 2012 As Varied By Variation to Commission Determination on Mandatory Standard on Access Pricing (Determination No. 1 of 2012) Determination No.4 of 2015 (**"MSAP Determination"**)

Document Reference ID: 20190117RAO



XMT TECHNOLOGIES SDN BHD (531914-T) Suite 2A-3-1, Level 3, Block 2A, Plaza Sentral, Jalan Sentral 5, Kuala Lumpur Sentral, 50470 Kuala Lumpur
T +603 2773 5600 +603 2773 5799 F +603 2780 5700 E cco@xmt.com.my W www.xmt.com.my

Index to the Reference Access Offer

Section 1	Introduction, Background and Scope
Section 2	Definitions and Interpretation
Section 3	Principles of Access
Section 4	Access Request Procedures
Section 5	Forecast, Ordering and Provisioning Obligations
Section 6	Billing and Settlement Obligations
Section 7	Technical and Operational Obligations
Section 8	Term, Termination, Suspension and Other Provisions
Annexure I	List of Network Facilities and Network Services
Annexure II	Description of Facilities and Services
Annexure III	Charges and Charging Principles
Annexure IV	Points of Presence



Section 1

Introduction, Background and Scope

1.1 PRELIMINARY

1.1.1 This Reference Access Offer is made by XMT Technologies Sdn. Bhd. (Company No: 531914-T), (“XMT”) a company incorporated under the laws of Malaysia and having its principal place of business at Suite 2A-3-1, Plaza Sentral Jalan Stesen Sentral 5, KL Sentral 50470 Kuala Lumpur, Malaysia on 1st August 2018 pursuant to the Commission Determination on Access List (Determination No 2 of 2015) (“**Access List Determination**”), the Commission Determination on Mandatory Standard on Access (Determination No 3 of 2016) (“**MSA Determinations**”) and the Commission Determination on the Mandatory Standard on Access Pricing (Determination No 1 of 2017)(“**MSAP Determination**”).

1.1.2 This Reference Access Offer is hereby referred to as XMT’s RAO.

1.1.3 XMT’s RAO is set out as follows:

- (a) Main Text which consists of 9 sections; and
- (b) Annexures which consists of 4 parts.

1.1.4 The service descriptions for each of the Facilities and/or Services are set out in Annex I & II.

1.1.5 The charges and charging principles for each of the Facilities and/or Services are set out in Annex III.

1.1.6 The technical and operational matters for all of the Facilities and/or Services are set out in Section 7.

1.2 MSA DETERMINATION OBLIGATIONS

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

- (a) Disclosure obligation (Section 5.3 of the MSA Determination);
- (b) Negotiation obligations (Section 5.4 of the MSA Determination);
- (c) Content obligation (Section 5.5 to 5.19 of the MSA Determination); and
- (d) Service Specific Obligations (Section 6 of the MSA Determination).

1.2.2 Disclosure Obligations

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

- (a) Prepare and maintain a Reference Access Offer;
- (b) Make the Reference Access Offer available;
- (c) Follow prescribed procedures after acceptance of the Reference Access Offer; and
- (d) Follow prescribed procedures for any amendment of the Reference Access Offer.

1.2.5 The role of Standard Access Obligations

1.2.5.1 Pursuant to sections 55 and 145 of the Act, the Commission may determine the list of network facilities and network services, which may be listed in the ‘Access List Determination’. Pursuant to Section 149 of the Act, XMT is required to comply with the standard access obligations in providing the network facilities and network services that are included in the Access List Determination.



Section 1

Introduction, Background and Scope

- 1.2.5.2 The standard access obligations facilitate the provision of access to the network facilities and network services listed in the Access List Determination by Access Seekers so that XMT can provide network facilities, network services, and other facilities and/or services which facilitate the provision of network services or applications services, including content applications services.
- 1.2.5.3 Section 149 of the Act specifies the terms and conditions upon which XMT must comply with the standard access obligations. Section 149(2) provides that the access provided by XMT shall be:
- (a) Of at least the same or more favorable technical standard and quality as the technical standard and quality on the XMT's network facilities or network services; and
 - (b) On an equitable and non-discriminatory basis.
- 1.2.5.4 The paraphrasing of any statutory provisions in this XMT's RAO does not amount to any party agreeing to waive any of their rights under the paraphrased provisions and those statutory provisions continue to apply in full.

1.3 SCOPE OF XMT'S RAO

- 1.3.1 XMT is a licensed individual network facilities and network services provider under the Act. Pursuant to these licenses, XMT may offer network facilities and network services within the territory of Malaysia.
- 1.3.2 Pursuant to Section 5.3.3 of MSA Determination, XMT is obliged to prepare and maintain a Reference Access Offer in relation to network facilities or network services on the Access List Determination which XMT provides to itself or third parties.
- 1.3.3 XMT's RAO:
- (a) Contains terms and conditions which are consistent with the rights and obligations set out in the MSA Determination; and
 - (b) Does not include terms and conditions which are inconsistent with the rights and obligations set out in the MSA Determination.
- 1.3.4 Where relevant, the rights and obligations set out in the MSA Determination shall be applicable to XMT's RAO.
- 1.3.5 XMT's RAO are consistent with:
- (a) The standard access obligations stipulated under Section 5 of the MSA Determination and section 149 of the Act; and
 - (b) The principles of non-discrimination stipulated under Sections 4.1.5 and 4.1.6 of the MSA Determination.
- 1.3.6 For the purposes of clarification, the terms and conditions of XMT's RAO is applicable to the Facilities and/or Services and which is relevant to the provisioning of facilities and services within XMT's licenses only. If the Access Seeker requests network facilities and/or network services outside XMT's RAO, the terms and conditions for the provision of such network facilities and/or network services shall be negotiated and shall remain outside the scope of XMT's RAO.
- 1.3.7 In addition, the Operators are free to consider XMT'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 Determination.

1.4 COMMENCEMENT AND DURATION OF THE REFERENCE ACCESS OFFER

- 1.4.1 XMT's RAO comes into force and takes effect immediately from the date referred to in Section 1.1 and continues until the earlier to occur of any of the following:
- (a) A Review; or
 - (b) The withdrawal of XMT's RAO in accordance with the terms of XMT's RAO.



Section 1

Introduction, Background and Scope

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

1.5 AMENDMENT TO XMT'S RAO

- 1.5.1 XMT shall, no less than twenty (20) Business Days of making any amendment to XMT's RAO, provide a copy of the amendments, or an amended copy of XMT's RAO to:
- (a) The Access Seeker who is being provided with access to Facilities and/or Services under the existing RAO; and
 - (b) The Access Seeker who has requested access to facilities and/or services under the existing 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 the Access Request.

1.6 NOTICE OF WITHDRAWAL, REPLACEMENT AND VARIATION OF XMT'S RAO

- 1.6.1 If subject to Section 56 of the Act, the Commission revokes, varies or replaces the Access List Determination relating to the Facilities or Services, XMT may, by giving written notice to all Access Seekers to whom it is supplying Facilities or Services under XMT's RAO, withdraw or replace XMT's RAO with effect from a date no earlier than the effective date of the Commission's revocation.
- 1.6.2 XMT shall comply with Sections 6.4.2 and 6.4.3 of the MSA Determination where it withdraws or varies XMT's RAO pursuant to Section 1.6.1.
- 1.6.3 In addition to Section 1.6.2 above, XMT may give the Access Seekers to whom it is supplying Facilities and Services under XMT's RAO a notice of a variation or replacement of XMT's RAO to affect 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 XMT under XMT's RAO; or
 - (b) The occurrence of a Regulatory Event that relates to XMT; or
 - (c) A review by the Commission of the MSA Determination pursuant to Section 6.5 of the MSA Determination and which shall include a review by the Commission on the Mandatory Standard Access Pricing.
- 1.6.4 Notwithstanding Sections 1.6.1, 1.6.2 and 1.6.3 above, XMT may subject to Section 1.6.2 above, replace XMT's RAO at any time.

1.7 AVAILABILITY

- 1.7.1 XMT's RAO shall be made available to an Access Seeker:
- (a) on written request, at XMT's principal place of business at the address stated in paragraph 1.8 below; and
 - (b) on a publicly accessible website at www.xmt.com.my.

1.8 NOTICES

Any notices or communications in respect of XMT's RAO should be made in writing to:

Attention	:	Executive Director XMT Technologies Sdn Bhd
Address	:	Suite 2A-3-1 Plaza Sentral Jalan Stesen Sentral 5, KL Sentral 50470 Kuala Lumpur, Malaysia
Telephone	:	03-2773 5600
Facsimile	:	03-2773 5700
Email	:	cco@xmt.com.my



Section 2

Definitions and Interpretation

2.1 DEFINITIONS

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

Act	means the Communications and Multimedia Act, 1998
Access Agreement	means an agreement: <ul style="list-style-type: none"> (a) entered into between XMT and the Access Seeker pursuant to this RAO; or (b) which is commercially negotiated between the Operators, <p>whereby XMT provides requested Facilities and/or Services to the Access Seeker in accordance with the terms therein contained and registered with the Commission in accordance with Section 150 of the Act.</p>
Access List Determination	means the Commission Determination on Access List, Determination No.2 of 2015 which contains the list of Facilities and Services determined by the Commission under Chapter 3 of Part VI of the Act.
Access Request	means a request made by the Access Seeker to XMT for access to Facilities or Services and containing the information in Section 5.1.1.
Access Seeker	means an Operator who: <ul style="list-style-type: none"> (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.
Access Service	means a service for the carriage of agreed Communications along XMT's Facilities and Services between the POIs/POPs.
Bank Guarantee	means a guarantee in a form acceptable to XMT, executed in favour of XMT by a licensed bank in Malaysia approved by XMT pursuant to Section 5.3 on behalf of the Access Seeker.
Billing Dispute	means the dispute of an invoice prepared by an Operator to the Other Operator which is made in good faith.
Billing Period	means one (1) calendar month period over which the supply of access to Facilities and/or Services is measured for the purposes of billing, unless otherwise agreed between the Operators.
Business Day	means a day on which banks are open for general banking business in Kuala Lumpur, Wilayah Persekutuan, other than a Saturday, Sunday or a public holiday.
Charges	means the sums payable by the Access Seeker to XMT for accessing and/or being provided the provision Facilities and/or Services.
Commencement Date	means the date on which the Operators enter into the Access Agreement or such other date as agreed between the Operators.
Commission	means the Malaysian Communications and Multimedia Commission established under the Malaysian Communications and Multimedia Commission Act 1998.
Communication	means any communication, whether between persons and persons, things and things, or persons and things in the form of sound, data, text, visual images, signals, or any other form or any combination of those forms and, where the context permits, includes an attempt to establish communication.

Section 2

Definitions and Interpretation

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 License(s).
Confidentiality Agreement	means a Confidentiality Agreement entered into between XMT and the Access Seeker in accordance with Section 5.3.8 of the MSA Determination
Creditworthiness Information	means the information required by XMT to assess the creditworthiness of the Access Seeker which are more particularly described in Section 5.2 of XMT'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.
Determination	means any lawful determination made by the Commission and/or the Minister, pursuant to Chapter 2 of Part V of the Act.
Direction	means any lawful direction made by the Commission pursuant to Chapter 1 of Part V of the Act.
Equipment	means any equipment (whether hardware or software), or device which is part of or within the Network.
Facilities Access	in relation to the Facilities means a service for the provision of access to network facilities and/or premises
Facilities	means network facilities and/or other facilities which facilitate the provision of network services or applications services including content applications services which are listed in the Access List Determination and offered in XMT's RAO.
XMT	means XMT Technologies Sdn. Bhd. is the Access Provider unless otherwise stated.
Instrument	means any lawful instrument which is issued by the Commission pursuant to the Act;
Insurance Information	means the insurance information required by XMT pursuant to Section 5.4.
Interconnect Link	means a physical link connecting the Networks of two Operators.
Interconnection	means interconnection of the Operators' Networks: for the purposes of XMT providing Access Services to the Access Seeker in relation to a Communication via a POI/POP and using agreed interfaces and signaling systems.
Invoice	means the invoice for amounts due in respect of the supply of requested Facilities or Services during a Billing Period

Section 2

Definitions and Interpretation

Legislative Event	means: <ul style="list-style-type: none"> (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 XMT 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 XMT's RAO contravenes any provision of any law, except to the extent that the making of such determination, direction or finding constitutes a Regulatory Event.
License	means an individual license granted by the Minister pursuant to the Act for Communication Services.
Manuals	means the Technical and Implementation Manual, the Operations and Maintenance Manual and other manuals which the Operators establish pursuant to the Access Agreement.
Minimum Value	for the purposes of calculating the Security Sum means the total estimated value of access to the requested Facilities and Services provided (based on the most recent amounts invoiced for those requested Facilities and Services) or new facilities and/or services to be provided by XMT to the Access Seeker for a ninety (90) day period.
Minister	means the Minister of Communications and Multimedia 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 and in relation to an Operator, means so much of the network as is owned or operated by the Operator.
Network Conditioning	means the conditioning, equipping and installation of facilities at XMT's Network to enable the provision of one or more Access Services.
Operators	means XMT and the Access Seeker collectively.
Other Operator	means either: <ul style="list-style-type: none"> (a) XMT; or (b) the Access Seeker, as the context requires.
Point of Interconnection or POI	means any technically feasible point which demarcates the Network of XMT and the Network of the Access Seeker (collectively referred to as the "interconnecting networks") and is a point at which a Communication is transferred between the interconnecting networks.
Point of Presence or POP	means a point at which an Access Seeker has established itself for the purposes of obtaining access to Facilities or Services and is the point at which Communication is transferred between the Operators.
Ready For Service	means that the applicable Facility or Service is ready for use, in accordance with the Access Agreement.
Ready For Service Date	means in respect of each Facility of Service the date on which the Facility or Service is Ready For Service or, if earlier, the date on which Access Seeker first makes use of such Facility or Service.

Section 2

Definitions and Interpretation

Regulatory Event	means: <ul style="list-style-type: none"> (a) the declaration, modification, variation or revocation of the MSA Determination; (b) the giving of a lawful direction to XMT by the Commission relating to XMT's RAO; and/or (c) the giving of a lawful direction to XMT by the Minister relating to XMT's RAO.
Review	means a review of the MSA Determination and/or a review of the Mandatory Standard on Access Pricing.
RM	means Ringgit Malaysia which shall be the monetary currency used in XMT' RAO unless otherwise provided.
Security Sum	means the security: <ul style="list-style-type: none"> (a) in the form of a Bank Guarantee, deposited with XMT in accordance with Section 5.* for the supply of Facilities or Services; and (b) which amount is equivalent to the Minimum Value.
Services	means network services and/or other services which facilitate the provision of network services or applications services, including content applications services which are listed in the Access List Determination and offered in XMT's RAO.
Service Ordering Procedures	means the procedures governing the forecasting, planning and ordering of relevant Access Services as set out Section 4.
Standard Access Obligations (SAO)	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' Network and provision of Access Services documented in this RAO or any manuals referred to in the Access Agreement.

2.2 INTERPRETATION

In XMT'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 novation's of it; and
- (c) a reference to a statute, ordinance, regulations, code or other law and other instruments under it, shall include any statute, ordinance, regulation, code and other law consolidating, amending, re-enacting or replacing of any of them from time to time relating thereto or in connection therewith; and
- (d) a reference to a person includes a firm, body corporate, unincorporated association or an authority; and
- (e) a reference to a person includes the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation), and assigns; and
- (f) if the day on which the payment of money falls due is not a Business Day, the due date shall be deemed to be the next Business Day and any reference to acts that have to be done or to be done by or on or before a particular day or Business day means by or on or before the close of business at 5.00pm on that particular day or Business Day; and
- (g) a reference to a related body corporate of an Operator has the same meaning as in the Companies Act 2016; and
- (h) a reference to a third party is a reference to a person who is not a party to XMT's RAO; and
- (i) in relation to an Access Service for the carriage of a communication it refers to the carriage of a communication between the POIs/POPs along XMT's Network but does not include any Communication for which the Access Service is provided with the assistance a third party's Facilities or Services; and
- (j) no rule of construction and/or interpretation applies to the disadvantage and/or detriment of the Operator having control and/or responsibility for the preparation of XMT's RAO; and
- (k) headings are included for convenience and do not affect the interpretation of XMT's RAO.



Section 3

Principles of Access

3.1 APPLICATION OF XMT'S RAO

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

3.2 ELIGIBILITY FOR ACCESS OF SERVICES

- 3.2.1 XMT shall at its discretion and in a manner consistent with the License(s) granted (and the license rights accorded therein) by the Minister to the Access Seeker, determine on a case by case basis whether to provide to Access Seeker with access to the Facilities and/or Service (s).
- 3.2.2 Consistent with Government policy and Determination by the Commission (and its predecessor), an Access Seeker may only request for access to any or all of the Facilities and/or Services where the Access Seeker has been granted: -
- (b) an individual network facilities provider license and/or;
 - (c) an individual network services provider license and/or;
 - (d) an individual content applications services provider license,
- and such individual licenses are not limited or restricted from those detailed in the *Communications and Multimedia (Licensing) Regulations 2000*, as amended in any way:
- (a) by reference to the type of network facilities, network services and/or content applications services that can be provided; and
 - (b) by geographical limitations to only specific area and/or areas in Malaysia to which the Access Seeker can provide such network facilities, network services and/or content applications services.
- 3.2.3 An Access Seeker may not request for the Facilities and/or Services where the requested Facilities and/or Services are to be used in connection with an activity or activities in which the Access Seeker is not licensed to provide.
- 3.2.4 Consistent with Government policy and Determination by the Commissions (and its predecessor), where XMT provides the Access Seeker with access to the Facilities and/or Services pursuant to **Section 3.2.1**, the charges for the requested Facilities or Services shall be negotiated between the Operators subject to any mandatory standard on access pricing determined by the Commission.
- ### 3.3 STANDARD ACCESS OBLIGATIONS
- 3.3.2 **Access Terms and Conditions**
- Subject to Sections 3.2 and 3.3, XMT shall if requested to do so by the Access Seeker, supply a Facility and/or Service to the Access Seeker on reasonable terms and conditions.
- 3.3.3 **Principles of non-discrimination**
- In supplying a Facility and/or Service, XMT shall treat an Access Seeker on a non-discriminatory basis as required by the Standard Access Obligations in relation to the supply of a Service(s).
- The access provided by XMT to the Access Seeker shall be consistent with:
- (a) The principles set out in section 4.1.5 and 4.1.6 of the MSA Determination; and
 - (b) Section 149(2) of the Act.
- 3.3.4 **Customer Principles**
- XMT shall observe and comply with the customer relationship principles set out in Section 4.3 of the MSA Determination.

Section 3

Principles of Access

3.4 NEGOTIATION PRINCIPLES

3.4.2 Good faith and Dispute Resolution

Each party shall co-operate, in good faith and commercially reasonable manner, in negotiating and implementing the terms of the Access Agreement, acting promptly, honestly and not perversely, capriciously or irrationally and use all reasonable endeavours to resolve any disputes arising from or in connection with XMT's RAO.

If any dispute or difference of any kind shall arise between the parties in connection with or arising out of XMT's RAO, the Dispute Resolution Procedure in Annexure A of the MSA Determination shall be adhered to.

3.4.3 Confidentiality

An Operator must protect from disclosure any confidentiality information provided by another Operator given in the course of negotiating an Access Agreement or during the term of XMT's RAO in accordance with the Confidentiality Agreement signed between the parties.



Section 4

Access Request Procedures

4.1 APPLICATION FOR ACCESS TO SERVICES

- 4.1.1 Where an Access Seeker makes a request to XMT to supply Facilities and/or Services, the Access Seeker shall serve an Access Request on XMT setting out the information listed in below:
- (a) the name and contact details of the Access Seeker;
 - (b) the Facilities and/or Services in respect of which access is sought;
 - (c) whether the Access Seeker wishes to accept XMT's RAO, to negotiate amendments to the RAO or to negotiate an Access Agreement on alternative terms;
 - (d) the information (if any) set out in Section 5.3.7 of the MSA Determination that the Access Seeker reasonably requires XMT 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 XMT as in Annexure 1;
 - (f) preliminary information regarding the scale and scope of Facilities and/or Service;
 - (g) relevant information relating to the Access Seeker's Network and functionality of its Services, to the extent that Access Seeker is aware that such information may affect XMT Network;
 - (j) creditworthiness information in accordance with XMT requirement as set out in subsection 4.2;
 - (k) security in accordance with XMT security requirement as set out in subsection 4.3;
 - (l) insurance information in accordance with XMT insurance requirement as set out in subsection 4.4;
 - (m) relevant technical information relating to the interface standards of the Equipment of the Access Seeker; and
 - (n) such other information as XMT may reasonably request.
- 4.1.2 The purpose of such Access Request is to provide XMT with sufficient information to assess the Access Seeker's request for the supply of Facilities or Services under XMT's RAO.

4.2 CREDITWORTHINESS INFORMATION

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

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 shall be in the form of a Bank Guarantee.
- 4.3.2 XMT is not obliged to consider entering into an Access Agreement with the Access Seeker pursuant to XMT's RAO until the Access Seeker has amongst other things, provided (at the Access Seeker's costs) to XMT such Security Sum on terms and conditions reasonably acceptable to XMT.



Section 4

Access Request Procedures

4.4 INSURANCE INFORMATION

4.4.1 Subject to Section 4.4.2, an Access Request shall be accompanied by the following insurances:

- (a) Worker's Compensation and/or Social Security Insurance and/or Employer's Liability Insurance and/or other insurance with statutory limits as required by the laws of Malaysia to provide for payment to its employees or in connection with the work covered by the Access Agreement that may be entered and/or their dependents; and
- (b) Comprehensive General Liability Insurance of an amount which is not in excess of Ringgit Malaysia: Twenty Million (RM5,000,000) for any one claim or series of claims arising out of an accident for occurrence in connection with the Access Agreement that may be entered into resulting in bodily injury and/or personal injury including death and property damage of an Operator which shall arise out of or in consequence of any acts of omissions of the Other Operator. Such policy shall include contractual liability.

4.4.2 For the purpose of clarification, the insurance provided by the Access Seeker pursuant to Section 4.4.1 shall commensurate with the reasonable sum, which is to be agreed by XMT.

4.5 PROCESSING OF ACCESS REQUEST

4.5.1 Acknowledgement of Receipt of Access Request

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

- (a) Subject to Section 5.4.16 of the MSA, 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 and/or Services in accordance with XMT's RAO.
- (c) Indicate whether it is willing to proceed to negotiate amendments to the RAO or an Access Agreement on alternative; or
- (d) Refuses the request in accordance to Section 4.6.

Subject to the additional information being received by XMT within twenty (20) Business Days from the date of request, XMT shall reconsider the Access Request upon receipt of such additional information.

4.5.2 Non-refundable resource

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

Section 4

Access Request Procedures

4.5.2.2 The one-off non-refundable resource charge shall also be inclusive of a non-refundable processing fee for undertaking the necessary administrative work to process the Access Request as XMT is required to allocate manpower and resources for the same. Such non-refundable processing fee is only applicable to the requested Facilities and/or Services that can be offered and made available by XMT. The non-refundable processing fees for the respective Facilities and Services will be mutually agreed by the Operators from time to time. Notwithstanding the foregoing, in the event that additional and non-routine administrative work is required to process the Access Request where there is sufficient and/or erroneous information provided by the Access Seeker or where the Access Seeker varies or changes the information provided, XMT shall be entitled to charge additional and non-routine processing fee for undertaking such additional and non-routine work as additional resources are required to do the same.

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

4.6 ASSESSMENT OF ACCESS REQUEST

4.6.1 Grounds for Refusal

Except where expressly permitted otherwise under the Act, XMT may refuse to accept an Access Request for the supply of Facilities and/or Services and accordingly may refuse to supply that Access Service (s) to the Access Seeker for any of the following reasons:

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

4.6.2 Determination of technical infeasibility

For the purpose of determining technical infeasibility in Section 4.6.1(d), the Operators shall comply with Section 4.4.17 of the MSA Determination.



Section 4

Access Request Procedures

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 4.4.18 of the MSA Determination.

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

Example of reasonable grounds for XMT's belief as mentioned in Section 4.6.1 (f) includes evidence that the Access Seeker is not in the reasonable opinion of XMT 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

Example of reasonable grounds for XMT'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 Network Facilities or Network Services have been provided (whether or not by XMT).

4.6.6 Assessment of Creditworthiness

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

In determining the creditworthiness of the Access Seeker, XMT shall not take into account amounts outstanding for Facilities or Services previously provided by XMT 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 XMT to the extent that there is a *bona fide* dispute in relation to the amounts outstanding by the Access Seeker to XMT 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 XMT rejects the Access Request, XMT shall:

- (a) promptly 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 grounds for rejection under Section 4.6.1 above to the Access Seeker;
- (c) provide basis for XMT's rejection of the Access Request; and
- (d) indicate a date and time, not later seven (7) Business Days from the date of XMT's response, at which representatives of XMT authorized to review XMT's assessment of the Access Request will be available to meet with representatives of the Access Seeker to discuss the refusal of the Access Request. At this meeting, the Access Seeker may request XMT to substantiate its reasons for refusal (and XMT shall do so), and if access has been refused on the basis of the grounds in Section 4.6.1(e), XMT must identify when additional capacity is likely to be available.

4.7.2 Where the Operators are unable to resolve their differences following the meeting held pursuant to Section 4.7.1(d), either Operator may request resolution of the dispute in accordance with dispute resolution procedures in Annexure A of the MSA Determination.



Section 4

Access Request Procedures

4.8 ACCEPTANCE OF ACCESS REQUEST

- 4.8.1 Where XMT agrees to provide access to Facilities or Services to the Access Seeker, XMT shall within ten (10) Business Days of such response 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 4.4.2, 4.4.3, and 4.4.4 of the MSA Determination in negotiating and concluding an Access Agreement.
- 4.8.3 XMT will not be taken to have agreed to provide, and the Access Seeker will not be taken to have agreed to acquire the requested Facilities or Services until:
- (a) a Security Sum has been provided in accordance with Sections 4.1 and 4.3; and
 - (b) an Access Agreement has been executed between the Operators and the Access Agreement is registered with the Commission in accordance with Section 150 of the Act.

4.9 NEGOTIATIONS ON ACCESS REQUEST

- 4.9.1 Pursuant to Section 4.8.2, where the Access Seeker wish to negotiate an Access Agreement, XMT shall 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 XMT response, when XMT's representative that is authorized to negotiate will be available for the initial meeting with the representatives of the Access Seeker.
 - (b) One copy of the executed Confidentiality Agreement (in accordance with Section 5.1.1 (h)) that has also been properly executed by the Operators

SECTION 5

Forecast, Ordering and Provisioning Obligations

5.1 FORECAST OBLIGATIONS

5.1.1 General

The Access Seeker shall provide Forecasts in good faith over a certain period of supply of Facilities and/or Services it seeks to access in relation to the following: -

- (a) Capacity requirement;
- (b) Period of requirement; and
- (c) Network and/or operational area.

5.1.2 Confirmation of Forecast

If XMT, acting reasonably will incur significant costs to ensure that access can be provided in accordance with a Forecast (for example, because it will need to proactively augment its Network to provide access within the requested timeframe), XMT may request the Access Seeker to confirm the relevant Forecast. Once confirmed, the Forecast is deemed to be an Order for the purposes of this RAO and Section 5.2 will apply.

5.1.3 Alternative Procedure

Notwithstanding Section 5.1.1, XMT and an Access Seeker may agree to alternative Forecasting and Ordering procedure whereupon XMT and the Access Seeker will be bound by the terms of that alternative procedure and not this Section 5.1.

5.1.4 Forecast Request

XMT may request an Access Seeker to provide, with a sufficient level of detail to enable XMT to carry out network planning and provisioning, the following information (forecast information):

- (a) the Facilities and/or Services in respect of which Forecast are required;
- (b) The total period of time covered by each Forecast which period:
 - (i) shall be determined having regard to XMT own planning and provisioning cycles and the forecasting requirements which apply to the Access Seeker' own business units in using the relevant Facilities and/or Services; and
 - (ii) shall be shorter of the period set out in the relevant Service Specific Obligations and the period of forecasting which XMT's provides to itself for network planning and provisioning purposes.
- (c) The intervals or units of time to be used in making the Forecast, which shall be the shorter of the period set out in the relevant Service Specific Obligations and the intervals of time in which XMT provides forecasting to itself;
- (d) The Network area or operational area to which Forecast shall relate which area shall correspond to that which XMT uses for its own network planning and provisioning;
- (e) the frequency with which a Forecast shall be updated, or further Forecast made, which shall be the shorter of the period set out in the relevant Service Specific Obligations and the length of the time after which XMT provides itself with the updated or further Forecasts; and
- (f) Such other information that XMT reasonably requires in order to provide access to Facilities and/or Services requested by the Access Seeker (which shall not include any information that XMT does not provide to itself in connection with forecasting for its own facilities and/or services)

SECTION 5

Forecast, Ordering and Provisioning Obligations

5.1.5 Forecast Provision

XMT may only require an Access Seeker to provide Forecast in accordance with a Forecast Request:

- (e) no sooner than four (4) weeks after receipt of a Forecast Request; and
- (f) until such time as XMT notifies the Access Seeker in writing that it withdraws the relevant Forecast Request.

5.1.6 Use of Forecast Information

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

- (a) XMT's Sales & Marketing Division; or
- (b) that part of the engineering division of XMT responsible for engineering services.
for the purposes of responding to and planning for the Forecast. XMT must maintain records that indicate which persons are provided with access to Forecasts information.

5.1.7 Distribution of Forecast Information

XMT may only distribute Forecast Information of an Access Seeker outside the people necessary for the purpose referred to in section 5.1.6 if:

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

5.1.8 Time for acceptance

XMT shall notify the Access Seeker: -

- (a) Within five (5) Business Days of receiving a Forecast whether or not XMT considers the Forecast to be in compliance with Forecast Request if XMT considers that the Forecast does not comply with a Forecast Request, to specify in that notice the additional information which the Access Seeker is to provide to comply with the Forecast Request and XMT will not require such information to be provided sooner than four (4) weeks after such notice; or
- (b) If XMT considers that the Forecast does comply with the Forecast Request, to specify in that notice that Forecast is provisionally accepted subject to verification of the details of the Forecast and the matters set out in paragraphs 5.1.9 (a) to 5.1.9 (d).

5.1.9 Reasons for Rejection

XMT may only reject a Forecast following provision acceptance where XMT reasonably believes that the Forecast is inaccurate or having regards to:

- (a) total current usage of the Facilities and/or Services by XMT and all Access Seeker;
- (b) the current rate of growth of the Access Seeker's usage of the Facilities and/or Services;
- (c) the current rate of growth of total usage of the Facilities and/or Services by XMT and All Access Seekers; and
- (d) subject to subsections 5.2.29, the amount of capacity in the Facilities and/or Services that XMT currently has available and can reasonably provision for the Access Seeker over the Forecast period, which shall be at least equivalent than that which XMT can reasonably provision for itself.

SECTION 5

Forecast, Ordering and Provisioning Obligations

5.1.10 Time for Rejection

XMT shall give notice of any rejection of a Forecast to the Access Seeker:

- (a) within fifteen (15) Business Days of receipt of the relevant Forecast; and
- (b) Such Rejection Notice (if any) must specify;
 - (i) the grounds on which XMT rejects the Forecast in accordance with subsection 5.1.9 at a sufficient level of detail to enable the Access Seeker to understand the basis of the rejection and to undertake its own re-assessment of the Forecast; and
 - (ii) an offer to meet within five (5) Business Days of the Rejection Notice of the Forecast to discuss the reasons for rejection and alternative methods of compliance. The meeting shall take place between XMT and Access Seeker if the offer is accepted by the Access Seeker.

5.1.11 Reconsideration by Access Seeker

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

- (a) to confirm its rejected Forecast and explain why the Access Seeker considers that XMT is obliged to accept the Forecast RAO; or
- (b) to submit a new Forecast which the Access Seeker regards as meeting the XMT concerns.

5.1.12 Reconsideration by XMT

XMT shall reconsider any re-submitted or amended Forecast provided pursuant to subsection 5.1.8, subsection 5.1.9, subsection 5.1.10 and subsection 5.1.11 shall re-apply.

5.1.13 Meeting Forecast

Subject to subsection 5.1.8 to 5.1.10, XMT shall carry out network planning in order to enable Forecast to be met. If an Access Seeker has confirmed a Forecast under subsection 5.1.2, it will be binding on the Access Seeker.

5.2 ORDERING AND PROVISIONING OBLIGATIONS

5.2.1 Contact Point or Mechanism

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

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

SECTION 5

Forecast, Ordering and Provisioning Obligations

5.2.2 Order Content

Prior to access being provided, XMT may require an Access Seeker to provide it with an Order which outlines the Access Seeker's access requirements. XMT may request an Access Seeker to fill up a Service Order Form and Service Alteration Form (Annexure I). The following information shall be provided at a level of detail (sufficient for planning provisioning) for access to Facilities and Services:

- (a) the Facilities or Services or both to which access is requested;
- (b) a requested date and time for deliver;
- (c) the location of the points of delivery;
- (d) Equipment of the Access Seeker to be used in connection with the Order, to the extent it may adversely affect XMT's Network; and
- (e) Such other information that XMT reasonably requires in order for it to provision of access to the Facilities and/or Services as requested by the Access Seeker, provided that such information shall not include any information which:
 - (i) XMT does not require from itself for similar provisioning;
 - (ii) identifies or which enables the identification of, a Customer or services of the Access Seeker; or
 - (iii) is non-permitted information.

5.2.3 Use of Ordering Information

Ordering Information provided by the Access Seeker shall be treated by XMT as the Confidential Information of the Access Seeker and shall only be used by those persons for the purpose of responding to and provisioning for the Order.

5.2.4 Treatment of Order and Service Qualifications

XMT shall establish all Orders and Service Qualifications for a given of Facility and/or Service, whether those Orders and Service qualifications are required for itself or any Access Seekers by giving the equivalent priority to the handling of all Orders and Service Qualifications;

5.2.5 Acknowledgement of Receipt

XMT shall acknowledge receipt of the Order for Facilities and/or Services, in writing (or any other material or electronic form agreed by the parties) within the period specified in the Service Specific Obligations.

5.2.6 Notice of Receipt

XMT shall include in its Notice of Receipt the following information:

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

SECTION 5

Forecast, Ordering and Provisioning Obligations

Page | 21

5.2.7 Further Information

XMT shall allow the Access Seeker a period of up to ten (10) Business Days after a request for additional information under paragraph 5.2.6 (b) to provide XMT with such information.

5.2.8 Service Qualifications

XMT shall make Service Qualifications available to the Access Seekers prior to placing Order if such pre-Order Service Qualifications are undertaken for a given Facility and/or Service by XMT for itself.

XMT shall only require post-Order Service Qualifications to be requested if:

- (a) no pre-Order Services Qualification has been completed;
- (b) XMT reasonably requires information from post-Order Service Qualifications which are not readily available;
- (c) XMT notifies the Access Seeker that the post-Order Service Qualifications are necessary at the time of providing XMT's Notice of Receipt under 5.2.6, or, if further information has been requested under subsection 5.2.7 within two (2) Business Days upon the expiry of the period specified in subsection 5.2.7. For clarification, an Access Seeker may also seek the consent of XMT to perform a Service Qualification on its own, and such consent shall not be unreasonably withheld.

5.2.9 Commencement and Completion of Service Qualification

XMT shall commence a Service Qualification on the date issuing a Notice of Receipt and complete and notify the Access Seeker of the result of any Service Qualification within the shorter of:

- (a) fifteen (15) Business Days after the date of the Notice of Receipt; and
- (b) the time within which XMT performs and notifies the result of an equivalent Service Qualification undertaken itself.

5.2.10 Withdrawal of Order following Service Qualifications

XMT shall permit an Access Seeker to withdraw its Order without penalty before the earlier of ten (10) Business Days after the Access Seeker receives the result of a Service Qualification under subsection 5.2.9.

5.2.11 Acceptance Obligation

XMT shall use its reasonable efforts to accept and fulfill Orders from the Access Seeker for Facilities and/or Services which comply with a Forecast accepted by XMT pursuant to subsection 5.1.8(b).

5.2.12 Time for Acceptance/Rejection

XMT must notify the Access Seeker within the specified timeframe in Service Specific Obligations that the Order is accepted or rejected. If XMT notifies the Access Seeker that an Order is rejected, XMT must advise the Access Seeker would be able to accept the Order in a modified form.



SECTION 5

Forecast, Ordering and Provisioning Obligations

5.2.13 Notice of Acceptance

XMT notice of acceptance to the Access Seeker must contain the following information:

- (a) the delivery date or activation date, which must be the date that is requested by the Access Seeker or if the date cannot be met by XMT shall be no later than indicate delivery timeframe or activation timeframe specified in the Service Specific Obligations and the period of time taken by XMT to deliver or activate, such Facilities and/or Services for itself (whichever is shorter);
- (b) the date when civil works (if any) are intended to commence;
- (c) the charges applicable to fulfillment of the Order;
- (d) such information as is reasonably necessary for the Access Seeker to benefit from access to the Facilities and/or Services; and
- (f) a validity period which shall be a period that is not shorter than three (3) months commencing from the date of the Notice of Acceptance ("Validity Period").

5.2.14 Commencement of Delivery Times

The applicable delivery timeframe for an Order as determined under 5.2.13 shall commence from:

- (a) where the Access Seeker's confirmation of an Order is required under 5.2.15, the date the Access Seeker confirms the Order in accordance with that subsection; and
- (b) in any other case, from the start of the Validity Period.

5.2.15 Access Seeker Confirmation

- (a) The Access Seeker's confirmation of an Order is not required if XMT accepts the Order without change. A change may include circumstances where delivery date are delayed, estimated charges are exceeded, a post-Order Service Qualification is required or any other matter that requires further confirmation from Access Seeker before XMT can proceed with the Order.
- (b) Where the Access Seeker's confirmation is required for XMT to proceed with fulfilling an Order as provided for paragraph 5.2.15 (a) above, XMT shall permit the Access seekers to provide its confirmation within the Validity Period and shall not provision the Order until the confirmation is received. Upon receipt of such confirmation, XMT shall fulfill the Order in accordance with the Notice of Acceptance.



SECTION 5

Forecast, Ordering and Provisioning Obligations

5.2.16 Estimated Charges

If the Notice of Acceptance provided by XMT contains estimates of charges (e.g. based on time and materials):

- (a) XMT shall not exceed the estimate without providing the Access Seeker with written notice prior to exceeding the estimate that:
 - (i) the estimate will likely be exceeded;
 - (ii) an explanation of the reasons for exceeding the estimate; and
 - (iii) a further estimate of the charges for the work necessary to fulfill the Order.
- (b) XMT shall permit the Access Seeker to withdraw the Order without penalty if the revised estimate in that notice exceeds the original estimate by more than 10% of the original estimate within ten (10) Business Days of the notice given by XMT under subsection 5.2.16(a).
- (c) Where the actual cost incurred by XMT exceeds an estimate or revised estimate for the specific scope of work provided by XMT due to:
 - (i) information or facts provided by the Access Seeker which are inaccurate or erroneous or disclosed by the Access Seeker; and
 - (ii) a change in the scope of work by the Access seekerthe Access Seeker shall be obliged to pay XMT for the actual cost incurred (but in no other circumstances).
- (d) XMT shall commence work after the Access Seeker confirms it is agreeable to the estimate or revised estimate, whereby such confirmation is to be provided by the Access Seeker the timeframe set out in paragraph 5.2.13 (e) or 5.2.16 (b).

5.2.17 Reasons for Rejection

XMT may only reject an Order from an Access Seeker where:

- (a) it is not technically feasible to provide access to the Facilities and/or Services requested by the Access Seeker;
- (b) XMT has insufficient capacity to provide the requested Facilities and/or Services;
- (c) Subject to Section 5.2.19, the Order is in excess of agreed Forecast levels;
- (d) The Order or variation request duplicates an Order awaiting fulfillment;
- (e) An Access Seeker has not obtained necessary related agreements from XMT (e.g. regarding access to a new Point of Interface);
- (f) There are reasonable grounds to believe that the Access seeker would fail, to a material extent, to comply with the terms and conditions of the Access Agreement and such concern cannot be addressed to XMT's satisfaction, acting reasonably (e.g. through the application of a security requirement; or
- (g) There are reasonable grounds to believe that the Access Seeker would fail, in connection with the supply of the Facilities and/or Services to protect the integrity of a Network, or the safety of individuals working on, or using services supplied by means of a Network or Equipment and such concern cannot be addressed to XMT's satisfaction, acting reasonably (e.g. through the application of reasonable security or escorted access requirements).

SECTION 5

Forecast, Ordering and Provisioning Obligations

5.2.18 Notice of Rejection

XMT notice of rejection of an Order to the Access Seeker must:

- (a) set out the grounds on which XMT rejects the Order, at a sufficient level of detail to enable the Access Seeker to understand the basis of the rejection and to undertake its own re-assessment of the Order; and
- (b) offer to meet 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 reasons for rejection and alternative methods of compliance.

5.2.19 Order in Excess of Forecast

Notwithstanding paragraph 5.2.17(b), XMT must use its reasonable efforts to provide sufficient capacity to enable XMT to accept and fulfill Orders from an Access Seeker for Facilities and/or Services or both which are in excess of the relevant Forecast.

XMT is only required to do so if the meeting the Forecasts requirement of other Access Seeker and itself, there is available capacity or XMT could readily upgrade existing capacity. XMT shall allocate the available capacity on a non-discriminatory basis to meet the over Forecast requirement of all Access Seeker and itself.

XMT is not required to supply Facilities and/or Services in excess of Forecast if, despite adopting any reasonable improvements (including upgrading capacity), this would cause a material degradation in the quality of Facilities and/or Services provided to all Access Seekers and/or itself.

5.2.20 Required Extra Capacity

XMT may require an Access Seeker to procure such additional capacity on the Access Seeker's side of the Network as XMT, in good faith and reasonably estimates that the Operator may require additional capacity to meet demand and a failure by the Access Seeker to procure that additional capacity may cause an adverse impact on the operation of XMT's Network.

Where the Access seeker fails to so procure additional capacity and the demand exceeds the capacity on the Access Seeker's Network, XMT must notify the Access seeker in writing and the Access Seeker and XMT must meet (no later than five (5) Business days after receipt of the notice from XMT) 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, XMT may suspend the service.

5.2.21 Other Uses

XMT 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.

5.2.22 Delivery Dates

XMT shall deliver the Order for the Facilities and/or Services by the delivery date or activation date (as applicable) as specified in the Notice of Acceptance or the extended delivery date (if any) as determined in accordance with subsection 5.2.24.

5.2.23 Early Delivery Dates

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



SECTION 5

Forecast, Ordering and Provisioning Obligations

5.2.24 Delayed Delivery Dates

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

- (a) The delay is caused by XMT:
 - (i) XMT shall notify an Access Seeker of the delay to the delivery date together with the reasons for the delay, as soon as practicable after XMT becomes aware of the possible delay;
 - (ii) XMT shall permit the Access Seeker to cancel the Order without penalty if the delay is longer than the equivalent time period for delivery of the Facility and/or Service; and
 - (iii) the delivery date shall be extended for a further period as reasonably necessary and XMT shall promptly notify the Access Seeker of the revised delivery date.
- (b) Where the delay caused by the Access Seeker:
 - (i) XMT shall notify the Access Seeker of the delay to the delivery date as soon as practicable after XMT becomes aware of it;
 - (ii) XMT and Access Seeker must work together to minimize the delay; and
 - (iii) The delivery date shall be extended for a further period as reasonably necessary and XMT shall promptly notify the Access Seeker of the revised delivery date.

5.2.25 Cancellation and Variation of Orders

XMT shall allow an Access Seeker to cancel or vary an Order at any time subject to subsection 5.2.26.

5.2.26 Cancellation or Variation Penalty

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

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

5.2.27 Testing and Provisioning

XMT shall:

- (a) co-operate with the Access Seeker in relation to the testing and provisioning of ordered Facilities and/or Services; and
- (b) treat an Access Seeker's testing and provisioning on an equivalent basis to that which XMT treats testing and provisioning for itself.



SECTION 5

Forecast, Ordering and Provisioning Obligations

5.2.28 Resource Charge

- (a) XMT may charge the Access Seeker a one-off fee, to be determined by reference to the costs incurred by XMT for allocation of manpower and other resources to enable XMT to test and fulfill an Order for new Facilities and/or Services, provided that such one off fee is justified by XMT to the Access Seeker as necessary for XMT to provide the requested Facilities and/or Services; and
- (b) Must specify the methodology and units' costs for calculating any fees under paragraph 5.2.28 (a) above and in its RAO.

5.2.29 Constrained Capacity

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

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

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

- (a) notify all Access Seekers to whom relevant capacity is supplied; and
- (b) allocate the available capacity between itself, the Access Seeker and other Access seekers in accordance with XMT Capacity Allocation Policy.

5.2.30 Late Delivery

If XMT fails to meet the delivery date or any extended delivery date notified to the Access Seeker in accordance with paragraph 5.2.24 (a)iii except where such failure has been caused solely by the Access Seeker's delay or lack of authorization by a third party, XMT shall without limitation to any other rights the Access Seeker may have under subsection 5.2 or law, provide a rebate to the affected Access Seeker. The rebate shall be for an amount equivalent to the recurring charges payable for access to the Facilities and/or Services prorated daily for the number of days delay subject to a maximum sum of one (1) month's rental. If XMT alleges that a failure has been caused solely by the Access Seeker delay or a lack of authorization by a third party, XMT shall have the burden of demonstrating:

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

Section 6

Billing and Settlement Obligations

6.1 BILLING

6.1.1 General Principle

Unless otherwise agreed, XMT will invoice Charges in advance based on each Billing Period. Each Invoice will be issued fifteen (15) days before the commencement of each Billing Period. Charges shall be payable from the date the Facilities and/or Services are provided.

6.1.2 Billing Information

Each Invoice will state the Charges for the Billing Period (as per Service Order Form and Service Alteration Form).and will be accompanied by information as may be reasonably necessary for the Access Seeker to verify rates and Charges contained in the bill.

6.1.3 Billing Error

If an Operator discovers an error in an invoice, it must promptly notify the other Operator. The Operator which made the error must make necessary adjustment to correct that error within one (1) month of notification.

6.1.4 Currency

Unless otherwise agreed, all Charges shall be in Ringgit Malaysia and the Access Seeker shall make payment in Ringgit Malaysia.

6.1.5 Summarized Invoice and Billing Information

XMT shall provide the Access Seeker on written request with an aggregated summary of billings for access to the Facilities and/or Services provided to the Access Seeker, in monthly tranches.

6.2 SETTLEMENT

6.2.1 Payment Period

The Access Seeker shall make payment for the Charges within thirty (30) days from the date of the Invoice without set-off counter claims or deduction unless otherwise agreed in writing by both Operators.

In the event that the Charges remain unpaid after becoming due, XMT shall be entitled for late penalty charges on the overdue payment at a rate specified in the Access Seeker's invoice.

6.2.2 Method of Payment

The Access Seeker must pay an Invoice by electronic funds transfer or cheque to the nominated accounts of XMT.



Section 6

Billing and Settlement Obligations

6.2.3 Billing Disputes

In the event the Access Seeker wishes to dispute an Invoice, the Access Seeker shall notify XMT in writing within thirty (30) Business Days after the date of receipt of such Invoice, the Access Seeker shall be deemed to have accepted the Invoice and the Charges thereunder shall be payable in accordance with Section 6.2.1 above.

The dispute notification shall provide the following information: -

- (a) the 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 the account number, the invoice reference number, the invoice date, the invoice amount and the billing verification information; and
- (d) evidence in the form of the invoiced Party's outgoing report, indicating the relevant traffic data which is in dispute.

6.2.4 Withholding of Disputed Amounts

For the avoidance of doubt, the Access Seeker shall not use the dispute resolution procedure to avoid or delay payment due to XMT where there is no genuine dispute.

6.2.5 Billing Dispute Resolution

XMT and Access Seeker must use their reasonable endeavors to promptly resolve any dispute notified under Section 6.2.3 herein and where relevant the parties must comply with the Dispute and Resolution Procedures in Annexure A of the MSA Determination which are applicable to the billing disputes.

6.2.6 Late Payment Charges

Upon resolution of the dispute, if the Access Seeker is found to be liable for the payment disputed, the Access Seeker shall pay the amount due together with the late payment charges calculated from the expiry date of thirty (30) days of the invoice receipt, in accordance to Section 6.2.1 above.

6.3 Security Sum

- 6.3.1 The Access Seeker shall have deposited or procured the deposit of the Security Sum as security for the performance of all the Access Seeker's obligations under the Access Agreement. For the purpose of clarification, the Security Sum does not relieve the Access Seeker from its obligations to pay amounts to XMT as they become due and payable, nor does it constitute a waiver of XMT's right to suspend, disconnect, or terminate the relevant Facilities and/or Services due to non-payment of any sums due or payable to XMT.



Section 6

Billing and Settlement Obligations

- 6.3.2 (a) XMT shall be entitled, from time to time, to revise the Security Sum in any of the following event:
- (i) where, in the reasonable opinion of XMT, the amount of the Security Sum is less than the Minimum Value calculated over a ninety (90) day period determined by XMT;
 - (ii) where, in the opinion of XMT, there is a material change in circumstances in relation to the Access Seeker's creditworthiness. In such cases, XMT may request for additional security in addition to the Minimum Value to sufficiently and reasonably mitigate its risk in providing the relevant Facilities and/or Services to the Access Seeker. For clarification, material change in circumstances includes, but is not limited to, failure to pay on the due date in respect of three (3) Invoices rendered in the preceding six (6) months, so long as those amounts have not been disputed in good faith; and/or
 - (iii) upon the provisioning of new or additional Facilities and/or Services to the Access Seeker, to ensure that the Security Sum is equivalent to the Minimum Value after taking into consideration the estimated value of new or additional Facilities or Services provided or to be provided over a ninety (90) day period.
- (b) Where the Security Sum is, at any time, less than the Minimum Value (including when a demand has been made by XMT) calculated over a ninety (90) day period determined by XMT, the Access Seeker shall within thirty (30) days from the written request of XMT, deposit a new security equivalent to the Minimum Value.
- 6.3.3 (a) The Security Sum deposited by the Access Seeker with XMT, shall only be used for the purposes set out in Section 6.3.1. XMT may at its discretion call upon or deduct the Security Sum at any time after the due date for any Charges or upon breach of any of the Access Seeker's obligation. Such utilization or deduction of the Security Sum shall not be construed as a set-off or counterclaim.
- (b) Without prejudice to XMT's rights under the Access Agreement and/or under law, upon termination of the Access Agreement:
- (i) the Security Sum deposited with XMT or parts thereof (if any) shall be returned to the Access Seeker within sixty (60) days from the date of termination provided that all other amounts payable by the Access Seeker to XMT have been paid; and
 - (ii) XMT shall immediately in writing unconditionally waive its rights under any guarantee provided as Security Sum in respect of future performance of the Access Agreement by the Access Seeker if any, since the Access Agreement has been terminated save and except that the Bank Guarantee remains in full force in respect of any antecedent breaches under the Access Agreement and in respect of any amounts payable by the Access Seeker to XMT as at the date of termination, without prejudice to the rights and remedies of XMT under the Access Agreement (including but without limited to the right to claim for any or all amounts due and payable under the Access Agreement and/or to call upon the Security Sum) and/or under law.

Section 7

Technical and Operational Obligations

7.1 NETWORK CONDITIONING OBLIGATIONS

7.1.1 Non-discrimination

XMT shall perform Network Conditioning on an equivalent basis to that which XMT performs for itself for the same or similar Services.

7.1.2 Commencement

XMT will commence Network Conditioning immediately following:

- (a) confirmation of an Order from the Access Seeker; and
- (b) agreement by XMT and the Access Seeker on:
 - (i) geographical coverage;
 - (ii) origins from or destinations to which access is required, if relevant;
 - (iii) network routes (including which party is responsible for provisioning Interconnect Link); and
 - (iv) handover arrangements and relevant Points of Interface.

7.2 POINT OF INTERFACE PROCEDURES

7.2.1 Interconnection

Each party shall interconnect its Network with the Network of the other party in accordance with the terms of the Access Agreement.

7.2.2 Point of Interface Locations

Subject to subsection 7.2.3, XMT shall publish on its publicly accessible website and keep updated a list of the general locations and technical points:

- (a) at which physical co-location is available;
- (b) in respect of which virtual co-location is available; and

7.2.3 Virtual and In-Span Interconnection

Each Operator shall offer virtual co location or in span interconnection at all technically feasible points.

7.2.4 Lack of Space

If there are space constraints at a particular location, XMT shall take reasonable steps to optimise its usage of the space, including through the upgrading of Facilities. If the XMT has used its best efforts to accommodate all Access Seekers and it is not physically possible for any further Access Seekers to be accommodated, XMT shall be excused from providing physical interconnection at such location.

7.2.5 Access Seeker requested Point of Interface

XMT shall reasonably consider a request by an Access Seeker to interconnect at a point other than that specified under Section 7.2.2.

XMT shall promptly accept or reject a request by an Access Seeker under this Section and provide the Access Seeker with reasons if it rejects the Access Seeker's request.

7.2.6 Network Responsibility

Each Operator is responsible for the provisioning and maintenance of Facilities (including those Facilities which form part of the Interconnect Links and the transmission equipment) on its side of the Point of Interface.

7.2.7 Third Party Point of Interface

XMT shall permit an Access Seeker to nominate a Point of Interface of a third party for the purposes of interconnection and access between XMT 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.



Section 7

Technical and Operational Obligations

7.2.8 Point of Interface Factors

When determining which locations are to be listed under Section 7.2.2, or when determining a request under Section 7.2.5, each Access Provider shall have regard to the following:

- (a) XMT shall offer interconnection at any other technically feasible point;
- (b) any possible re-arrangement of its Equipment configuration to eliminate space inefficiencies.

7.3 DECOMMISSIONING OBLIGATIONS

7.3.1 Decommissioning notice

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

- (a) 6 months' notice in writing to all relevant Access Seekers prior to the decommissioning of a Point of Interface; or
- (b) 3 months' notice in writing to all relevant Access Seekers prior to the decommissioning of any other Facilities and/or Services which rely on XMT's use of that site.

Where XMT is required to vacate the site as result of a third-party landlord's notice (under an arm's length tenancy agreement) or local authority's notice, XMT shall provide all relevant Access Seeker with as much notice as possible in relation to the matters in Sections 7.3.1(a) and 7.3.1(b) above.

7.3.2 Co-Operation

XMT shall 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.

7.3.3 Alternative arrangements

XMT shall notify an Access Seeker of its intention:

- (a) to decommission a Point of Interface and shall provide to the Access Seeker 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 applying in respect of the Point of Interface that is proposed to be decommissioned, for a period not less than 3 years from the date of decommissioning; or
- (b) to decommission another Facilities and/or Services and shall provide to the Access Seeker access to an 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 not less than 3 years from the date of decommissioning.

7.3.4 Decommissioned Facilities/Service Compensation

Except where decommissioning is caused by Force Majeure, Access Seeker shall bear the associated cost incurred in:

- (a) moving the Access Seeker's Equipment from the decommissioned Facilities to alternative Facilities offered in accordance with Section 7.3.3; or
- (b) re-arranging Equipment to connect to the alternative Services offered in accordance with Section 7.3.3.

7.4 NETWORK CHANGE OBLIGATIONS

7.4.1 Scope

This Section 7.4 applies where an Operator proposes to implement a Network Change of a type referred to in subsection which necessitates a change in the hardware or software (including interface software) of the other Party's Network in Order to ensure the continued proper operation and compatibility of the Operator's respective Networks, services and procedures.

Section 7

Technical and Operational Obligations

7.4.2 Types of changes

The following kinds of proposed Network Changes maybe within the scope of Section 7.4.1:

- (a) any change by the Operator proposing to make the change (“Notifying Operator”) to any technical specification of the interconnection interface between their respective Networks (“Interface Change”);
- (b) any change by the Notifying Operator to any technical specification or characteristic of the Facilities and/or Services to which the other Operator (“Recipient Operator”) has access which will or might affect:
 - (i) the Recipient Operator’s Network; or
 - (ii) the Recipient Operator’s use of the Facilities and/or Services provided by the Notifying Operator (“Facility and/or Service Change”);
- (c) any change by the Notifying Operator to any technical specification or characteristic of that Notifying Operator’s Network which will or might affect the Recipient Operator’s Network (“Other Network Change”);
- (d) any change by the Notifying Operator to any of the Operational Support Systems used in inter-carrier processes, including without limitation:
 - (i) the billing system;
 - (ii) the ordering and provisioning systems; or
 - (iii) the Customer Churn process (“OSS Change”); and
- (e) any enhancement by the Notifying Operator of the features, functions or capabilities of the Facilities and/or Services to which the Recipient Operator has access, which enhancement the Notifying Operator proposes to make available either:
 - (i) to itself; or
 - (ii) to any other Operator (“Functionality Change”), (collectively “Relevant Changes”)

7.4.3 Notification of Change

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

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

Relevant Change	Notice Period
Interface Change	3 mths
Other Network Change	3 mths
Facility and/or Service Change	3 mths
Functionality Change	3 mth

Section 7

Technical and Operational Obligations

7.4.4 Post-Notification Procedures

The Notifying Operator shall:

- (a) meet with representatives of the Recipient Operator on the date set out in the Change Notice or as soon as practicable thereafter (but no later than the notice period set out in the table in Section 7.4.3), for the purpose of discussing the Relevant Change and any changes that may be necessary or desirable for the Recipient Operator to make to its Network, services or procedures in consequence of the Relevant Changes;
- (b) provide any additional information reasonably requested by the Recipient Operator no later than ten (10) Business Days after the Recipient Operator's request for such additional information; and
- (c) take reasonable account of concerns raised and proposals made by the Recipient Operator to minimize any adverse impact of the Relevant Changes on the Recipient Operator and revise the Change Notice accordingly.

7.4.5 Testing

A Notifying Operator shall, bearing its own costs in doing so:

- (a) co-operate with a Recipient Operator in relation to the development of procedures for testing the impact of the Relevant Changes on the proper operation and compatibility of the Operator's respective Networks;
- (b) jointly carry out testing with the Recipient Operator in a timely manner, using its best endeavors to accommodate any timing requested by the Recipient Operator and, in any case, no less than 20 Business Days before the Notifying Operator proposes to effect the Relevant Changes. The testing shall be conducted in accordance with the testing procedures developed under Section 7.4.5(a).

7.4.6 Testing Failure

Subject to the Recipient Operator having co-operated with the Notifying Operator in relation to the conduct of tests under Section 7.4.5, if such tests:

- (a) are not accepted by ten(10) Business Days prior to the date when the Notifying Operator proposes to effect the Relevant Changes; or
- (b) do not provide reasonable assurance of the continued proper operation and compatibility of the Operators respective Networks, services and procedures the Notifying Operator shall postpone implementation of the Relevant Changes. The period of postponement will be the period necessary to allow the Operator to repeat the steps in Sections 7.4.3 to 7.4.5 above.

7.5 Operations and Maintenance Obligations

7.5.1 Operations & Maintenance Responsibility

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

7.5.2 Fault Reporting Systems

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

7.5.3 Customer notification

Each Operator will advise all of its directly connected Customers to report all faults to the fault reporting service described in Section 7.6.2.

7.5.4 Non-discriminatory fault reporting and identification

An Operator shall:

- (a) perform fault reporting and identification on a non-discriminatory basis; and
- (b) treat the faults reported by another Operator on an equivalent basis as it treats the faults reported by itself.

Section 7

Technical and Operational Obligations

7.5.5 Cross-Referrals

If a Customer reports a fault to an Operator:

- (a) when the Customer is directly connected to another Operator; or
- (b) which clearly relates to a Network, Facility and/or Service of another Operator, the Operator which receives the report shall promptly inform the other Operator of the reported fault, or refer that Customer to the other Operator's fault reporting service.

7.5.6 Network Fault Responsibility

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

7.5.7 Transmission Service Faults

The Operator that supplies transmission services is responsible for maintaining and repairing that transmission service, notwithstanding that the transmission service may be used in another Operator's Network.

7.5.8 Major Inter-Working Faults

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

7.5.9 Faults Affecting Other Networks or Equipment

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

- (a) the existence of the fault;
- (b) the actions being taken by the first mentioned Operator to rectify the identified faults and restore the service; and
- (c) the outcome of those actions.

7.5.10 Bear Own Costs

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

7.5.11 Fault Priority

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

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

Section 7

Technical and Operational Obligations

7.5.12 Fault Rectification

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

In undertaking service restoration, the Operators shall have regard to matters including the following:

- (a) service restoration shall take priority over Equipment repair;
- (b) available standby capacity shall be automatically brought it and/or undertaking network management actions shall be undertaken to restore service;
- (c) performing testing to determine the nature and location of the fault in cooperation with the distant end as necessary;
- (d) immediate rectification of an identified fault, if possible;
- (e) where the source of a fault cannot be quickly identified and rectified, the Operator who has identified the fault shall notify the other Operator of the problem and keep that other Operator informed of progress in relation to the identification and rectification of the fault;
- (f) where the source of a fault has been identified by an Operator, but immediate rectification is not feasible, the Operator responsible for rectification shall immediately notify the other Operator of the estimated fault rectification time (based on the Operator rectifying the fault using its best endeavors in view of the nature of the fault and its effect on services);
- (g) where an Operator has rectified a fault on a temporary basis, that Operator shall inform the other Operator of this fact and provide the timeline required for permanent rectification; and
- (h) faults unresolved within stipulated target times shall be discussed at regular operation and maintenance meetings;

For the avoidance of doubt, any spares which are required to rectify a fault shall be provided by the Operator which owns the relevant Equipment.

Section 7

Technical and Operational Obligations

7.5.13 Target Times

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

Priority Level	Fault Examples	Response Timeframe	Progress Update Frequency	Rectification Timeframe
Level 1	1. Major switch outage 2. Transmission bearer total outage 3. Route blocking >30% 4. Major signaling problem 5. Major routing issues	Within 1 hours	Every 1 hour	4 hours
Level 2'	1. Minor switch outage 2. Minor routing issue 3. Minor signaling problems 4. Route blocking 10%-30	Within 4hours	Every 4 hours	24 hours
Level 3	1. Fault affecting single or small number of customers 2. Route blocking <10%	Within 24 hours	Every 24 hours	72 hours
Level 4	1. Remote congestion 2. External Technical Irregularities(ETI) Other performance related issues	Within 48 hours	Every 48 hours	10 Business Days

Explanatory Notes to Section 7.5.13:

- (a) All faults reported shall be ascribed with a "Priority Level" as set out in the above table for response and restoration purposes and the Operators involved shall cooperate with one another to achieve the target timeframes corresponding to the severity of the fault reported as set out in that table.
- (a) The "Fault Types" listed in the table above are only examples of possible type of faults. Operators are required to categories all faults by reference to specified "Priority Levels", "Response Timeframes" and Rectification Timeframes".
- (c) "Response Timeframe" refers to the timeframe for the Operator whose Network, Network and/or Service is faulty to respond to and appropriately attend to the fault. Response Timeframes are to be measured from either the time the fault is notified by the other Operator or from the time when the Operator first becomes aware of the Fault, whichever is the earlier.
- (d) "Progress Update Frequency" refers to the frequency to update the other Operator until the fault is rectified.
- (e) "Rectification Timeframe" refers to the time taken by the Operator to restore a faulty Network, Facility and/or Service and is determined by the period between the reporting of a fault to the relevant fault reporting service of the Operator and the rectification of fault on a permanent or temporary basis (provided that if rectified on a temporary basis, the Operator must continue attempting to achieve a permanent rectification without delay).

Section 7

Technical and Operational Obligations

7.5.14 Planned Maintenance

If an Operator intends to undertake planned maintenance ("Maintenance Operator") which may affect an Access Seeker's Network, Facilities and/or Services, the Maintenance Operator shall:

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

7.5.15 Planned Maintenance Windows

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

7.5.16 Emergency Maintenance

If a Maintenance Operator needs to undertake emergency maintenance which may affect the other Operator's Network, the Maintenance Operator shall, if it is able to:

- (a) provide at least 24 hours' notice of the planned maintenance;
- (b) use its reasonable endeavors to minimise any disruption to the carriage of communications that crosses or would cross both Operator's Networks, and which are caused by the maintenance or rerouting; and
- (c) where the Operators agree that it is practicable, provide alternative routing or carriage at no additional cost to the other Operator.

7.5.17 Hours of fault reporting and rectification

XMT shall maintain 24 hours a day, 7 days a week fault reporting and rectification service.

7.5.18 Complaints Handling

The Operators shall report all interconnection and access outages that relate to Networks, Services and/or Facilities to XMT's relevant fault reporting and rectification service.

7.5.19 Routine Testing

The Operators shall conduct interconnection service tests at agreed annual intervals to ensure the maintenance of interconnection services at agreed services levels in accordance with standards as agreed by both parties or such other standards as may be determined by the Commission.

7.6 TECHNICAL OBLIGATIONS

7.6.1 Compliance

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

7.6.2 Prevention of technical harm

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

7.6.3 Technical Standards

An Operator shall comply with any applicable technical Standard adopted by the Commission under Chapter 3 of Part VII of the Act.

Section 7

Technical and Operational Obligations

7.6.4 No Interference

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

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

7.6.5 Notice of Interference and Rectification

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:

- (a) the other Operator shall rectify the situation as soon as possible and in any case within 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 24 hours under Section 7.7.5(a), the other Operator shall promptly notify the Notifying Operator, and both Operators shall meet as soon as possible and in any case within 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.

Section 8

Term, Termination, Suspension and Other Provisions

8.1 TERM

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

8.2 TERM OF SUPPLY

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

Services	Minimum term
End to End Transmission Services	12 months
Infrastructure	Upon Application

8.3 TERMINATION

XMT may terminate an Access Agreement if any of the circumstances referred to in Section 8.3(a), 8.3(b) or 8.5(c) below apply and XMT has notified the Access Seeker that it will terminate where:

- the Access Seeker has materially breached the Access Agreement and XMT has notified the Access Seeker that it will terminate the said agreement in no less than thirty (30) days if the Access Seeker has not remedied its breach by the end of that period and the Access Seeker has failed to remedy its breach in accordance with such a notification;
- the Access Seeker has become subject to a winding up order (whether compulsorily or voluntarily) or cease to trade in the normal course of business or becomes insolvent or a receiving order is made against it or has entered into any agreement or composition with or assignment for the benefit of its creditors or the Access Seekers assets are subject of any form of distress or execution or any analogous insolvency event related to the Access Seeker has occurred in any jurisdiction; or
- a Force Majeure has continued for a period of more than 90 days.

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

8.4 CHANGES IN LAW

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

Section 8

Term, Termination, Suspension and Other Provisions

8.5 SUSPENSION

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

- (a) the Access Seeker facilities materially and adversely affect the normal operation of XMT's Network or are a material threat to any person's safety;
- (b) the Access Seeker's facilities or the supply of services pose an imminent threat to life or property of XMT, its employees or contractors;
- (c) the Access Seeker's facilities cause material, physical or technical harm to any facilities of XMT or any other person;
- (d) where the Access Seeker has failed to pay Invoices in accordance with Section 7 of this RAO;
- (e) where the Access Seeker has failed to provide the new security amount as required;
- (f) where Force Majeure applies; or
- (g) the Access Seeker breaches any laws, regulations, rules or standards which has a material adverse effect on XMT or the provision by XMT of Facilities and/or Services under the Access Agreement.

For the purposes of this Section 8.5, XMT must provide the Access Seeker five (5) Business Days' notice in writing, including written reasons, prior to suspending access to any Facilities and/or Services.

8.6 POST-TERMINATION FEES

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

- (a) Charges invoiced in arrears and not yet paid; or
- (b) Charges arising during an applicable minimum contractual period (as described in Section 8.1 above) provided that:
 - (i) such charges must be reduced to reflect any costs savings to XMT from not having to supply the Facilities and/or Services to the extent that they have been terminated or suspended; and
 - (ii) XMT must use reasonable endeavours to mitigate its costs of termination or suspension and maximize cost savings under paragraph 8.6(b)i above.

8.7 UPFRONT CHARGES REFUND

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

8.8 DEPOSITS AND GUARANTEES

Notwithstanding the obligation in Section 8.7, XMT shall:

- (a) within two (2) months of termination of the Access Agreement refund to the Access Seeker any deposit paid provided all other amounts payable by the Access Seeker to XMT have been paid; and
- (b) immediately upon termination of the Access Agreement unconditionally waive any rights under any guarantees provided by the Access Seeker except in respect of amounts payable by the Access Seeker to XMT as at the date of termination.

8.9 INTELLECTUAL PROPERTY RIGHTS

The Operators agree not to use any patent, trade mark, trade name, housemark, service mark, designs, copyright, database rights, know-how and any other type of intellectual property rights belonging to the Other Operator or any of its affiliates without the prior written consent of the Other Operator for purposes including but not limited to any advertising, publicity releases or sales presentations.



Section 8

Term, Termination, Suspension and Other Provisions

8.10 FORCE MAJEURE

- 8.10.1 If a Party ("Affected Party") is prevented from performing any of its material obligations under this Agreement (but shall not include any of the Customer's payment obligations) by reason of Force Majeure, it must immediately notify the other Party ("Other Party") in writing of the circumstances constituting the event of Force Majeure and must keep the Other Party regularly informed of the progress in resolving the event of Force Majeure and use all reasonable steps to minimize the adverse effects of the event of Force Majeure on the performance of its obligations under this Agreement.
- 8.10.2 If the delay in performance or non-performance of the Affected Party's obligations due to the event of Force Majeure is continuous for a period of 1 month from the date of the Affected Party's written notification under Section 8.10.1, then either Party shall have the right to terminate this Agreement with immediate effect and neither Party shall have any claim against the other in respect of such termination save for antecedent breaches.

8.11 REVIEW

An Access Agreement shall be reviewed upon the occurrence of the following events:

- (a) If the Minister issues a direction or determination relating to its subject matter;
- (b) If the Commission issues a direction or determination relating to its subject matter;
- (c) If the Act or the MSA is amended in relation to its subject matter;
- (d) By Agreement of both parties.
- (e) If a condition of the Operator's license is amended or deleted or a new condition is imposed in relation to its subject matter.

8.12 COSTS AND EXPENSES

Each Operator shall bear its own costs and expenses in relation to the preparation, negotiation and execution of an Access Agreement.

8.13 GOVERNING LAW

This RAO shall be governed by and interpreted in accordance with the laws of Malaysia.

8.14 ASSIGNMENT

An Operator's right to assign its right under an Access Agreement prepared by it shall be reciprocal with the other Operator's right of assignment

ANNEXURE I

List of Network Facilities and Network Services

Page | 42

1. GENERAL

1.1 Annexure I set out the list of Facilities and Services which may be provided by XMT to the Access Seeker.

1.2 The following table tabulates the Facilities and Services provided by XMT:

Item	Facilities / Services	Capacities/Size
1	Transmission Service	
	(Metro-E Services (Layer 2))	10 Mbps – 10,000 Mbps
2	Infrastructure Sharing:	
	Outdoor Antenna Space	3m Boom
	In Building Cellular Coverage	Underground MRT Stations

1.3 XMT reserves the right to amend the Facilities/Services listed herein by adding, removing or altering the Facilities/Service



ANNEXURE II

Description of Facilities and Services

Page | 43

1. END TO END TRANSMISSION SERVICE

1.1 General

1.1.1 Section 1.1 of Annexure II sets out the terms and conditions which are applicable to End to End Transmission Service.

1.1.2 End to End Transmission Service is a Facility and Service by Bandwidth Services connection for the carriage of communications between transmission points of the Access Provider via network interfaces at such agreed transmission rate between Access Provider and Access Seeker.

1.2 Provision of End to End Transmission Service

1.2.1 Subject to the Access Seeker complying with the Ordering and Provisioning Obligations in **Section 7**, XMT will provide in accordance with the terms and conditions of this Access Agreement and the applicable Schedules and Annexure herein, End to End Transmission Services requested by the Access Seeker.

1.2.2 Where the Access Seeker leases End to End Transmission Services from XMT, XMT's Equipment can be shared in the Access Seeker's premises in accordance with Section 5.13 of the MSA Determination, **Annexure II.2.4** and **Section 7**

1.2.3 The Access Seeker shall provide XMT reasonable access to its premises when XMT reasonably requires it for the purpose of installing, maintaining, modifying or removing Equipment related to the provision of End to End Transmission Services by XMT.

1.2.4 XMT shall ensure that the End to End Transmission Services conform to the QOS Standards and Technical Specifications, subject to the Access Seeker's use of those End to End Transmission Capacity Services in accordance with the Technical Specifications and other agreed requirements.

1.2.5 The minimum period in which the Access Seeker may lease Transmission Services is one (1) year.

1.2.6 The Access Seeker will pay to XMT for Transmission Services stated in **Annexure II.7** provided by XMT, Charges in accordance with the applicable provisions set out in **Annexure III**.



ANNEXURE II

Description of Facilities and Services

Page | 44

2 INFRASTRUCTURE SHARING

2.1 GENERAL

2.1.1 Section B.2 of Annexure 1 sets out the terms and conditions which are applicable to Infrastructure Sharing.

2.2 TYPE OF INFRASTRUCTURE SHARING

2.2.1 The type of Infrastructure Sharing provided by XMT is:

- (a) the provision of physical space at specified facilities to enable the Access Seeker to install and maintain its own equipment necessary for the provision of the Access Seeker's services through the Facilities and/or Services of XMT.
- (b) the provision of access to in-building Common Antenna Systems and physical access to central equipment room

2.2.2 Depending on the individual site, physical access may include power, environmental services (such as heat, light, ventilation and air-conditioning), site maintenance and access for the personnel of the Access Seeker.

2.3 PRE-REQUISITES TO APPLY FOR INFRASTRUCTURE SHARING

2.3.1 XMT shall not be obliged to provide to the Access Seeker Infrastructure Sharing for the specified network facilities unless:

- (a) XMT is the
 - (i) legal owner of the specified network facility; and/or
 - (ii) has the exclusive rights of use of the infrastructure, land or space and XMT has been granted the requisite approval by the owner or landlord of the said infrastructure, land or space to permit XMT to use the said land in accordance with the terms of this Agreement
- (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; and
- (c) there is no space constraint.

2.4 GENERAL TERMS AND CONDITIONS ON INFRASTRUCTURE SHARING

2.4.1 Duration

Infrastructure Sharing at a specified network facility, agreed between the Operators, shall be for a minimum of 10 years and may be further renewed subject to the mutual agreement of the Operators.

2.4.2 Specific Terms and Conditions for Shared Space

(a) Use of Shared Space

The Access Seeker shall only use the Shared Space for the sole purpose of providing communication services and shall not do or permit to be done any act or thing which is illegal or may become a nuisance or give reasonable cause for complaint by the owner or any of the other access seekers in XMT's Shared Space or any other buildings adjoining the Shared Space.

(b) Storage

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

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



ANNEXURE II

Description of Facilities and Services

(c) **Increase in Premium**

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

(d) **Repair**

- (i) In the event of any damage caused to the Shared Space by the Access Seeker, the Access Seeker shall, at its own cost and expense, restore and to forthwith make good any replacement and/or repair (fair wear and tear excepted) as specified in the notice in writing given by XMT to the Access Seeker specifying therein all necessary replacements and/or repairs to be effected.
- (ii) If the Access Seeker fails to effect the replacements and/or repairs within the time period stipulated in the notice, XMT may, whether or not together with its workmen, enter the Shared Space 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 XMT save where the replacements and/or repairs were due to the natural failure of the structure or due to XMT.

(d) **Tenantable condition**

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

(g) **Consents, Licenses and Approvals**

- (i) The Access Seeker shall be fully responsible to obtain all necessary consents, permits, approvals and licenses from third parties and governmental authorities or agencies to carry out/provide its communications services at the Shared Space including operating and using all equipment's, systems, cables, links and devices.
- (ii) The Access Seeker shall further observe and comply with all laws, bye-laws, rules and regulations affecting the Access Seeker which are now in force or which may hereafter be enacted.
- (iii) The Access Seeker shall further observe and perform and cause all its employees, independent contractors, agents or invitees to observe and perform all rules and regulations made by XMT from time to time and notified to the Access Seeker in writing Provided Always that XMT shall not be liable to the Access Seeker in any way for violation of the rules and regulations by any person including the Access Seeker or its employees, independent contractors, agents or invitees.

(h) **Sub-letting and Assignment**

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



ANNEXURE II

Description of Facilities and Services

Page | 46

(i) **Payment of Quit Rents, Rates and Taxes**

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

(j) **XMT's Covenant**

XMT does not warrant or represent that it has obtained all the necessary approvals or permits from the relevant authorities to erect the infrastructure on the site in which the Shared Space has been rented to the Access Seeker. In the event that XMT is required by the relevant authorities to dismantle the infrastructure on the site such that the Access Seeker is not able to:

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

the Access Seeker may, notwithstanding the minimum period, terminate the Infrastructure Sharing at the Shared Space without liability. The Operators agree that the remedies set out in this Agreement shall be the only remedy against XMT and XMT shall not be liable to the Access Seeker for any damages, costs and/or expenses including but not limited to the costs of dismantling and removing the Access Seeker's equipment, system or devices. However, XMT will use its reasonable endeavours to offer the Access Seeker other suitable sites. For avoidance of doubt, the authorities in the clause is also referring to approval from Rapid Rail Sdn Bhd and/ or Mass Rapid Transit Corporation Sdn Bhd and/ or Prasarana Malaysia Berhad

(k) **Utilities**

- (i) The Access Seeker shall be responsible to apply for its own individual meter and power supply to the Shared Space and shall be further responsible for and bear the cost of all electricity utilised by the Access Seeker at the Shared Space
- (ii) In the event that there no avenues for the Access Seeker to apply directly or Access Seeker's application to the relevant authority for an individual meter is not successful, the Access Seeker may, subject to XMT's prior written approval, utilise the electricity supplied to XMT at that premises provided that:
- (iii) XMT is of the opinion that the electricity power load is sufficient to be shared with the Access Seeker and other access seekers within its Shared Space; and
- (iv) Approval from Rapid Rail Sdn Bhd and/or Mass Rapid Transit Corporation Sdn Bhd is obtained
- (v) the Access Seeker reimburse XMT for all electricity charges utilised by the Access Seeker at the Shared Space, the following charges are applied

Type of Charge	1-Jan-2018 to 31-Dec- 2018	1-Jan-2018 to 31-Dec- 2018	1-Jan-2018 to 31-Dec- 2018
kWh of electricity consumed	0.8583	0.9013	0.9463

(l) **To Permit XMT to Enter and View Condition**

The Access Seeker shall permit XMT and his agents, servants and contractors, to enter the Shared Space at all reasonable times and upon reasonable notice for the purpose of viewing the state and condition thereof or for any other reasonable purpose.



ANNEXURE II

Description of Facilities and Services

Page | 47

(m) **Installation of Equipment**

- (i) The Access Seeker shall ensure that all equipment, system or devices on the Shared Space shall:
 - a) be type-approved and comply with all relevant laws and regulations;
 - b) not cause any frequency interference to XMT's and/or any of the other access seekers' equipment or services provided in or around the Shared Space. Where the Access Seeker's equipment causes frequency interference to XMT's and/or other access seekers' equipment or services provided in or around the Shared Space, the Access Seeker shall immediately (and in any event no longer than 24 hours) 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 the XMT's and/or any of the other access seekers' equipment or services provided in or around the Shared Space. Where the Access Seeker's equipment causes electromagnetic interference to XMT and/or other access seekers' equipment or services provided in or around the Shared Space, the Access Seeker shall immediately (and in any event no longer than 24 hours) take all such necessary steps to stop any such interference.
- (ii) The Access Seeker shall only be permitted to install its Equipment on the Shared Space and shall not be permitted to install any other party's equipment, system and/or devices on the Shared Space without the prior written approval of XMT.
- (iii) The Access Seeker shall not damage, tamper, modify, alter or handle any equipment, system or devices belonging to XMT or any other access seeker in the Shared Space and/or the Shared Space without the prior written approval of XMT and/or the other access seeker.

(n) **Installation of Electrical Points and Plumbing Connection**

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

(o) **Safety and Health and Security Procedures**

- (i) The Access Seeker shall comply with the provisions and requirements of the Occupational Safety and Health Act 1994 (**OSHA 1994**) and Factories and Machinery Act 1967 (**FMA 1967**). These provisions include safety plan (JSA/HIRARC, safety procedures, safety work instruction, supervision, etc) and the usage of personal protective equipment such as safety helmet, safety boots, safety goggles and other safety gadgets as prescribed by OSHA 1994 and FMA 1967.
- (ii) The Access Seeker shall exercise due care in the execution of their work so as to prevent accidents and are required to report any incidents including but not limited to accidents as a result of their works to XMT within twenty-four (24) hours from the time of the occurrence.
- (iii) The Access Seeker shall comply and cause its employees, agents and contractors to comply with all guidelines, rules and regulations issued by XMT from time to time on site access and security procedures with respect to access to and use of the Shared Space. Further, the Access Seeker shall ensure the security of its Shared Space is such that no unauthorized person shall enter the Shared Space.

(p) **Exclusive Possession**

The Access Seeker recognizes that it does not have exclusive possession of the Shared Space since XMT occupies the Shared Space and may sub-let or intend to sub-let the Shared Space to other parties. However, XMT agrees that it shall not tamper, modify, alter or handle any equipment, system or devices belonging to the Access Seeker at the Shared Space for the duration of the Infrastructure Sharing unless an emergency situation arises.

(q) **Vacating the Shared Space**



ANNEXURE II

Description of Facilities and Services

Page | 48

- (i) The Access Seeker shall on the expiration or termination of the Infrastructure Sharing at each Shared Space, at its own cost and expense, remove all its equipment, system and devices which may have been installed by the Access Seeker and to peaceably and quietly yield up the Shared Space to XMT with all XMT's fixtures and additions thereto in good and tenable repair and condition in accordance with the covenants herein contained.
- (ii) The Access Seeker shall be given a grace period of five (5) Business Days to vacate the Shared Space effective from the expiry or termination of the Infrastructure Sharing during which no monthly rental will be charged by XMT. Should the equipment, system or devices not be removed within the grace period, XMT shall have the right to:
 - (a) charge for the use of the Shared Space at the rate of two (2) times the current rental or the cost of reinstatement as debt due and payable; and
 - (b) without any liability to the Access Seeker, dispose of the equipment, system or devices in such manner as XMT deems fit with a one (1) month's written notice. If the Access Seeker fails to settle any debt due, XMT 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. XMT shall be entitled to set off the proceeds from the sale of the equipment, system or devices against any and all debts due by the Access Seeker to XMT.
- (r) **Relocation of Space/Structure**
 - (i) Notice of relocation
In the event that XMT intends to relocate any of the Space/Structure utilised for the purpose of Infrastructure Sharing or for any purpose whatsoever XMT shall prior to the relocation give reasonable written notification which in any case shall not be less than one (1) month written notice to Access Seeker before the proposed relocation date.
 - (ii) Disruption of Service during Relocation
During the relocation of any Space/Structure for the purpose of Infrastructure Sharing there shall not be any disruption to the Service of Access Seeker under the Agreement for any period in excess of six (6) hours for each relocation PROVIDED that all relocation exercises shall be conducted during low peak hours only (herein defined as the hours between 0001 and 0600)
- (s) **Compliance with Land Owners requirements**
Access Seeker shall ensure that its employees, agents, contractors and servants observe and adhere at all times to the obligations and conditions imposed or shall be imposed by Rapid Rail Sdn Bhd and entities within Mass Rapid Transit Corporation Sdn Bhd, the landowner of the railway corridor or any other landowner in the future (hereinafter referred to as the "Landowner"), upon which the Towers and Cabins are erected and shall ensure its employees, servants, agents and contractors shall not do or omit to do anything which is in breach of such conditions and obligations as imposed by the Landowner in relation to the use of the Cabin and Tower Space as Infrastructure Sharing.
- (t) **Insurance**
Access Seeker shall procure insurance at its own costs and expense to cover and protect Access Seeker's own goods, property and Equipment in near under over or outside the Cabin or Tower Space utilised as Infrastructure Sharing against theft, public liability, fire, property damage consequential loss and others and Access Seeker hereby agrees that it stores and/or use the Cabin or Tower Space at its sole risk and shall not hold XMT liable in the event Access Seeker suffers loss or damage as a result therefrom.

ANNEXURE II

Description of Facilities and Services

Page | 49

1. GENERAL

1.1 These Sections in Annexure II sets out the type of Charges and charging principles for the Facilities and Services provided by XMT to the Access Seeker

2. Type of Charges

2.1 In consideration of the Access Provider's obligations in the provision of the Facilities and Services in the Access Agreement Access Seeker shall pay to Access Provider the following Charges:

Type of	Type of Charges	Details	Billing Period/
Transmission Service	Recurring Charges	1. Rental	Monthly/Quarterly/ Half Yearly
	One – Time Charges	1. Installation Charges 2. Interconnection Charges	Before Ready For Service Date
Infrastructure Sharing	Recurring Charges	1. Rental	Monthly/Quarterly
	One – Time Charges	1. Installation Charges 2. Supervision Charges (These are Charges for supervision of works to be conducted by Access Seeker at the site of the specified network facility)	Before Handover Date and/or before Access Seeker commence work at site

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

2.3 In relation to rental Charges, Access Seeker shall also be liable to pay any government taxes (including Sales tax (if any) and Good and Service Tax (GST)) relevant to the Service provided it is legally required to be paid by the Access Seeker and utility charges imposed on utilization of the Infrastructure Sharing. Where applicable such taxes shall be added to the invoice and shall be paid to XMT at the same time as the relevant invoice is settled in accordance with Section 2.1 above.

2.4 In relation to the One –Time Charges for each Service, Access Seeker shall pay the Charges no later than the Ready For Service Date or Handover Date, whichever is relevant.

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



ANNEXURE III

Charges and Charging Principles

Page | 50

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

3 Charging Principle of Rental

3.1 Transmission Service

- 3.1.1 The rental Charges for Transmission Service are charged according to the link from end-to-end of the Facilities or Services.

- 3.1.2 In relation to Transmission Service the rate of charge for rental are based on the following factors:

- (a) Capacity of the Bandwidth Services;
- (b) Straight line distance of the link in the Service;
- (c) Geographical location of the link in the Service; and
- (d) Required Service Availability for the link in the Service

- 3.2 The rental Charges for Infrastructure Sharing are charged according to the type of Infrastructure Sharing provided to Access seeker. The rental rate shall be based on the following factors:

- (a) Size of the Shared Space;
- (b) Geographical location the Shared Space;
- (c) Type of utilities requirement at the Shared Space; and
- (d) Height of the Shared Space in the case of Tower Space
- (e) Relevant operating and maintenance cost

4 Charging Principle on One Time Charge

One-Time charges are installation charges, interconnect charges and supervision charges which may be charged to the Access Seeker in relation to the Service provided to the Access Seeker and such charges may vary from case to case depending on the extend and complexity of the work involved for the installation, interconnection or supervision work related thereto. Supervision charges are charged according to the number of times that supervision work is required of XMT or its contractor or agent on the works to be conducted by the Access Seeker at the site of the Shared Space.

5 Charging Principle for Service Outside XMT's Existing Network Topology

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

6 CANCELLATION CHARGES

If Access Seeker cancels a confirmed order for a Service, Access Seeker shall be liable to pay XMT cancellation charges.

7. XMT CHARGES FOR TRANSMISSION SERVICE

7.1 Charges and Charging Principle

- 7.1.1 Transmission Services Supplied by XMT shall, only to the extent necessary, be subject to the Charges listed in herein below which shall be subjected to the Commission Determination on the Mandatory Standard on Access Pricing duly declared by the Commission.



ANNEXURE III

Charges and Charging Principles

Page | 51

- 7.1.2 The Access Seeker will not be entitled to terminate any of the lease agreements in respect of any Transmission Service in the first year. If the Access Seeker terminates The Access Seeker shall pay the applicable charges for the minimum period of one (1) year irrespective of use. After the first year, the Access Seeker may terminate the lease agreement by providing XMT six (6) months prior written notice. Any advance payment for the utilised portion of the lease agreement will be refunded on a pro-rated basis. Upon expiry, the lease agreement will be automatically renewed for the same duration unless either Operator gives a written notice to the other Operator, three (3) months prior to the expiry of the agreement, stating its intention not to renew the agreement.

8 XMT PAYMENT

- 8.1 The payment terms for Transmission Service is as follows:
- (a) for the first year, one (1) year in advance; and
 - (b) for subsequent years, quarterly in advance.
- 8.2 The contract period for the lease agreement shall commence from the date of commissioning of the respective Transmission Service circuit.

9 RENTAL CHARGES

9.1 End-to-End Transmission Services

	2018 RM'000	2019 RM'000	2020 RM'000
<u>Within Peninsular Malaysia and Within Sabah & Sarawak</u>			
	105	106	108
10 Mbps	1,353	1,302	1,256
100 Mbps	2,130	2,000	1,895
200 Mbps	2,993	2,775	2,606
500 Mbps	5,582	5,102	4,737
750 Mbps	7,739	7,041	6,512
1 Gbps	10,103	9,166	8,459
3 Gbps	28,406	25,660	23,597
5 Gbps	46,078	41,543	38,144
5 Gbps	191,934	176,109	163,001
Installation (non-recurring charge)	5,110	5,365	5,633



ANNEXURE III

Charges and Charging Principles

Page | 52

9.1.1 The price for the services offered above is subject to the following terms and conditions;

- (a) SLA 99.00%
- (b) No rebate applicable for the services offered
- (c) MTTR is on best effort
- (d) The services are only applicable on circuits terminating at XMTs existing nodes as listed in item A under Annexure IV
- (e) The price is not inclusive of internal cabling and cross connect charges to Access Seekers equipment/premises

9.2 Infrastructure Sharing

The applicable charges for Infrastructure Sharing shall be commercially being negotiated and agreed between Access Seeker and Access Provider in accordance to the Access Agreement.



ANNEXURE IV

Point of Presence

1. List of Existing Interconnection & Points of Presence

1.1 XMT Network Points of Presence

AIMS Data Center, Kuala Lumpur

Allianz Tower MDF Room, Kuala Lumpur