

TM NET SDN BHD'S ACCESS REFERENCE DOCUMENT

TM NET SDN BHD



ACCESS REFERENCE DOCUMENT (ARD)

VERSION 1.0

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CHAPTER 1 – INTRODUCTION, BACKGROUND AND SCOPE

1.1 Preliminary

1.1.1 This Access Reference Document is made by TM Net Sdn Bhd (Company No: 451011-M), (“**TM Net**”) a company incorporated under the laws of Malaysia and having its registered office at Level 51, Menara TM, Jalan Pantai Baharu, 50672 Kuala Lumpur on 3rd May 2009 pursuant to section 5.3.2 of the Commission Determination on the Mandatory Standard on Access Determination No.2 of 2005 as amended by the Variation to the Commission Determination on the Mandatory Standard on Access (Determination No. 2 of 2009) (“**MSA Determination**”).

1.1.2 This Access Reference Document is hereby referred to as TM Net’s ARD.

1.1.3 TM Net’s ARD is structured as follows:

- (a) Main Text of which there are:
 - (i) Chapters (e.g. Chapter 1);
 - (ii) Sections (e.g. Section 1.1 being the first section of Chapter 1); and
 - (iii) Annexure to the Main Text (e.g. Annexure 1 of the Main Text); and
- (b) Schedules of which there are:
 - (i) Parts (e.g. Part I of Schedule A);
 - (ii) Paragraphs (e.g. Paragraph 1.1 of Part I of Schedule A);
 - (iii) Appendix to a Schedule (e.g. Appendix 1 to Part I of Schedule A); and
 - (iv) Item (e.g. Item 1 of Appendix 1 to Part I of Schedule A).

1.2 Legislative Background

1.2.1 Following the issuance of the Ministerial Direction to Determine a Mandatory Standard on Access, Direction No.2 of 2003 and in exercise of the powers conferred by sections 55, 56, 104(2) and 106 of the Act, the Commission issued the MSA Determination.

1.2.2 MSA Determination Obligations

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

- (a) Disclosure obligations;
- (b) Negotiation obligations; and
- (c) Content obligations.

1.2.2.2 Disclosure obligations are as set out in Section 5.3 of the MSA Determination.

1.2.2.3 Negotiation obligations are as set out in Section 5.4 of the MSA Determination.

1.2.2.4 Content obligations are as set out in Sections 5.5 to 5.19 of the MSA Determination.

1.2.3 Disclosure Obligations

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

- (a) prepare and maintain an access reference document;
- (b) make the access reference document available;
- (c) follow prescribed procedures after acceptance of the access reference document; and
- (d) follow prescribed procedures for any amendment of the access reference document.

1.2.4 The role of Standard Access Obligations

1.2.4.1 Pursuant to sections 55 and 145 of the Act, the Commission may determine the list of facilities and services which may be listed in the access list. Pursuant to section 149 of the Act, an access provider is required to comply with the standard access obligations in providing the facilities and services that are listed in the Access List Determination.

1.2.4.2 The standard access obligations facilitate the request of access to the facilities and services listed in the Access List Determination by access seekers in order that access providers 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.

1.2.4.3 Section 149 of the Act specifies the terms and conditions upon which the access provider must comply with the standard access obligations. Section 149(2) provides that the access provided by the access provider shall be:

- (a) of at least the same or more favourable technical standard and quality as the technical standard and quality on the access provider's network facilities or network services; and
- (b) on an equitable and non-discriminatory basis.

1.2.5 Paraphrasing of Legislation

The paraphrasing of any statutory provisions in TM Net's ARD 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 TM Net's ARD**

1.3.1 TM Net is a licensed individual network services and content applications service provider under the Act. Pursuant to these licences, TM Net may offer network services and content applications service in Malaysia.

- 1.3.2 Pursuant to Section 5.3.2 of the MSA Determination, TM Net is obliged to prepare and maintain an access reference document in relation to network facilities or network services listed in the Access List Determination which TM Net provides to itself or third parties.
- 1.3.3 TM Net's ARD:
- (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 TM Net's ARD.
- 1.3.5 TM Net considers TM Net's ARD to be consistent with:
- (a) the standard access obligations stipulated under Section 4.1.1 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 TM Net's ARD is only applicable to the Facilities and/or Services. If the Access Seeker requests network facilities and/or network services outside TM Net's ARD, the terms and conditions for the provision of such network facilities and/or network services shall remain outside the scope of TM Net's ARD.
- 1.3.7 If an Access Seeker requests TM Net to provide it with Facilities and/or Services other than on the terms and conditions contained in TM Net's ARD, TM Net and the Access Seeker will:
- (a) negotiate in good faith in relation to such terms and conditions; and
 - (b) enter into and conduct negotiations in a timely manner.

1.4 Additional Services

- 1.4.1 In addition, the Operators are free to consider TM Net's ARD 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.

1.5 Effective Date of TM Net's ARD

1.5.1 Commencement and Duration of TM Net's ARD

- 1.5.1.1 TM Net's ARD comes into force and takes effect immediately from the date referred to in **Section 1.1.1** and continues until the earlier occurrence of any of the following:
- (a) the expiry of TM Net's ARD Term; or
 - (b) a Review; or

- (c) the withdrawal of TM Net's ARD in accordance with the terms of TM Net's ARD.

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

1.5.2 Amendment to TM Net's ARD

1.5.2.1 TM Net shall, within ten (10) Business Days of making any amendment to TM Net's ARD, provide a copy of the amendments, or an amended copy of TM Net's ARD to:

- (a) the Access Seeker who is being provided with Facilities and/or Services; and
- (b) the Access Seeker who has requested TM Net's ARD 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.

1.5.3 Notice of Withdrawal, Replacement and Variation of TM Net's ARD

1.5.3.1 If the Commission revokes, varies or replaces the Access List Determination relating to the Facilities and/or Services pursuant to section 56 of the Act, TM Net may, by giving written notice to all Access Seekers to whom it is supplying Facilities and/or Services, withdraw or replace TM Net's ARD with effect from a date no earlier than the effective date of the Commission's revocation.

1.5.3.2 TM Net shall comply with Sections 6.4.2 and 6.4.3 of the MSA Determination where it withdraws or varies TM Net's ARD pursuant to **Section 1.5.3.1**.

1.5.3.3 In addition to **Section 1.5.3.2** above, TM Net may give the Access Seekers to whom it is supplying Facilities and/or Services a notice of a variation or replacement of TM Net's ARD to effect such variations that are necessary or appropriate in the event of:

- (a) the occurrence of a Legislative Event that materially affects the rights or obligations of TM Net under TM Net's ARD; or
- (b) the occurrence of a Regulatory Event that relates to TM Net; or
- (c) a review by the Commission of the MSA Determination pursuant to Section 6.5 of the MSA Determination.

1.5.3.4 Notwithstanding **Sections 1.5.3.1, 1.5.3.2 and 1.5.3.3** above, TM Net may subject to **Section 1.5.2** above, replace TM Net's ARD at any time.

1.5.4 Availability

1.5.4.1 Subject to **Section 1.5.4.2**, TM Net's ARD shall be made available to an Access Seeker:

- (a) on written request, at TM Net's principal place of business; and
- (b) on TM Net's website.

1.5.4.2 Prior to the provision of TM Net's ARD to the Access Seeker, the Access Seeker shall be required to enter into a Confidentiality Agreement with TM Net.

CHAPTER 2 - INTERPRETATION

2.1 The following words have these meanings in this TM Net's ARD unless the contrary intention appears:

“Act” means the Communications and Multimedia Act 1998;

“Access Agreement Template” or **“AAT”** means a model access agreement entered into and made pursuant to an Access Request made in accordance with **Sections 4.1 to 4.8**;

“Access Agreement” means:

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

whereby TM Net provides requested Facilities and/or Services in accordance with the terms therein contained and registered with the Commission in accordance with Section 150 of the Act;

“Access List Determination” means the Commission Determination on Access List, Determination No. 1 of 2005 which came into operation on 1 July 2005 and as amended by the Variation to Commission Determination on Access List (Determination No.1 of 2005), Determination No.1 of 2009;

“ARD Term” means the period of three (3) years commencing from the date set out in **Section 1.1.1** or such other period as may be specified by TM Net from time to time;

“Access Request” means a request made by the Access Seeker to TM Net for access to Facilities or Services, and containing the information in **Section 4.1.3**;

“Access Seeker” means an Operator who:

- (a) is a network facilities provider, network services provider, applications 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 and/or Services or is being provided with Facilities and/or Services;

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

- (a) a POI/POP and a Called Party/called number; or
- (b) a Calling Party and a POI/POP; or
- (c) two POIs/POPs;

“Bank Guarantee” means an irrevocable guarantee, in a form acceptable to TM Net, executed in favour of TM Net by a licensed bank in Malaysia approved by TM Net pursuant to **Section 4.3** 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 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 and Sunday or a public holiday;

“Call Communication” means a Communication involving (in whole or in part) a Fixed Number, a Mobile Number or IP address for use in the operation of an Operator's Network and as allocated by the Commission in accordance with the respective Operator's Licence, and in accordance with the Act;

“Called Party” means the Fixed Number, Mobile Number, or person to which or to whom a Communication is made;

“Calling Party” means a Customer who originates a Call Communication or, where applicable, the Customer who is billed or is obliged to pay for the Call Communication or, in the case of an International Inbound Call, the person originating the Call Communication.

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

“CLI” or **“Calling line identification”** means the information generated from the Network capability which identifies and forwards through the Network, TM Net's or the Access Seeker's calling number, as the case may be;

“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 a Communication Attempt. Communication shall also include Message Communications.

“Communication Attempt” means the activity associated with setting up a Communication which may or may not be successful including Network Chargeable Calls;

“Communication Information” means information in respect of Communications made during the Billing Period which may include but not be limited to:

- (a) calling number and, if it is different, the billing number;
- (b) the called number;
- (c) the day on which the Communication was made;
- (d) the time of commencement of the Communication;
- (e) the duration of the chargeable Communication (including Interconnect Chargeable Calls, and chargeable Communication Attempt) time and, in the case of non-PSTN communications, all other applicable charging parameters;
- (f) the fee charged by TM Net for use of its Network to accommodate the Communication, separately identifying each of the charge elements specified in the Access Agreement;
- (g) the routing information relating to the POI/POP at which Communications from the Operator's Network entered and left the other Operator's Network; and
- (h) whether the Communication was successfully completed,

or, if any such information is technically unavailable to an Operator pending implementation of appropriate information recording systems, such other relevant available information reasonably requested by the other Operator;

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

"Confidentiality Agreement" means a confidential agreement entered into between the Operators in accordance with Section 5.3.7 of the MSA Determination.

"Creditworthiness Information" means the information required by TM Net to assess the creditworthiness of the Access Seeker which are more particularly described in **Section 4.2** of TM Net's ARD and such other information as may be required from time to time;

"Customer" means in relation to an Operator, an end-user having a contractual relationship with the Operator for the provision of Communications Services unless otherwise expressly provided in TM Net's ARD;

"DLS" means a digital local switch installed in TM Net or the Access Seeker's PSTN Fixed Network;

"DTS" means the digital trunk switch installed in TM Net or Access Seeker's PSTN Fixed Network;

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

"Direction" means any lawful direction made by the Commission pursuant to Chapter 1 of Part V of the Act;

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

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

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

“Facilities” means network facilities and/or other facilities which facilitate the provision of network services or applications services including content applications services which are listed in the Access List Determination and offered in TM Net's ARD;

“Fast Track Application Service” means a Facility or Service that is subjected to the fast track application process which is more particularly set out in **Section 4.9.1**;

“Fast Track Access Agreement” or **“FTAA”** means a model access agreement entered into pursuant to a fast track application process made in accordance with **Section 4.9**;

“Fast Track Security Sum” means the security sum:

- (a) in the form of a Bank Guarantee, deposited with TM Net in accordance with **Section 4.9** and **Chapter 6** for the Fast Track Application Service; and
- (b) which amounts to Ringgit Malaysia Fifty Thousand (RM50,000) only for each Facility or Service for which access is sought unless otherwise provided in **Chapter 6**;

“Fixed Network” means network facilities and/or network services comprising the PSTN and/or networks based on Internet Protocols for the provision of Communications by guided electromagnetic energy or by point-to-point unguided electromagnetic energy;

“Fixed Network Termination Service” means an Access Service for the carriage of Call Communications from a POI/POP to a Called Party directly connected to TM Net's Fixed Network and which is more particularly described in **Part I of Schedule A**;

“Fixed Number” means:

- (a) a PSTN and/or ISDN number directly connected to the exchanges of either Operator, as the case may be; and/or
- (b) TSoIP Telephony Number,

but does not include the Mobile Numbers of the respective Operator;

“Gateway” is a designated Media Gateway or SBC which:

- (a) provides operational interworking between the Operators' Network; and

- (b) provides an agreed interface between the signalling, switching, transmission and operations systems of each Operator; and
- (c) is defined by a unique name or code; and
- (d) supports one or more POIs;

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

“Insurance Information” means the insurance information required by TM Net pursuant to **Section 4.4**;

“Integrated Services Digital Network” or “ISDN” means an integrated service Network that provides digital connection between user-network interface in accordance with the relevant ITU recommendations;

“Interconnect Chargeable Calls” includes Successful Calls and Network Chargeable Calls;

“Interconnect Conditioning” means the conditioning, equipping and installation of facilities at TM Net’s Gateway to enable the provision of one or more Access Services;

“Interconnection” means interconnection of the Operators’ Networks for the purposes of TM Net providing Access Services to the Access Seeker in relation to a Call Communication via a POI/POP and using agreed interfaces and signalling systems;

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

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

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

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

“Legislative Event” means:

- (a) the enactment, amendment, replacement or repeal of the Act;
- (b) the enactment, amendment, replacement or repeal of the rules promulgated pursuant to sections 104 and 105 of the Act in respect of mandatory standards;
- (c) the registration, determination, promulgation, issue, amendment or replacement of any industry code with which TM Net is required or obliged to comply; and/or

- (d) the making of a determination, direction or finding by the Commission, the Minister or a court of law that all or any part of TM Net's ARD contravenes any provision of any law, except to the extent that the making of such determination, direction or finding constitutes a Regulatory Event;

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

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

“Media Gateway” means a translation unit installed in the Operators' IP Fixed Network including Session Initiation Protocol which provides an interface between the disparate network of the Operators e.g. interface between PSTN and IP Network;

“Message Communications” means communications that provide only text with or without associated images, audio clips and video clips. Examples of Message Communications include SMS and MMS;

“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 TM Net to the Access Seeker for a ninety (90) day period;

“Minister” means the Minister of Information, Communication and Culture or, if different, the Minister administering the Act;

“Mobile Number” means a number(s) which has been allocated under the Number Plan to a mobile operator for the provision of a public cellular service;

“Model Access Agreement” means the:

- (a) Access Agreement Template or AAT; or
(b) Fast Track Access Agreement or FTAA; and

which contains the terms and conditions based on TM Net's ARD;

“MyIX” means the Malaysia Internet Exchange;

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

“Network Chargeable Call” is a call which, for any reason whatsoever, fails whitelist screening and is terminated at RVA;

“Number Plan” means the number plan adopted by the Commission, or the numbering and electronic addressing plan, subsequently, developed, issued and amended by the Commission pursuant to Chapter 2 of Part VII of the Act for the administration, management and assignment of numbers (as defined in Section 6 of the Act), including, but not limited to PSTN numbers and short codes;

“Operations and Maintenance Manual” means the manual associated with **Schedule C**, as the case may be and which is part of the Access Agreement, in relation to the following:

- (a) network information;
- (b) commissioning, de-commissioning and re-arrangement practices;
- (c) maintenance practices;
- (d) fault handling procedures;
- (e) complaint handling;
- (f) network monitoring;
- (g) network management;
- (h) access to POI/POP sites;
- (i) contact lists;
- (j) quality of service standards; and
- (k) such other matters as are agreed between the Operators from time to time and set out in the Operations and Maintenance Manual;

“Operator” means TM Net or the Access Seeker and **“Operators”** means TM Net and the Access Seeker collectively;

“Point of Interconnection” or “POI” means a point at or between the DTS/MSC/Media Gateway/SBC which demarcates the Network of TM Net and the Network of the Access Seeker (collectively referred to as the **“interconnecting networks”**) and is a point at which a call Communication is transferred between the interconnecting networks. An example of a POI is MyIX;

“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;

“Public Switched Telephone Network” or “PSTN” means a domestic public telecommunications network usually accessible by telephones, key telephone systems and private automatic branch exchanges, and the completion of circuits between the Calling Party and Called Party in such a network requires network signalling in the form of dial pulses or multi-frequency tones.

“QOS” means quality of service;

“Regulatory Event” means:

- (a) the declaration, modification, variation or revocation of the MSA Determination;
- (b) the giving of a lawful direction to TM Net by the Commission relating to TM Net's ARD; and/or

- (c) the giving of a lawful direction to TM Net by the Minister relating to TM Net's ARD;

“Review” means a review of the MSA Determination pursuant to Section 6.5 of the MSA Determination;

“RM” means Ringgit Malaysia which shall be the monetary currency used in TM Net's ARD unless otherwise provided;

“Security Sum” means the security sum:

- (a) in the form of a Bank Guarantee, deposited with TM Net in accordance with **Section 4.3** and **Chapter 6** for the supply of Facilities or Services; and
- (b) which is equivalent to the Minimum Value unless otherwise provided in **Chapter 6**;

“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 TM Net's ARD;

“Service Ordering Procedures” means the procedures governing the forecasting, planning and ordering of relevant Facilities and Services as set out in the relevant Manuals;

“SMS” means short messaging service conforming to the ETSI standards;

“Standard Access Obligations” has the meaning prescribed in Section 149 of the Act;

“Successful Call” means a completed call whereby the originating exchange receives the answer signal from the terminating exchange resulting from the Customer answering the call or a call that has been routed to the call center. The chargeable duration is the period from the receipt of answer signal to the receipt of the clear forward or forced release signal;

“Technical and Implementation Manual” means the manual associated with **Schedule C** and which is part of the Access Agreement, in relation to the following:

- (a) principles for network configuration;
- (b) forecasting procedures;
- (c) ordering procedures;
- (d) provisioning procedures;
- (e) routing and numbering principles including Special Services;
- (f) signalling and Technical Specifications for the Interconnection of Fixed Numbers;
- (g) commissioning procedures;

- (h) call forwarding procedures;
- (i) POI/POP establishment procedures;
- (j) relocation and removal procedures for POI/POP equipment; and
- (k) such other matters as are agreed between the Operators from time to time and set out in the Technical and Implementation Manual.

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

"TM Net" means TM Net Sdn Bhd and in this ARD, is the Access Provider unless otherwise stated;

"Telephony Service over IP" means an IP network service using the service number prefix "0154" (or such number as may be determined by the Commission) that supports applications services such as voice calls or data delivered over Internet Protocol Network;

"TSolP Telephony Number" means the service number with the prefix "0154" (or such number as may be determined by the Commission) which is used for purposes of Telephony Service over IP;

2.2 In TM Net's ARD except where the contrary intention appears;

- (a) the singular includes the plural and vice versa; and
- (b) a document includes all amendments or supplements to that document, or replacements or novations of it; and
- (c) a reference to a statute, ordinance, regulations, code or other law and other instruments under it, shall include any statute, ordinance, regulation, code and other 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 1965; and
- (h) a reference to a third person is a reference to a person who is not a party to TM Net's ARD; and

- (i) 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 TM Net's ARD; and
- (j) headings are included for convenience and do not affect the interpretation of TM Net's ARD.

CHAPTER 3 – PRINCIPLES OF ACCESS AND INTERCONNECTION**3.1 Services**

- 3.1.1 Subject to **Section 1.3.6**, TM Net's ARD applies only to the Facilities and/or Services.
- 3.1.2 The service description for each of the Facilities and Services are set out in **Schedule A**.
- 3.1.3 The charges and charging principles for each of Facilities and Services are set out in **Schedule B**.
- 3.1.4 The technical and operational matters for all of the Facilities and Services are set out in **Schedule C**.

3.2 Eligibility for Access to Services

- 3.2.1 TM Net may at its discretion and in a manner consistent with the Licence(s) granted (and the licence rights accorded therein) by the Minister to the Access Seeker, determine on a case by case basis whether to provide the Access Seeker with access to the Facilities and/or Services.
- 3.2.2 Consistent with Government policy and Determinations by the Commission (and its predecessor), an Access Seeker may only request for access to any or all of the Facilities and/or Services where the Access Seeker has been granted (i) an individual network facilities provider licence, (ii) an individual network services provider licence and/or (iii) an individual content applications services provider licence, unless otherwise agreed by TM Net, and such individual licences 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 a specific area and/or areas in Malaysia to which the Access Seeker can provide such network facilities, network services and/or content applications services.
- 3.2.3 An Access Seeker may not request for access to the Facilities 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 Determinations by the Commissions (and its predecessor), where TM Net 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 Principles of Access and Interconnection

- 3.3.1 Subject to **Sections 3.2**, TM Net shall if requested to do so by an Access Seeker, supply a Facility and/or Service on reasonable terms and conditions.

3.3.2 In supplying a Facility and/or Service, TM Net must treat an Access Seeker on a non-discriminatory basis as required by the Standard Access Obligations in relation to the supply of a Service.

3.3.3 Principles of non-discrimination

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

- (a) section 149(2) of the Act; and
- (b) the principles set out in sections 4.1.5 and 4.1.6 of the MSA Determination.

3.3.4 Customer Principles

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

CHAPTER 4 – ACCESS REQUEST PROCEDURES**4.1 Application for Access to Services**

- 4.1.1 Where an Access Seeker makes a request to TM Net to supply Facilities or Services, the Access Seeker shall serve an Access Request on TM Net.
- 4.1.2 The purpose of such Access Request is to provide TM Net with sufficient information to assess the Access Seeker's request for the supply of Facilities or Services under TM Net's ARD.
- 4.1.3 The Access Request must:
- (a) contain the name and contact details of the Access Seeker;
 - (b) specify the Facilities or Services in respect of which access is sought;
 - (c) indicate whether the Access Seeker wishes to accept TM Net's ARD or negotiate an Access Agreement;
 - (d) contain the information (if any) as set out in Section 5.3.6 of the MSA Determination that the Access Seeker reasonably requires TM Net 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 TM Net;
 - (f) specify forecasts of the capacity which the Access Seeker reasonably requires, having regard to TM Net's disclosed provisioning cycle and forecasting procedures as described in **Schedule C**;
 - (g) provide the relevant information relating to the Access Seeker's Network and the functionality of its Services, to the extent that the Access Seeker is aware that such information may affect TM Net's Network;
 - (h) contain confirmation that the Access Seeker is not currently being supplied with the requested Facility or Service;
 - (i) specify the type of communications licences held by the Access Seeker and a copy of the licence where a copy had not been previously provided;
 - (j) contain Creditworthiness Information as set out in **Section 4.2**;
 - (k) be accompanied by a Security Sum as set out in **Section 4.3**;
 - (l) contain Insurance Information as set out in **Section 4.4**;
 - (m) contain relevant technical information relating to the interface standards of the Access Seeker; and
 - (n) contain such other information that TM Net may reasonably request.

4.2 Creditworthiness Information

- 4.2.1 The Creditworthiness Information that is required to accompany an Access Request include 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 TM Net provided that such information are information which are publicly available
- 4.2.2 The Creditworthiness Information shall commensurate with an estimate of the value of the access to the Facilities or Services to be provided by TM Net to the Access Seeker over a ninety (90) day period.

4.3 Security Sum

- 4.3.1 An Access Request shall be accompanied by a Security Sum. The security to be given by the Access Seeker shall be in the form of a Bank Guarantee.
- 4.3.2 TM Net is not obliged to consider entering into an Access Agreement with the Access Seeker pursuant to TM Net's ARD until the Access Seeker has amongst other things, provided (at the Access Seeker's costs) to TM Net such Security Sum on terms and conditions reasonably acceptable to TM Net.

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 employed or in connection with the work covered by the Access Agreement that may be entered into and/or their dependants; and
 - (b) Comprehensive General Liability Insurance of an amount which is not in excess of Ringgit Malaysia Twenty Million (RM20,000,000) for any one claim or series of claims arising out of an accident or occurrence in connection with the Access Agreement that may be entered into 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 TM Net.

4.5 Processing of Access Request

4.5.1 Acknowledgement of Receipt of Access Request

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

- (a) Subject to **Section 4.5.3**, request additional information from the Access Seeker where there is a need for further information, prior to considering the Access Request; or
- (b) indicate whether it is willing to provide access to Facilities or Services in accordance with TM Net's ARD.

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

4.5.2 Non-refundable resource charge

4.5.2.1 In accordance with Section 5.7.28 of the MSA Determination TM Net 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 TM Net for the allocation of manpower and other resources to enable the Access Seeker to test and provide new Facilities and Services for the purposes of interconnection.

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 TM Net is required to allocate manpower and resources for the same. Such non-refundable processing fee is only applicable to requested Facilities and Services that can be offered and made available by TM Net. The non-refundable processing fees for the respective Facilities and Services are set out in **Annexure 2**. Processing Fees for Facilities and Services not currently specified in **Annexure 2** will be mutually agreed by the Operators from time to time. Notwithstanding the foregoing, in the event that additional and non-routine administrative work is required to process the Access Request where there is insufficient and/or erroneous information provided by the Access Seeker or where the Access Seeker varies or changes the information provided, TM Net 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 TM Net, the processing fees will not be refunded to the Access Seeker. However, if the Access Seeker proceeds with the Access Request accepted by TM Net, processing fee only will be set-off against the Charges for the requested Facilities and Services after acceptance of the Access Request by TM Net.

4.5.3 Request for information

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

4.6 Assessment of Access Request

4.6.1 Reasons for Refusal

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

- (a) in TM Net's reasonable opinion, the Access Seeker's Access Request was not made in good faith and TM Net shall set out the basis on which the Access Request was not made in good faith;
- (b) in TM Net's reasonable opinion, the Access Request does not contain the information reasonably required by TM Net's ARD provided that TM Net has sought the information from the Access Seeker under **Section 4.5.1** of TM Net's ARD and has not received that information within twenty (20) Business Days of making such a request;
- (c) TM Net does not currently supply or provide access to the requested Facilities or Services to itself or to any third parties, except where the Access Seeker compensates TM Net for the supply of access to such Facilities or Services;
- (d) it is not technically feasible to provide access to the requested Facilities or Services;
- (e) TM Net has insufficient capacity or space to provide the requested Facilities or Services;
- (f) there are reasonable grounds in TM Net's opinion to believe that the Access Seeker would fail to make timely payment for the supply of the relevant Facility or Service;
- (g) there are reasonable grounds in TM Net'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 TM Net 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 5.4.17 of the MSA Determination.

4.6.3 Determination of capacity constraints

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

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

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

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

4.6.6 Assessment of Creditworthiness

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

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

- (a) notify the Access Seeker in writing within ten (10) Business Days from receipt of the Access Request or additional information requested pursuant to **Section 4.5.1**, as the case may be;
- (b) provide reasons for rejection under **Section 4.6** to the Access Seeker;
- (c) provide the basis for TM Net's rejection of the Access Request; and
- (d) indicate a date and time, not later seven (7) Business Days from the date of the notice of rejection, at which representatives of TM Net will be available to meet with representatives of the Access Seeker to discuss the rejection of the Access Request. At this meeting, the Access Seeker may request TM Net to substantiate its reasons for refusal, and if access has been refused on the basis of the grounds in **Section 4.6.1(e)**, TM Net 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 **Chapter 8**.

4.8 Acceptance of Access Request

4.8.1 Where TM Net agrees to provide access to Facilities or Services to the Access Seeker in accordance with TM Net's ARD, TM Net shall within ten (10) Business Days of such respond under **Section 4.5.1(b)**, provide the Access Seeker with two

copies of the executed Model Access Agreement, for execution by the Access Seeker.

- 4.8.2 Where the Access Seeker wish to negotiate an Access Agreement, the Operators shall comply with the requirements in Sections 5.4.2, 5.4.4, 5.4.9 and 5.4.15 of the MSA Determination in negotiating and concluding an Access Agreement.
- 4.8.3 TM Net will not be taken to have agreed to provide, and the Access Seeker will not be taken to have agreed to acquire the requested Facility or Service until:
- (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 Fast Track Application Process

- 4.9.1 (a) The fast track application process set out in this **Section 4.9** shall be applicable Fixed Network Termination Service.
- (b) Where an Access Seeker requests for a Facility or Service that is not listed in **Section 4.9.1** above in addition to a Fast Track Application Service, the fast track application process shall not be applicable and the Access Seeker shall be required to put in an Access Request for the requested Facilities and Services in accordance with **Sections 4.1 to 4.8**.
- 4.9.2 An Access Seeker is only eligible for the fast track application process if it fulfils the following criteria:
- (a) the Access Seeker is duly licensed to provide the Facilities or Services for which access is sought;
 - (b) the access requirements of the Access Seeker do not in TM Net's opinion, have a material impact on TM Net's current level of network resources; and
 - (c) the Access Seeker is willing to accept the terms and conditions for the requested Facilities or Services as stipulated in the Model Access Agreement without negotiation.
- 4.9.3 Subject to **Section 4.9.1**, where an Access Seeker who is eligible for the fast track application process wishes to utilise the fast track application process, the Access Seeker shall:
- (a) forward to TM Net a duly completed fast track application form which shall contain the following information:
 - (i) the name and contact details of the Access Seeker; and
 - (ii) the Facilities and Services in respect of which access is sought;
 - (b) deposit a Fast Track Security Sum;

- (c) pay a non-refundable processing fee as set out in **Annexure 2** to TM Net for undertaking the necessary administrative work to process the fast track application; and
 - (d) lodge with TM Net two copies of the signed Model Access Agreement with suggested amendments to the technical matters (if any).
- 4.9.4 TM Net may reject the Access Seeker's fast track application for the reasons set out in **Sections 4.6.1(c), (f) and (g)**.
- 4.9.5 Where TM Net accepts the Access Seeker's fast track application, TM Net:
- (a) may impose a one-off resource charge for allocation of manpower and other resources in accordance with **Section 4.5.2**; and
 - (b) shall, subject to within ten (10) Business Days of receipt of the fast track application, execute the Model Access Agreement.
- 4.9.6 TM Net will not be taken to have agreed to provide, and the Access Seeker will not be taken to have agreed to acquire the requested Facility or Service until:
- (a) a Fast Track Security Sum has been provided in accordance with **Sections 4.9.3**; and
 - (b) a Model Access Agreement has been executed between the Operators and the Model Access Agreement is registered with the Commission in accordance with section 150 of the Act.
- 4.9.7 If the Access Seeker wishes to obtain the Fast Track Application Services but is not agreeable to the terms and conditions of the Model Access Agreement, TM Net is not obliged to process the fast track application further and the Access Seeker shall be required to put in a new Access Request in accordance with **Sections 4.1 to 4.8**.

CHAPTER 5 - PROVISION OF INFORMATION

- 5.1 The obligations of each Operator to provide information to the other Operator are subject to the MSA Determination and the requirements of confidentiality imposed by TM Net's ARD.
- 5.2 An Operator must provide the other Operator on a timely basis with all agreed information reasonably required to determine rates and charges to be billed by each Operator to the other Operator or by each Operator to its Customers.
- 5.3 Each Operator will charge and bill its own Customers for Call Communication. The Operators will agree on the Communication Information which is to be exchanged for the purposes of charging and billing, and which shall be deemed to be included in the Manuals for the purposes of call and billing verification. For the purpose of inter-operator billing reconciliation, the Operators will provide CLI to each other subject to:
- (a) the ability of the relevant exchange to provide CLI; and
 - (b) CLI being forwarded to it from another network with which its Network is interconnected.
- 5.4 CLI and data relating to CLI will be kept confidential by the Operators. The Operators may use the CLI disclosed to it only for the following purposes:
- (a) prevention and investigation of fraud;
 - (b) display to Customers;
 - (c) emergency services;
 - (d) malicious call tracing; and
 - (e) inter-Operator and/or Customer billing,
- provided always that such use does not violate the law. The Operators will cooperate in the barring of CLI where required under law, Determination, Direction or as otherwise agreed.
- 5.5. To the extent permitted by Malaysian law and any relevant guidelines or customer service standards in force pursuant to the Operator's respective Licence conditions, the Operators will exchange information and otherwise cooperate in relation to the prevention and investigation of fraudulent use or misuse of the Operator's respective Communications Services and the theft of the Operator's provided terminal equipment
- 5.6 Information provided under TM Net's ARD may only be used for the purpose for which it was given. Personal information about a Customer's credit worthiness, credit standing, credit history or credit capacity may only be used for the purposes permitted by, and in compliance with, Malaysian law.
- 5.7 If the information is used by an Operator for any purpose other than the purpose for which it was given, the providing Operator may deny the recipient Operator further access to the information for the period during which the non-observance or non-conforming use continues on notice specifying the non-observance or non-conforming use. The Operators will cooperate to resolve the providing Operator's

reasonable concerns so that information exchange can be resumed as soon as possible.

- 5.8 The Operators acknowledge that when information (including for the purposes of this Chapter any updated information) required to be provided under this Chapter is held on a database, the Operator entitled to receive the information will not be entitled to obtain direct access to the database. The precise method by which information is to be made available will be determined by the ISG having regard to the reasonable cost, convenience and security concerns of the Operators.
- 5.9 (a) Subject to the Act and any subordinate legislation, nothing in TM Net's ARD may be construed as requiring an Operator at any time to disclose to the other Operator information which is at the date when TM Net's ARD comes into force, the subject of a confidentiality obligation owed to a third person unless the third person consents to such disclosure. Where the consent of a third person is required, the Operator holding the information must use its reasonable endeavours to obtain the consent of that third person.
- (b) After the Access Agreement comes into force an Operator must use its best endeavours not to enter into any contract which would prevent it from making information available to the other Operator unless the contract includes a term which permits the contracting Operator to make the information available if directed to do so by the Commission.
- 5.10 All communication information, call and such other relevant information in relation to Call Communication must be kept by both Operators for a period of two (2) years unless otherwise agreed in writing for the purposes of verification and audit.

CHAPTER 6 - BILLING AND SETTLEMENT

- 6.1 Where relevant, the billing and settlement obligations set out in Section 5.14 of the MSA Determination shall be applicable.
- 6.2 In respect of any Charges due from the Access Seeker, TM Net shall raise the Invoice for the amount due for the for the supply of the relevant Facilities or Services supplied by TM Net to the Access Seeker except for:
- (a) Charges incurred for agreed numbers used for testing purposes prior to the commissioning of the respective POI; and
 - (b) voice announcements at exchanges which are limited to:
 - (i) the number is not in service;
 - (ii) bulk change announcement;
 - (iii) subscriber set is not switched on/active;
 - (iv) subscriber set is out of range; or
 - (v) any other voice announcement at exchanges (which are not chargeable) to be mutually agreed in writing by the Operators.
- 6.3 Unless otherwise agreed in writing, TM Net shall invoice in writing or in electronic form as requested by the Access Seeker, on an Operator to Operator basis, within thirty (30) days from the end of the Billing Period for amounts due in respect of the supply of the relevant Facilities and/or Services during the Billing Period. TM Net shall provide with each Invoice, such information as may be reasonably necessary for the Access Seeker to verify the rates and charges specified in the Invoice. In addition, the Access Seeker may request, in writing, for the billing report to be provided by TM Net in an electronic format.
- 6.4 TM Net shall provide the Access Seeker at the Access Seeker's, written request, with an aggregated summary of billings for access to the relevant Facilities and/or Services provided to the Access Seeker in monthly tranches.
- 6.5 The Operators shall, from time to time, inform each other of the mailing address and the department to which the Invoice should be sent to and also their respective bank account details for the purposes of enabling the other Operator to make payment. All Invoices shall be delivered by hand or post (either registered mail or courier).
- 6.6 (a) TM Net is responsible for obtaining information upon which the invoice is based, and if TM Net does not normally collect that information and it is not reasonably practicable for TM Net to do so but the Access Seeker is able to collect the information, the Access Seeker may, upon written request, provide a summary of information which is reasonably necessary to allow TM Net to provide accurate and timely Invoice to the Access Seeker subject to such terms and conditions as may be determined by the Access Seeker, and if the Access Seeker provides such information, TM Net undertakes that it will only use that information to verify its own interconnect usage report.
- (b) If the Access Seeker provides such information, TM Net shall pay the Access Seeker a reasonable fee to be determined by the Access Seeker. In the event TM Net requires a more detailed interconnect report or information, TM Net may request the same from the Access Seeker and such details will be provided at a reasonable additional charge to be determined by the Access

Seeker provided always that it is reasonably practicable for the Access Seeker to do so.

- (c) For the purposes of preparing the summary of information, the 'A' and/or 'B' numbers shall be included and such 'A' and 'B' number shall be determined as follows:-

- (i) Direct Interconnection – Fixed Network (both PSTN and TSoIP) to PSTN Fixed Network

Physical location of 'B' number and handover POI

- (ii) Direct Interconnection – Fixed Network (both PSTN and TSoIP) to TSoIP Fixed Network

Allocated 'B' number and handover POI

- (iii) Direct Interconnection – Fixed Network (both PSTN and TSoIP) to Mobile Network

Region of the registered 'B' number and handover POI

- (iv) Direct Interconnection – Mobile Network to TSoIP Fixed Network

Allocated 'B' number and handover POI

- 6.7 (a) If TM Net is unable to submit an Invoice for actual charges for any Facilities and/or Services supplied in a Billing Period, then TM Net may issue to the Access Seeker an Invoice for a provisional amount ("**Provisional Amount**") based on the last Invoice provided that the amount of the Provisional Amount is no more than the average of the most recent three (3) Invoices. Where there have not been three (3) past Invoices for access to the relevant Facilities and Services, TM Net may issue a provisional Invoice up to the full value of the amount based on the most recent Invoice (save and except for the first month commencing from the Effective Date). The Access Seeker shall pay the Provisional Amount by the Due Date. The Provisional Amount will be adjusted in the next invoice or as soon as practicable but not later than sixty (60) days after the month in which the charges were incurred or such other time period as may be agreed in writing ("**Adjustment Period**"). If an adjustment is not made within the Adjustment Period, the Access Seeker shall treat the Provisional Amount as the actual invoice.

- (b) TM Net may Invoice the Access Seeker for the Provisional Amount for a period of not more than three (3) successive Billing Periods.

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

- (b) If the actual amount for a particular Billing Period is lower than the Provisional Amount for the same Billing Period, TM Net will reimburse in full such difference free of interest within thirty one (31) days from the receipt of the invoice to the Access Seeker. Such payment must be forwarded to the

Access Seeker together with the relevant monthly statement of the actual interconnect usage.

- 6.9 Where appropriate, any taxes (including goods and service tax), duties or other imposts shall be added to all and any Charges under TM Net's ARD and be paid by the Operator responsible for making such payment.
- 6.10 (a) The Access Seeker must pay any amount due and owing to TM Net on the Due Date unless otherwise agreed in writing by both Operators.
- (b) The Access Seeker to whom any relevant Facilities and/or Services is provided must pay TM Net the Charges, and on the terms and conditions set out or referred to herein.
- 6.11 All payments must:
- (a) be paid by electronic transfer to TM Net or exceptionally, by cheque to the nominated account(s) of TM Net if agreed by TM Net; and
- (b) must be accompanied by such information as is reasonably required by TM Net to properly allocate payments received, failing which TM Net shall have the absolute discretion to allocate payments received to any amounts due and payable; and
- (c) unless otherwise agreed by the Operators, shall not be subject to any set-offs except where the Access Seeker is in liquidation or at least three (3) Invoices have been issued and such Invoices have not been paid (excluding disputed amounts which the Access Seeker is authorised to withhold in accordance with **Section 8.6.5**).
- 6.12 (a) Subject to **Section 6.12(b)**, all invoices shall be stated in Ringgit Malaysia and payment must be made in Ringgit Malaysia; and
- (b) For invoices stated in foreign currency or other agreed forms in respect of Charges incurred for the utilisation of a foreign network, payment for such invoices shall be made in the currency nominated unless otherwise agreed.
- 6.13 TM Net is entitled to the payment of interest without prejudice to any other rights of TM Net. Interest on due and unpaid amounts is payable (as well as before judgment and after judgement) at the rate of one percent (1%) per annum above Malayan Banking Berhad Base Lending Rate (BLR) calculated daily from the Due Date until the date of actual payment. Payments which are overdue by more than sixty (60) days will bear interest at the rate of two percent (2%) per annum above Malayan Banking Berhad BLR (as well before judgment and after judgement) calculated from the Due Date until the date of receipt by the Invoicing Operator of full payment. Further, the BLR rate to be used shall be the published rate prevailing on the date of payment.
- 6.14 Where interest in respect of any due and unpaid amount is due to TM Net under **Section 6.13**, TM Net may add the amount of such interest to its next invoice.
- 6.15 If TM Net discovers an error in an invoice given to the Access Seeker under this **Chapter 6**, it must notify the Access Seeker. TM Net must make the necessary

adjustment to correct that error (including adjusting any interest erroneously charged) in its next Invoice.

- 6.16 TM Net may include omitted or miscalculated Charges from an Invoice at a later date provided TM Net is able to substantiate the Charges to the Access Seeker.
- 6.17 Notwithstanding anything to the contrary, TM Net shall be entitled to deduct or withhold such taxes, duties, levies or such other sums imposed by such governmental authorities (“**said taxes**”) from any sum or sums due to the Access Seeker in the event TM Net is required by law to pay the said taxes for and on behalf of the Access Seeker.
- 6.18 The Access Seeker shall have deposited or procured the deposit of the Security Sum or Fast Track 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 or the Fast Track Security Sum does not relieve the Access Seeker from its obligations to pay amounts to TM Net as they become due and payable, nor does it constitute a waiver of TM Net’s right to suspend, disconnect, or terminate the relevant Facilities and/or Services due to non-payment of any sums due or payable to TM Net.
- 6.19 (a) TM Net shall be entitled, from time to time, to revise the Security Sum and Fast Track Security Sum in any of the following event:-
- (i) where, in the reasonable opinion of TM Net, the amount of the Security Sum and Fast Track Security Sum is less than the Minimum Value calculated over a ninety (90) day period determined by TM Net;
 - (ii) where, in the opinion of TM Net, there is a material change in circumstances in relation to the Access Seeker’s creditworthiness. In such cases, TM Net 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 or Fast Track 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 or Fast Track Security Sum is, at any time, less than the Minimum Value (including when a demand has been made by TM Net) calculated over a ninety (90) day period determined by TM Net, the Access Seeker shall within thirty (30) days from the written request of TM Net, deposit a new security equivalent to the Minimum Value.
- 6.20 (a) The Security Sum or Fast Track Security Sum deposited by the Access Seeker with TM Net, shall only be used for the purposes set out in **Section 6.18**. TM Net may at its discretion call upon or deduct the Security Sum or Fast Track 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 or Fast Track Security Sum shall not be construed as a set-off or counterclaim.

- (b) Without prejudice to TM Net's rights under the Access Agreement and/or under law, upon termination of the Access Agreement:
 - (i) the Security Sum or Fast Track Security Sum deposited with TM Net or parts thereof together with the interest thereon, (if any) shall be returned and/or refunded to the Access Seeker within sixty (60) days from the date of termination provided that all other amounts payable by the Access Seeker to TM Net have been paid; and
 - (ii) subject to Section 6.20(b)(i), TM Net shall immediately in writing unconditionally waive its rights under any guarantee provided as Security Sum or Fast Track 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 TM Net as at the date of termination.

6.21 Billing Dispute Procedures

6.21.1 Where there is a Billing Dispute, the Operators shall comply with the dispute resolution procedures in **Chapter 8**.

6.21.2 With respect to Charges for Interconnect Traffic only, the Operators agree that where there is a discrepancy in:-

- (a) the call data, whether in the number of calls or duration of calls; or
- (b) the amounts payable,

in an Invoice for a particular traffic month, a variance of up to one percent (1%) of the total Charges for Interconnect Traffic shall be acceptable and shall not be subject to a billing dispute provided that such discrepancy is not a result of an error in charging principles or applicable rates.

6.21.3 For the avoidance of doubt, the Access Seeker shall not use the dispute resolution procedure in **Chapter 7** to avoid or delay payment due to the Invoicing Operator where there is no genuine dispute.

CHAPTER 7: DISPUTE RESOLUTION PROCESS

7.1. Introduction

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

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

- (a) inter-party working groups;
- (b) Interconnect Steering Group; and
- (c) specific resolution of disputes, being:
 - (i) technical disputes (which must follow the procedures set out in **Section 7.5** if they cannot be resolved through the application of the general dispute resolution provisions in **Sections 7.3 and 7.4**);
 - (ii) Billing Disputes, which must follow the procedures set out in **Section 7.6**; or
 - (iii) any other types of disputes which, if cannot be resolved through the application of the general dispute resolution provisions in **Sections 7.2, 7.3 and 7.4**, must be referred to the Commission for resolution.

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

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

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

7.2 General

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

- (a) urgent interlocutory relief in respect of any matter;

- (b) relief in respect of the other Operator failing to comply with the dispute resolution process set out in this **Section 11**; and/or
- (c) relief in respect of a manifest error or mistake of law of the arbitrator (including the Technical Expert), established by the Operators pursuant to any dispute resolution procedures agreed in writing.

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

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

7.3 Inter- Party Working group

- 7.3.1 In the first instance, the Operator raising a dispute must inform the other Operator in writing and the Operators should attempt to resolve the Access Dispute between themselves in good faith.

7.3.2 The Operators shall establish a working group, or working groups, to fulfill the requirements set out in **Section 7.3.1**. The working group shall be comprised of representatives of the Operators, and be headed by a person who holds a position at least equivalent to the head of TM's wholesale or interconnection group.

7.3.3 TM shall provide for:

- (a) subject areas dealt with by each working group;
- (b) equal representation by the Access Seeker and TM;
- (c) chairmanship and administrative functions of the working group which is to be shared equally; and
- (d) formal notification procedures to the working group.

7.3.4 The Operators shall use reasonable endeavours to attempt to settle an Access Dispute in the working group level for a period of no longer than forty five (45) days from the first meeting of the working group or such other period as the Operators may agree in writing subject always to the Operators right to obtain relief in court for the matters stated in **Section 7.2.1(a) to (c)**.

7.4 Interconnection Steering Group

7.4.1 In the event that the Operators cannot resolve the dispute between themselves within the time specified in **Section 7.3.4**, or after any agreed time extension has expired, either Operator may give ten (10) Business Days written notice ("**Notice Period**") to the other Operator stating its intention to escalate the issue and outlining the details of the issue. If the issue is not resolved prior to the expiry of the Notice Period, then either Operator may notify the other Operator ("**Receiving Operator**") that it wishes to refer the issue to the Interconnect Steering Group (**ISG**). In such an event, the Parties shall promptly form a committee comprising the ISG with an equal number of appropriate representatives from each Operator.

7.4.2 The ISG to which an issue has been raised will meet within ten (10) Business Days of the receipt by the Receiving Operator of a notice under **Section 7.4.1**. If the ISG fails to meet or has not been formed within ten (10) Business Days of the receipt by the Receiving Operator of a notice of escalation of the Dispute, either Operator may refer the dispute to a Technical Expert (in accordance with **Section 7.5**) or to the Commission for resolution in accordance with **Section 7.4.3(a) or (b)**, respectively.

7.4.3 If the ISG does not resolve the dispute within twenty (20) Business Days after it first meets to review that dispute under **Section 7.4.2**, either Operator may:

- (a) refer any technical dispute to a Technical Expert in accordance with **Section 7.5**; or
- (b) refer the dispute to the Commission for final resolution.

7.5 Use of a Technical Expert

7.5.1 A dispute will only be referred to a Technical Expert if the provisions in **Sections 7.3 and 7.4** have been complied with.

- 7.5.2 Once a dispute is referred to a Technical Expert, it may not be referred back to a Working Group or ISG.
- 7.5.3 The Technical Expert:
- (a) will be an expert appointed by agreement of the Operators or, if the Operators cannot agree, by the Commission;
 - (b) will have the appropriate qualifications and experience to arbitrate the dispute, including knowledge of the communication industry;
 - (c) need not be a Malaysian citizen or resident; and
 - (d) will not be an officer, director, or employee of a communications company or otherwise have a potential for conflict or interest.
- 7.5.4 If the Operators fail to appoint a Technical Expert within ten (10) Business Days of the notice to refer a dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.
- 7.5.5 When relying on the services of a Technical Expert, the following procedures will apply to the dispute resolution procedure of the Technical Expert:
- (a) the Operators will present written submission to the Technical Expert and each other within fifteen (15) Business Days of the appointment of the Technical Expert; and
 - (b) each Operator may respond to the other Operator's submission in writing within fifteen (15) Business Days from the date of the other Operator's submission.
- 7.5.6 A Technical Expert hearing will be within fifteen (15) Business Days of the last written submission unless:
- (a) an Operator requests for and the other Operator agrees that the use of the Technical Expert be by documents only; or
 - (b) failing agreement of the Operators, the Technical Expert decides within five (5) Business Days of the last written submission that the use of the Technical Expert be by documents only.
- 7.5.7 Should a Technical Expert dispute resolution procedure be held, each Operator will have the opportunity of making an oral submission. This process will be conducted in private.
- 7.5.8 The procedure for hearing technical disputes will be determined by the Technical Expert (including number and duration of oral submissions by the Operators) but in any case, the Technical Expert's hearing will last no longer than three (3) Business Days.
- 7.5.9 The Technical Expert will not have the power to appoint any other experts.
- 7.5.10 The Technical Expert will deliver his award within fifteen (15) Business Days of the conclusion of the hearing or of the last written submission where the arbitration is by

documents only. A failure to comply with the time frame in this **Section 7.5.10** does not invalidate the Technical Expert's award.

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

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

7.6 Billing dispute resolution

7.6.1 TM Net shall allow the Access Seeker to dispute an Invoice prepared by TM Net if:

- (a) in the case of domestic Call Communication (including International Inbound Calls), the Access Seeker notifies TM Net in writing within forty-five (45) days from receipt of the invoice(s) (including any invoice to include late or omitted charges with respect to a Billing Period referred to in **Section 6.16**) when the Charges for a particular traffic month may be Invoiced; and
- (b) in the case of any other Facilities and Services (other than those specified in **paragraphs (a)**), the Access Seeker notifies TM Net in writing within forty-five (45) days after the date of receipt of such Invoice.

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

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

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

7.6.3 All Billing Dispute Notices given under this **Section 7.6** must specify;

- (a) the detailed reasons for which the Access Seeker disputes the Invoice;
- (b) the amount in dispute;
- (c) details required to identify the relevant Invoice and charges in dispute including:
 - (i) the account number;
 - (ii) the Invoice reference number;

- (iii) the Invoice date;
 - (iv) the Invoice amount; and
 - (v) billing verification information; and
 - (d) evidence in the form of the Access Seeker's outgoing report, indicating the relevant traffic data which is in dispute.
- 7.6.4 Subject to **Section 7.6.5**, an Operator is obliged to pay the amount stated in the Invoice by the Due Date even if it disputes the amount of the Invoice. If the amounts paid to date for the period pending settlement of the Dispute is higher than the amounts payable, then TM Net will pay in full such difference and interest, calculated in accordance with **Section 6.13**, within fourteen (14) days from the date of settlement of Dispute, as documented by the Operators. The interest shall be payable from the Due Date to the date of actual payment of the differential amount
- 7.6.5 Notwithstanding **Section 7.6.4**, if the Operators are not able to settle a Billing Dispute within the time periods specified in **Section 7.6.7**, an Operator may withhold payment of amounts disputed in good faith for all subsequent Invoices issued by TM. If the Dispute is resolved between the Operators in writing against the Access Seeker, then the Access Seeker shall pay interest (calculated in accordance with **Section 6.12**) on the outstanding amounts due to TM. The interest shall be payable within fourteen (14) days from the settlement of the Dispute, as documented by the Operators. Interest shall be calculated from the Due Date to the date of actual payment of the outstanding amount.
- 7.6.6 The Operators agree to use their reasonable endeavours to promptly resolve any Billing Dispute notified under this **Section 7.6**.
- 7.6.7 If the Operators are unable to resolve any Billing Dispute within ninety (90) calendar days (or such other period as the Operators may agree) from the date on which the Billing Dispute Notice is received, either Operator may seek the consent of the other Operator to extend the period for resolution of the Billing Dispute stating the exceptional reasons for such extension. The other Operator is, however, under no obligation to agree to such extension.
- 7.6.8 To the extent that a Billing Dispute notified under this **Section 7.6** involves a Billing Dispute with an international correspondent of TM, the dispute resolution procedures shall be suspended for a reasonable period of time pending resolution of the dispute with that international correspondent. As a general rule, the period of suspension will not exceed one hundred twenty days (120). However, the Operators recognize that some Billing Disputes with international correspondents may take longer to resolve, in which case TM Net must promptly inform the Access Seeker of the likely period required for resolution.
- 7.6.9 Once the negotiation period under **Section 7.6.7** and any extension granted under **Section 7.6.8** has expired, the Billing Dispute may be referred by the Access Seeker to the procedure described in **Section 7.6.10** ("**Billing Dispute Escalation Procedure**").
- 7.6.10 The Access Seeker may refer a Billing Dispute to the Billing Dispute Escalation Procedure under this **Section 7.6.10** by notifying TM's Billing Representative. Each

of the Operators shall then appoint a designated representative that has authority to settle the Billing Dispute, and that is at a higher level of management than the persons with direct responsibility for administration of the Access Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute. The specific format for such discussions will be left to the discretion of the designated representatives however all reasonable requests for relevant information made by one Operator to the other Operator shall be honored.

- 7.6.11 Although it is the good faith intention of the Operators to use the billing dispute resolution procedures to the fullest extent to try to solve Billing Disputes, nothing in the Access Agreement shall prevent either Operator from pursuing any other remedy in law or equity that may be available to them if a Billing Dispute cannot be resolved to their satisfaction.
- 7.6.12 An Operator may request a joint investigation of Invoice discrepancies after that Operator has conducted comprehensive internal investigation, including an examination of its own Billing System. Prior to commencement of the joint investigation, the Operators must agree the terms of the joint investigation, including:
- (a) the scope of the joint investigation;
 - (b) how the joint investigation will be conducted; and
 - (c) the date by which the joint investigation must be concluded.

The joint investigation may include the generation of test Call Communications to the other Operator's Network.

- 7.6.13 Enquiries relating to billing, collecting and settlement arrangements or in relation to Network and operation issues may be directed to the Billing Representatives nominated by each Operator. The Billing Representatives nominated by each Operator shall be their Billing Representative at the ISG meetings.
- 7.6.14 Either Operator may at any time nominate another Billing Representative, provided that ten (10) Business Days prior notification of such appointment is given.
- 7.6.15 If the Operators are unable to resolve any Billing Dispute after exhausting the Billing Dispute Escalation Procedure, either Operator may refer the Billing Dispute to the Commission for resolution under Chapter 7 of Part V of the CMA. For the purposes of clarification, the Billing Dispute procedure shall follow the procedure in this **Section 7.6** and does not involve the inter-party working group, Interconnect Steering Group and Technical Expert under **Sections 7.3, 7.4 and 7.5**.

CHAPTER 8: NOTICES

8.1 Any communications in respect of TM's ARD should be made in writing to:

Attention: General Manager, Malaysia Carrier Services

Address: Telekom Malaysia Berhad
Level 7, TM Annex 1
Jalan Pantai Baharu
50672 Kuala Lumpur

Facsimile: 03 7957 3111

Email: ard_tm@tm.com.my

ANNEXURE 1**LIST OF FACILITIES AND SERVICES**

Network Facilities / Network Services	Part in Schedules A and B
Fixed Network Termination Service	Part I

ANNEXURE 2**PART 1: PROCESSING FEE**

Type of Facilities or Services	Type of Access Request	Processing Fee
Fixed Network Termination Service	New service access establishment to TM Net's POI	RM600 per POI

PART II: PROCESSING FEE FOR FAST TRACK ACCESS REQUEST

Type of Facilities or Services	Type of Access Request	Fast Track Processing Fee
Fixed Network Termination Service	New service access establishment to TM Net's POI	RM1000 per POI

SCHEDULE A**SERVICE DESCRIPTION****PART I – FIXED NETWORK TERMINATION SERVICES****1. General**

- 1.1 **Part I of Schedule A** sets out the terms and conditions which would be applicable to Fixed Network Termination Service, unless otherwise expressly stated.

2. Access Service

- 2.1 TM Net will provide the agreed Access Service stated in this **Part I** in accordance with the terms of TM Net's ARD and Access Agreement (including the Service Ordering Procedures).
- 2.2 Each Operator must ensure that the carriage of Call Communications by it conforms to the QOS Standards for the carriage of Call Communications in respect of which the Operator has control.
- 2.3 The Access Seeker will pay to TM Net for Access Services stated in this **Part I** provided by TM Net, Charges in accordance with the applicable provisions set out in the **Part I** of **Schedule B**.
- 2.4 The routing and call handover principles to be applied to these types of Call Communications are set out in the relevant Manuals.
- 2.5 In the event that a Call Communication to a number (the 'B' party number) which is allocated to either Operator is "forwarded" to either Operator's Fixed Number, the forwarded portion of the call shall be considered in all respect to be a second and separate call for the purposes of calculating any Charges. Any Charges incurred in forwarding the call from the original 'B' party number to another Fixed Number or to another network, shall be to the account of the 'B' party or the Operator to which the 'B' party is connected. The DTS/MSC/Media Gateway/SBC shall submit the 'B' number to the terminating exchange and not the original 'A' number when the call is subject to "call forwarding". International call forwarding is not permitted.

3. Numbering

- 3.1 The Operators are to comply with the obligations, operations and procedures in relation to the Fixed Numbers determined by the Number Plan promulgated by the Commission.
- 3.2 The Operators shall have full discretion in allocating to their Customers the Fixed Numbers which have been allocated for their respective use by the Commission subject to the following conditions:
- (a) Save for Telephony Service over IP, every 10,000(for Peninsular Malaysia) or 1,000 (for East Malaysia) block of numbers must be capable of reference to and restricted to one Telephone Area; and

- (b) Any allocation of Fixed Numbers facilitates access to and routing over the Operator's Network in accordance with the procedures laid down in the relevant Manuals.

SCHEDULE B**CHARGES AND CHARGING PRINCIPLES****PART I – FIXED NETWORK TERMINATION SERVICES****1. General**

- 1.1 **Part I of Schedule B** sets out the charges and the charging principles which would be applicable to Fixed Network Termination Service, unless otherwise expressly stated.

2. Charges And Charging Principles

- 2.1 Fixed Network Termination Services supplied by TM Net, only to the extent necessary, be subject to the Fixed Network Termination Service Charges listed in **Table A** below and shall be applied for the carriage of voice Call Communications only. For the purposes of clarification, all other Fixed Network Termination Service not listed in **Table A** below are negotiated charges.

TABLE A: FIXED NETWORK TERMINATION SERVICE CHARGES WITH RESPECT TO TSOIP NUMBERS ON IP BASED NETWORK

Interconnect Chargeable Calls:		
(a)	For PSTN AND ISDN Numbers to TSoIP Numbers	
(b)	Mobile Numbers to TSoIP Numbers	
(c)	For TSoIP Numbers to TSoIP Numbers	
Type of Charge	Sen per minute, 24 hour weighted average	
	2009	Up to 30 June 2010
Termination charge	1.50	1.50

2.2 Time Units for Charging

- 2.2.1 The agreed time units for calculating the Fixed Network Termination Service Charges, on a call by call basis, for all types of Call Communication are set out in **Table B** below.

TABLE B: TIME UNIT FOR CALL COMMUNICATIONS

TYPE OF CALL	TIME UNITS FOR CHARGING (On a call by call basis)
All voice Calls Involving a Fixed Component	One (1) second or part thereof.

Where the charging unit is smaller than a minute, the rate for each unit shall be expressed in 6 decimal points for RM and 4 decimal points for sen for the purposes of calculating the Charges.

2.3 Discounts and Applicable Charges

- 2.3.1 For the purposes of clarity, any discount given by an Operator to its Customers for the use of its services shall be borne by that Operator and shall not in any way result in a decrease in the applicable Charges.

**SCHEDULE C
TECHNICAL AND OPERATIONAL MATTERS**

PART I – MANUALS

1. General

1.1 The Operators will:

- (a) use their reasonable endeavours to within four (4) weeks from the date of the Access Agreement or such other date to be mutually agreed between the Operators negotiate, agree and document as soon as reasonably practicable the new or modified provisions of the Technical and Implementation Manual and the Operations and Maintenance Manual and any other Manuals which the Operators deem necessary to establish pursuant to the Access Agreement;
- (b) comply with the operational procedures and methods set out in the Manuals; and
- (c) where such procedures and methods have not been agreed, negotiate operational procedures and methods, in relation to:
 - (1) the planning, ordering, provisioning and delivery of the relevant network facilities or network services;
 - (2) the management of the relevant Facilities or Services including:
 - (i) QOS indicators, reporting on performance in terms of those indicators and determining the appropriate action to be taken in the event that service quality falls below the agreed indicator levels;
 - (ii) Network operations in the event of Network failure, congestion and blockage; and
 - (iii) ensuring that the Operators' Networks are adequately protected from harm;
 - (3) test procedures and other technical and operational matters relating to the provision of network facilities or network services by TM Net to the Access Seeker;
 - (4) the handling of Customer operations; and
 - (5) such other matters as TM Net determines.

1.2 Where relevant, the obligations set out in **Parts II to IX shall be documented in the relevant Manuals.**

PART II - FORECASTING**1. General**

- 1.1 **Part II of Schedule C** sets out forecasting procedures that are applicable in relation to the provision of Facilities and/or Service.
- 1.2 Where relevant, the forecasting obligations set out in Section 5.6 of the MSA Determination shall be applicable.
- 1.3 The detailed forecasting obligations shall be mutually agreed between the Operators.

PART III – ORDERING AND PROVISIONING**1. General**

- 1.1 **Part III of Schedule C** sets out ordering and provisioning procedures that are applicable in relation to the provision of Facilities and Services including but not limited to the indicative timeframe for delivery.
- 1.2 Where relevant, the ordering and provisioning obligations set out in Section 5.7 of the MSA Determination shall be applicable.

PART IV – NETWORK CONDITIONING**1. General**

- 1.1 **Part IV of Schedule C** sets out network conditioning procedures that are applicable in relation to the provision of Facilities and/or Services.
- 1.2 Where relevant, the network conditioning obligations set out in Section 5.8 of the MSA Determination shall be applicable.

PART V – POINT OF INTERFACE AND DECOMMISSIONING**1. General**

- 1.1 **Part V of Schedule C** sets out point of interface and decommissioning procedures that are applicable in relation to the provision of Facilities and/or Services.
- 1.2 Where relevant, the point of interface procedures and decommissioning obligations set out in Sections 5.9 and 5.10 of the MSA Determination shall be applicable.

PART VI – NETWORK CHANGE**1. General**

- 1.1 **Part VI of Schedule C** sets out the network change procedures that are applicable in relation to the provision of Facilities and Services.
- 1.2 Where relevant, the network change obligations set out in Section 5.11 of the MSA Determination shall be applicable.

2. Network Change Obligations**2.1 Scope**

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

2.2 Types of Changes

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

- (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 Party 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;
 - (ii) the Recipient Operator's use of the Facilities or Services provided by the Notifying Operator ("**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 ("**Network Change**");
- (d) any change by the Notifying Operator to any of the operational support systems used inter-operator processes, including without limitation:
- (i) the billing system;
 - (ii) the Ordering and provisioning systems; or
 - (iii) the Customer Churn process, ("**OSS Change**"); and
- (e) any enhancement by the Notifying Operator of the feature, functions or capabilities of the Facilities 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**”).

PART VII– OPERATIONS AND MAINTENANCE

1. General

- 1.1 **Part VII of Schedule C** sets out the operations and maintenance procedures that are applicable in relation to the provision of Facilities and Services.
- 1.2 Where relevant, the operations and maintenance obligations set out in Section 5.15 of the MSA Determination shall be applicable.

PART VIII– CHURN OBLIGATIONS

1. General

- 1.1 **Part VIII of Schedule C** sets out the churn procedures that are applicable in relation to the provision of Facilities and Services.
- 1.2 Where relevant, the churn obligations set out in Section 5.18 of the MSA Determination shall be applicable.

PART IX–OTHER TECHNICAL MATTERS

1. General

- 1.1 **Part IX of Schedule C** sets out the other technical matters and procedures that are applicable in relation to the provision of Facilities and Services.
- 1.2 Where relevant, the technical obligations set out in Section 5.16 of the MSA Determination shall be applicable.

2. Technical Obligations

2.1 Compliance

The 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 the MSA Determination.

- END -