

ACCESS REFERENCE DOCUMENT

Airzed Broadband Sdn Bhd

(Company No: 584686-A)

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A. INTRODUCTION

A.1 *Background*

This is the Access Reference Document (“ARD”) of Airzëd Broadband Sdn Bhd (hereinafter referred as “Airzëd”).

This ARD is prepared pursuant to the Determination on the Mandatory Standard on Access (Determination No. 2 of 2005), and as amended by the Determination No. 2 of 2009 – Variation to Determination on Access List (Determination No.1 of 2009) issued by the Malaysian Commissions and Multimedia Commission in accordance with the Commission and Multimedia Act 1998.

Airzëd, a licensee under the Malaysian Communications and Multimedia Commission Act 1998 (“MCMCA”), has been licensed to provide Facilities and Services as set out in Part 1 Section 1, of this ARD. In accordance to Section 5.3.2 of the MSA Determination, Airzëd is required to prepare and maintain an ARD in relation to Facilities or Services on the Access List which Airzëd provides to itself or third parties and which :-

- (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.

A.2 *Access Obligations*

This ARD sets out the terms and conditions on which Airzëd would be prepared to provide Facilities or Services to an Access Seeker. It should not be taken as an offer to enter into a legally binding agreement. The provision of access to the Facilities or Services of Airzëd is subject to the execution of an Access Agreement with Airzëd.

Access Seekers must be a network facilities provider, a network service provider, an applications service provider, or a content applications service provider who is a licensee under the MCMCA. The network services or network facilities that is being requested must be appropriate to the network facilities, network services, applications services or content applications services that the Access Seekers are authorised to provide under their individual or class license.

The content of this ARD may change from time to time. Access Seekers should ensure that they have the most current version of the ARD.

B. OVERVIEW

B.1 Scope of ARD

The terms and conditions of Airzéd's ARD are only applicable to the network facilities or the network services on the Access List.

Any term used in this ARD shall, unless expressly defined or if the context otherwise requires, have the same meaning as in the MCMCA or the regulations made under it. Unless the context otherwise requires, words in the singular include the plural and vice versa.

At any given point of time, Airzed may or may not be offering certain network facilities or network services. The terms and conditions in this ARD are applicable only to those network facilities or network services that Airzéd is currently providing or has agreed to provide to the Access Seekers.

B.2 Facilities and Services provided under Airzéd's ARD

The terms and condition of this ARD shall apply to the following network facilities and network services:

- (a) Internet Interconnection Service;
- (b) Infrastructure Sharing

B.3 Structure of ARD

This ARD is made up of 2 parts.

Part 1 is made up of the following procedures of which Access Seekers are required to abide should they wish to request for network services or network facilities from Airzéd:

- Section 1 – Service List
- Section 2 – Application Process for Access Request
- Section 3 – Response to Access Request
- Section 4 – Terms and Conditions
- Section 5 – Confidentiality Agreement

Part 2 is made up of the following Schedules:

- Schedule 1 – Billing and Settlement
- Schedule 2 – Relationship Management

Schedule 3 – Dispute Resolution Procedure
Schedule 4 – Forecasting
Schedule 5 – Ordering and Provisioning Obligations
Schedule 6 – Technical and Implementation
Schedule 7 – Operations and Maintenance
Annex A: Fault Rectification Response Times

C. DEFINITIONS AND INTERPRETATIONS

“Access Agreement” means an agreement entered into between the Operators whereby the Access Provider provides access to an Access Seeker in accordance with the terms contained in such agreement and which shall be registered with the Commission in accordance with the Act.

“Access Dispute” is any disagreement or difference relating to, arising out of or in connection with the Access Agreement;

“Access List” means the list of Facilities or Services determined by the Commission under Chapter 3 of Part VI of the Act. The latest Access List is Commission Determination on Access List, Determination No. 1 of 2009.

“Access Provider” or “AP” means:

- (a) network facilities provider who owns or provides network facilities listed in the Access List; or
- (b) network services provider who provides network services listed in the Access List; and
- (c) who is licensee as defined in the CMA and includes a holder of a registered licence under Section 278 of the CMA.

“Access Seeker” or “AS” means an Operator who is a network facilities provider, network services provider, an application service provider or content applications service provider who is a licensee as define in the Act and who makes a written request for access for any of the Access Services.

“Access Service(s)” means the facilities and/or services that are set out in the Access List that are provided by the Access Provider to the Access Seeker pursuant to a Request for Access.

“Access Request” means a request for Access made by the Access Seeker pursuant to Part 1 Section 2 of this ARD.

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

“**ARD**” means Access Reference Document.

“**Billing Dispute**” means the dispute of an invoice prepared by the Access Provider to an Access Seeker which dispute is made in good faith and with reasons.

“**Billing Dispute Notification Period**” means a period of fourteen (14) days from the date of receipt of the invoice.

“**Billing Period**” means the period over which the supply of access to network services or network facilities is measured for the purposes of billing as contemplated in the provisions of the MSA which shall not be more than thirty (30) days and in accordance to the relevant calendar month unless otherwise agreed between the Parties.

“**BGR**” or “**Border Gateway Router**” means a router designed for the inter-connection of two autonomous systems.

“**Business Day**” means a day other than a Saturday and Sunday or a day which is lawfully observed as a national public holiday on the same day around Malaysia, when the banks are open for business in the Federal Territory of Kuala Lumpur.

“**Call Communications**” means communications involving (in whole or in part) a number or IP address used in the operation of each Operator’s network including message communications.

“**Charges**” means the sums payable by the Access Seeker to Airzëd for the provision of network facilities or services listed in the Access List.

“**Commission**” or “**MCMC**” or “**SKKM**” means the Malaysian Communications and Multimedia Commission established under the Malaysian Communications and Multimedia Act 1998.

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

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

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

“**Facilities**” means network facilities and or other facilities, which facilitate the provision

of network services or applications services including content application services.

“Fixed Network” means network facilities and/or other network services comprising the Public Switched Telephone Network and/or networks based on Internet Protocols for the provision of communications by guided electromagnetic energy or by point-to-point unguided electromagnetic energy.

“Forecast” means a forecast made by the Access Seeker referred to in the provisions of the MSA.

“Gateway” means a designated digital trunk switch, which provides operational interworking between the Operators’ network and provides an agreed interface between the signaling, switching, transmission and operations system of each Operator and supports one or more POIs

“Interconnect Capacity” means a Facility or Service which is measured in 2 Mbit/s or other agreed units between a Gateway and a POI which enables the physical connection between the networks of the Operators for the purposes of providing one or more Access Services or the Interconnect Link as defined herein below.

“Interconnection Link” means a physical link connecting the networks of the Access Seeker and Access Provider.

“Interconnection Service” means Facilities or Services (including the physical connection between separate networks) to facilitate connectivity provided by an Access Provider to an Access Seeker which involves or facilitates the carriage of communications between an end user connected to the network of the Access Provider and a Point of Interconnection.

“IP” or **“Internet Protocols”** 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.

“MCMCA” means Malaysian Commissions and Multimedia Commission Act 1998.

“MSA” means the Commission Determination on the Mandatory Standard on Access, Direction No. 2 of 2005.

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

“Network Capacity” means equipment and facilities required to be installed at Airzéd’s

Network for use in the provision of one or more Access Services.

“Parties” means the Access Seeker and the Access Provider and the word “Party” shall refer to either the Access Seeker or the Access Provider as the context requires.

“Point of Interconnection” or **“POI”** means a point at or between Soft Switch(es) which demarcates the Network of an Access Provider and the network of the Access Seeker and is a point at which communication is transferred between the interconnecting networks.

“Point of Interface” has the same meaning as Point of Interconnection.

“Point of Presence” or **“POP”** means a point at which an Access Seeker has established itself for the purpose of obtaining access to network facilities or network services and is the point at which communication is transferred between the Access Seeker and the Access Provider.

“Operator(s)” means the Access Provider or the Access Seeker or both as the context requires.

“Services” means network services and/or other services which facilitate the provision of network services or applications services including content application services.

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PART 1 -SECTION 1

1.1 *Service List*

The network services or network facilities that Airzēd provides to itself or third parties are:

1.1.1 Infrastructure Sharing

- (a) Infrastructure Sharing is a Facility and/or Service which comprises the following:
 - (i) provision of physical access, which refers to the provision of space at specified network facilities to enable an Access Seeker to install and maintain its own equipment; or
 - (b) Specified network facilities include towers and associated tower sites.
 - (c) Physical access includes power, environmental services (such as heat, light, ventilation and air-conditioning), security, site maintenance and access for the personnel of the Access Seeker.

The charges and the charging principles which would be applicable to the above Infrastructure Sharing are:

- Location : Shah Alam, Selangor Darul Ehsan
- Tower Height : 250 feet
- Equipment : not exceeding two (2) backhaul links and eight (8) antennas
- Electricity : separate meter
- Charges : RM 4,000 per month

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PART 1 – SECTION 2

1.2 *Application Procedures for Access Request*

1.2.1 Introduction

An Access Seeker shall request Airzöd to supply the Facilities and / or Services listed in the Access List by serving an Access Request in writing to Airzöd.

1.2.2 The Access Request shall contain:-

- (a) the name and contact details of the Access Seeker
- (b) the type of access required i.e. the Facilities or Services in respect of which access is sought
- (c) the service date(s) the Access Seeker reasonably requires
- (d) the relevant technical information relating to the interface Standards of the Access Seeker
- (e) 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 the Access Provider's Network
- (f) forecasts of the capacity the Access Seeker will reasonably requires
- (g) the quality of service the Access Seeker requires
- (h) whether the Access Seeker wishes to accept the ARD or to apply for additional Facilities or Services or to negotiate an Access Agreement
- (i) in the event that the Access Seeker requests to negotiate an Access Agreement, the Access Seeker must provide the following information:
 - (i) the names of personnel the Access Seeker nominates to represent the Access Seeker in the negotiations and, in respect of each of those personnel his or her contact details, his or her job title and details of his or her availability for the access negotiations;
 - (ii) the identity of the negotiating team leader, and the Access Seeker shall ensure that the negotiating team leader shall have authority to make binding representations on behalf of the Access Seeker in relation to matters arising from the negotiations (subject to final approval from the Board of Directors, if required by the Access Seeker);

(iii) the information (if any) the Access Seeker reasonably requires the Access Provider to provide for the purposes of the negotiations,

(j) such other information as the Access Provider may reasonably request.

1.2.3 In addition, the following documents must be included together with the Access Request:

(a) a copy of the license issued under the MCMCA certified by the company secretary or evidence (certified by the company secretary) that the Access Seeker has been registered with, or been provided a license by, the Commission;

(b) a copy of the following documents certified by the company secretary:

(i) certificate of incorporation

(ii) certificate of change of name (if applicable)

(iii) the latest annual returns, Form 24 (Return of Allotment of Shares), Form 44 (Notice of Situation of Registered Office and of Office Hours and Particulars of Changes) and Form 49 (Return giving Particulars in Register of Directors, Managers and Secretaries and Changes of Particulars)

(iv) Memorandum and Articles of Association

(v) board of directors' resolution authorising the execution of the confidentiality agreement

(vi) full names, designations and national identity card numbers of the persons authorised to sign the confidentiality agreement.

(c) two copies of a confidentiality agreement to be executed by the Parties.

1.2.4 In the event that Airzëd does not receive all the information specified hereinabove, Airzëd may not provide the Access Seeker with the information requested.

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PART 1 – SECTION 3

1.3 *Response to Access Request*

1.3.1 Within seven (7) business days of receipt of the Access Request, Airzëd shall respond to by either:

- (a) accepting your Access Request, and issuing the Acceptance of Access Request; or
- (b) requesting for further information, and issuing the Request for Further Information Response; or
- (c) agreeing to your request to negotiate, and issuing the Negotiation Response; or
- (d) rejecting your Access Request, and issuing the Rejection of Access Request.

1.3.2 Acceptance to Access Request

Upon acceptance of the Access Seekers' Access Request, Airzëd shall, within seven (7) business days from the receipt of the Access Request, issue and provide the following information:

- (a) Airzëd's description of each of the Facilities and Services that may be supplied by Airzëd;
- (b) the application forms required to be completed by the Access Seeker to apply for access to Facilities and Services;
- (c) Airzëd's current access charges for access to Facilities and Services, including individual and or wholesale offerings;
- (d) all relevant technical information relating to the Facilities or Services which may be the subject of the Access Request, including but not limited to any physical and logical interfaces of its network necessary to allow the development and deployment of communications services, value-added services and communications equipment that can interconnect to, and interoperate with, Airzëd's network;
- (e) any security requirements, insurance requirements and creditworthiness information required by the Access Provider under subsections 5.3.8, 5.3.9 and 5.3.10 of the MSA.

1.3.3 If Airzëd is unable to provide any of the information listed in 1.3.2 above within

the stipulated time period, the time period shall be extended by a further seven (7) business days. Following thereon, the Access Seeker may choose whether to proceed with the application. If the Access Seeker chooses not to proceed with the application, the Access Seeker will inform Airzöd accordingly in writing.

1.3.4 If the Access Seeker choose not to proceed with the application, the information so provided by the Access Seeker shall be subject to the confidentiality obligations and Airzöd shall not in anyway (whether directly or indirectly) utilise any such information.

1.3.5 If after perusing and considering the documentation and information provided by Airzöd, the Access Seeker wish to proceed with the Access Request, the Access Seeker must within a period of seven (7) business days of receipt of the said documentation provide Airzöd with written confirmation that the Access Seeker either wish to proceed with the Access Request on the terms provided or, whether the Access Seeker wish to negotiate on specific terms.

1.3.6 Request for Further Information Response

(a) Airzöd may request the Access Seeker to provide further information pursuant to the Access Request by issuing a request in writing.

(b) Upon receipt of the request, the Access Seeker is required within seven (7) business days to provide the further information to Airzöd.

(c) If Airzöd is of the opinion the information provided is sufficient for it to make a decision as to whether to accept or reject the Access Request, it shall reconsider the Access Request and inform the Access Seeker of its decision within seven (7) business days from the date Airzöd has received the further information from the Access Seeker.

(d) Airzöd may make more than one request for additional information from the Access Seeker. Each request shall be subject to the above terms and conditions.

(e) If the Access Seeker do not provide the further information in response to a request made by Airzöd, then it shall be deemed that the Access Seeker has revoked its Access Request. Such revocation shall be without prejudice to the Access Seeker submitting a fresh Access Request.

1.3.7 Agreement to Negotiate

If the Access Seeker has submitted an Access Request which contains a request to negotiate the terms and conditions of the Access Agreement, then Airzöd shall:

(a) use its best endeavours to conclude the Access Agreement within one

hundred and twenty (120) days of the written request to commence negotiations;

- (b) provide the Access Seeker with the information set out in 1.3.2 above;
- (c) require the Access Seeker to provide all relevant information which Airzëd may reasonably need to commence negotiations.

1.3.8 Rejection of Access Request

- (a) If Airzëd rejects the Access Request made by the Access Seeker, Airzëd will, within seven (7) business days from the receipt of the Access Request, issue a rejection notice in writing to the Access Seeker stating the reasons and basis for the rejection.
- (b) In the rejection notice, Airzëd shall specify a date, time and venue, not later than seven (7) business days from the date of the rejection, at which the representatives of Airzëd will be available to meet with the representatives of the Access Seeker to discuss the rejection notice.
- (c) If the Access Seeker do not attend the specified venue, and on the date and time stated, then such failure shall be deemed to be acceptance of the basis of rejection of the Access Request.
- (d) If the Access Seeker attends, and the rejection of the Access Request is not resolved (whether at that meeting or any subsequently agreed meeting), then either party may initiate the Dispute Resolution Procedures as set out in the provisions of the MSA.
- (e) Pending the final determination of the dispute, Airzëd shall not be obliged to provide access to the Access Seeker.

1.3.9 Right of Rejection

Airzëd may reject the Access Request on any of the following grounds:

- (a) the information provided by the Access Seeker is incomplete;
- (b) it is not technically feasible to provide access to the Facilities or Services requested by the Access Seeker;
- (c) Airzëd has insufficient capacity to provide the requested Facilities or Services
- (d) Airzëd reasonably believes that the Access Seeker may fail to make timely payments for the requested Facilities or Services;
- (e) Airzëd reasonably believes that the Access Seeker may fail, to a material extent, to comply with the terms and conditions set out in this ARD for the

relevant Facilities or Services;

- (f) Airzëd reasonably believes that the safety of its network will be compromised by the grant of the access requested;
- (g) Airzëd reasonably believes that the provision of access to the Access Seeker will be in furtherance of an activity which is illegal under Malaysian law; or
- (h) the terms and conditions requested by the Access Seeker for such access are in the opinion of Airzëd unreasonable

1.3.10 Should the Access Seeker wish to make an Access Request for additional service or facility, the Access Seeker is required to submit a new Access Request in accordance with the above provisions.

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PART 1 – SECTION 4

1.4 Terms and Conditions

1.4.1 Costs and Expenses

Each Operator shall bear its own costs and expenses in relation to the preparation, negotiation and execution of an access agreement to which they are parties.

1.4.2 Applicable laws

The Access Agreement shall be governed by the laws of Malaysia and the Operators shall comply with all applicable directions issued by the Commission or other relevant authorities.

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PART 1 – SECTION 5

1.5 *Confidentiality Agreement*

Access Seekers should request from Airzēd a copy of the Confidentiality Agreement for submission of Access Request

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PART 2 – SCHEDULE 1

2.1 *Billing and Settlement*

2.1.1 Deposit and Charges

- (a) The Access Seeker shall pay Airzëd the Charges for the Facilities or Services provided by Airzëd.
- (b) The Access Seeker shall, in addition to the charges stipulated in the Access Agreement, pay Airzëd such amounts as are levied for the provision of or making available other elements comprised in the network of Airzëd or benefit of which is enjoyed by the Access Seeker but is not computed into the Access Agreement, and the amount of any taxes, duties and levies by government agencies.
- (c) Within thirty (30) days of the date of execution of the Access Agreement, the Access Seeker shall provide to Airzëd security in the form of either an irrevocable unconditional bank guarantee or a cash deposit on such terms and conditions as may be reasonably acceptable to Airzëd.

2.1.2 Billing

- (a) Airzëd will issue invoices (in writing and/or electronic form), in Ringgit Malaysia to the Access Seeker within fourteen (14) business days from the expiry of each Billing Period. These invoices shall be for amounts due to Airzëd in respect of the supply of Facilities or Services during the Billing Period less any rebates payable by Airzëd to the Access Seeker under the Access Agreement.
- (b) Airzëd will issue invoices in monthly billing cycles, unless otherwise agreed in writing between Airzëd and the Access Seeker, and each invoices shall be supported by such information reasonably necessary to allow the Access Seeker to verify the invoice.

2.1.3. Billing Errors

- (a) If the Access Seeker discovers an error in an invoice, the Access Seeker must notify Airzed within a period of fourteen (14) days from the date of receipt of the invoice. Airzëd will make the necessary adjustment to correct that error in the next monthly invoice.

2.1.4 Payment

- (a) The Access Seeker shall pay the invoice by the Due Date.
- (b) Payment may be made either by cheque, banker's draft, cashiers order or electronic fund transfer directly to an account nominated by Airzëd.
- (c) Where the Access Seeker has paid an amount and subsequently notifies Airzëd within the Billing Dispute Notification Period that the Access Seeker disputes an invoice issued by Airzëd, Airzëd is not obliged to refund any or the entire amount until the Billing Dispute is resolved in respect of that amount.
- (d) All invoices shall be stated in Ringgit Malaysia and payment from the Access Seeker must be made in Ringgit.

2.1.5 Billing Dispute Notification

- (a) If the Access Seeker disputes any invoice, the Access Seeker shall provide sufficient and complete information to Airzëd relating to such dispute including:
 - (i) the amount disputed
 - (ii) the nature of the dispute, supported with necessary documents
 - (iii) details of the invoice and stating the Access Seeker's account number with Airzëd, the invoice reference number, the invoice date, and the amount
 - (iv) such other information requested by Airzëd as Airzëd deems necessary to facilitate the resolution of the dispute.
- (b) Invoice may be disputed by the Access Seeker if the Access Seeker has reasonable grounds to believe that an error has arisen from one of the following circumstances:
 - (i) Airzëd's billing system is, or has been, defective or inaccurate in respect of the recording of the Facilities or Services
 - (ii) there is, or has been, a discrepancy between the invoice in dispute and the records generated by the Access Seeker's billing system; or
 - (iii) there is, or has been, a fraud perpetrated by Airzëd; or
 - (iv) Airzëd has made some other error in respect of the recording of the

Facilities or Services or calculation of the Charges; or

- (v) such other reason or circumstance specified by the Access Seeker giving reasonable details for Airzëd to investigate whether an error has occurred.
- (c) If the Access Seeker intends to dispute an invoice, the Access Seeker must do so within the Billing Dispute Notification Period, which is fourteen (14) days of receipt of the disputed invoice from Airzëd, stating the reasons for the dispute and providing documentary proof of the same.
- (d) The Parties agree to use their reasonable endeavours to promptly resolve any Billing Dispute notified under this Section. If the Parties are unable to resolve the Billing Dispute, then such Billing Dispute between the Access Seeker and Airzëd will be resolved in accordance with Billing Dispute Resolution Procedure as set out in Schedule 3 herein.

2.1.6 Late Payment Interest

- (a) Airzëd shall be entitled to charge the Access Seeker late payment interest on all amounts outstanding with respect to any overdue invoice, at the rate of one per centum (1%) per month calculated daily from the Due Date until the date of full payment.
- (b) Late payment interest which is chargeable by Airzëd shall be added to the next Invoice.

2.1.7 Right of Set-Off

- (a) The Access Seeker shall not deduct or set-off any amounts stated in any invoice against any amounts which Airzëd may owe the Access Seeker or which may be due from Airzëd to the Access Seeker except where Airzëd has consented in writing or Airzëd is in liquidation
- (b) If the Access Seeker sets off or deducts any amounts from any invoice, without prior consent from Airzëd, Airzëd may then suspend indefinitely or with the Commission's consent, terminate the provision of access until the Access Seeker pays the amount withheld.

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PART 2 - SCHEDULE 2

2.2 *Relationship Management*

This Schedule sets out the rights and responsibilities of the Access Seeker and Airzëd in facilitating efficiency of the Access Agreement.

2.2.1 Access Management

The administration, management and implementation of the provisioning, utilisation, operation and maintenance of the access granted and obtained via any Access Agreement shall be by:

- (a) one (1) senior management personnel and one (1) substitute representative (“Airzëd Representative”) appointed by Airzëd.
- (b) one (1) senior management personnel and one (1) substitute representative (“Access Manager”) appointed by the Access Seeker.
- (c) an interconnect steering group;

2.2.2 The functions, duties and responsibilities of the Airzëd Representative includes:

- (a) to act as Airzëd’s primary contact for the Access Seeker in dealing with Airzëd in respect of matters arising out of or in connection with the Access Agreement. Airzëd may replace the appointed Airzëd Representative at any time and shall inform the Access Seeker accordingly.
- (b) having the power and authority to make decisions with respect to actions to be taken by Airzëd in the ordinary course of its day-to-day management of the obligations of Airzëd with respect to the operation under the Access Agreement.
- (c) being the conduit through whom all notices, communications, approvals, confirmations, certifications, and consents must be sent in respect of all aspects of the Access Agreement, except as may be notified in writing by Airzëd from time to time.

2.2.3 The functions, duties and responsibilities of the Access Manager includes:

- (a) to be the primary contact for Airzëd in dealing with the Access Seeker for all matters under the Access Agreement
- (b) having overall responsibility for managing and coordinating the delivery performance and discharge of the obligations of the Access Seeker

obligations to Airzëd

- (c) meeting regularly with the Airzëd Representative
- (d) having the power and authority to make binding decisions with respect to actions to be taken by the Access Seeker in the ordinary course of day-to-day management of its access arrangements in accordance with the Access Agreement.

Unless otherwise agreed, the Access Seeker's Access Manager shall address all notices relating to the Access Agreement to the Airzëd Representative. The Access Manager may be replaced at any time and the Access Seeker shall inform Airzëd and the Airzëd Representative in writing prior to effecting any such replacement.

2.2.4 Interconnect Steering Group

- (a) Airzëd and the Access Seeker will inform each other of the names of two (2) members (other than the Airzëd Representative and the Access Seeker's Access Manager) who will serve on the Interconnect Steering Group. ("ISG")
- (b) The ISG will be responsible for:
 - (i) overseeing the performance of Airzëd's and the Access Seeker's obligations under the Access Agreement and its compliance with the MSA and any other relevant instrument or law
 - (ii) addressing any and all issues escalated to it by any of the Parties generally.
 - (iii) setting an appropriate set of periodic meetings to be held and the procedures to be followed for such meetings, including the preparation of agenda and minutes
 - (iv) the procedure for resolving any issue escalated to the ISG, including the taking of evidence (if any), hearing submissions from the Parties and publishing its decisions.
- (c) Airzëd and the Access Seeker may from time to time by mutual agreement add to or omit from the above list of responsibilities or change its two (2) representatives upon written notice to the other Party.
- (d) Each Party will bear the costs of its representatives' participation in the ISG meetings. The ISG will keep minutes of the decisions reached at each meeting and the Parties will comply with such agreed decisions. Decisions of the ISG shall be limited to matters of a technical and operational nature and shall not operate so as to amend nor extend nor imply into the terms and

conditions of this Access Agreement nor interpret legal concepts except where otherwise specifically provided in the Access Agreement. No decision shall be made unless agreed to by at least one (1) representative of Airzëd and one (1) representative of the Access Seeker who are members of the ISG.

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PART 2 – SCHEDULE 3

2.3 *Dispute Resolution Procedure*

This Schedule sets out the procedure which applies in respect of disputes between the Access Seeker and Airzëd arising out of, or in connection with the supply of Facilities or Services to which the Access Agreement applies.

2.3.1 The structure of the Dispute Resolution Procedure is as follows:

- (a) resolution of any general dispute will first be attempted through an inter-party working group negotiations.
- (b) in the event the dispute is not resolved by the inter-party working group in accordance with the terms of reference, then either Party may refer the dispute to the Interconnect Steering Group. (ISG)
- (c) if the ISG does not resolve the dispute or in accordance with the procedures prescribed by this Schedule, both Parties may seek resolution:
 - (i) refer any technical dispute to a mutually acceptable technical expert; or
 - (ii) refer the Access Dispute to the Commission pursuant to Section 151 of the Act for final arbitration.
- (d) Where an Access Dispute is referred to the Commission pursuant to Section 151 of the Act, the Commission will decide the Access Dispute if it is satisfied that the:
 - (i) parties cannot reach agreement, or will not reach an agreement in a reasonable time;
 - (ii) notification of the Access Dispute is not trivial, frivolous or vexatious; and
 - (iii) resolution of the Access Dispute would promote the national policy objectives for the communications and multimedia industry stated in Section 3 of the Act.

2.3.2 Until expiry of these Dispute Resolution Procedures, an Operator may not commence court proceedings relating to that Access Dispute. Nothing in this Section will be construed as ousting the jurisdiction of any court.

2.3.3 During a dispute and any dispute resolution process invoked in accordance with this Schedule, Airzëd and the Access Seeker must continue to fulfil their respective obligations under the Access Agreement unless the fulfilment of those

obligations will affect the outcome of the Access Dispute.

- 2.3.4 A Party is prohibited from using all information obtained as a result of the dispute resolution process for any purpose other than to resolve the Access Dispute.
- 2.3.5 An arbitrator appointed under this Dispute Resolution Procedure (including a technical expert or the Commission) may decide not to determine the dispute if the arbitrator considers the Access Dispute trivial, frivolous or vexatious, or if there is insufficient evidence to determine the Access Dispute. In such a case, the arbitrator will, within five (5) business days of receiving the reference to arbitration inform the Parties in writing, of his decision. The Parties will thereafter be entitled to pursue their Access Dispute by litigation.
- 2.3.6 Where the arbitrator decides to determine the Access Dispute, the costs of the arbitration will be shared equally between the Parties unless the arbitrator decides otherwise.
- 2.3.7 If the Parties cannot resolve the general dispute within the inter-party working group within the stipulated time, or after the expiry of any extension of time agreed on, either Party may give ten (10) business days written notice (“Notice Period”) to the other Party stating its intention to escalate the issue and outlining the details of the issue (“Outstanding Issue”).
- 2.3.8 If the Outstanding Issue is not resolved prior to the expiry of the Notice Period, then either Party may notify the other Party in writing that it wishes to refer the issue to the Interconnect Steering Group or ISG (“Referral Notice”).
- 2.3.9 If any general dispute is referred to the ISG, the ISG will meet within ten (10) business days of the receipt by the other Party of a Referral Notice. If the ISG fails to meet within the stipulated time of ten (10) business days, either Party may refer the dispute to a technical expert or to the Commission, for arbitration.
- 2.3.10 If the ISG have not resolved any general dispute within twenty (20) business days after its first meeting to review the dispute (unless mutually extended by the Parties), either Party may refer the dispute to a technical expert or to the Commission for final arbitration.
- 2.3.11 The Technical Expert:
- (a) will be an expert appointed by agreement of the Parties or, if the Parties cannot agree within ten (10) business days, by the Chairman of the Commission
 - (b) will have the appropriate qualifications and experience to arbitrate the general dispute, including knowledge of the communications and multimedia industry; and

- (c) must not be an officer, director, consultant or employee of a competitor of Airzēd or of the Access Seeker.
- 2.3.12 If a general dispute is referred to a technical expert, the following dispute resolution procedure will apply and be utilised by the technical expert:
- (a) each Party will deliver written submissions setting out their positions together with supporting evidence to the technical expert and each other within fifteen (15) business days from the date of appointment of the technical expert; and
 - (b) each Party may respond to the other Party's submission in writing within fifteen (15) business days from the date of receipt of the other Party's written submission.
- 2.3.13 At the request of either Party and subject to the Parties agreeing or the technical expert deciding within five (5) business days of the receipt of the last written submission, that the arbitration by the technical expert be by documents only, the technical expert shall convene a hearing (where both Parties may attend and witnesses produced) within fifteen (15) business days of the delivery of the last written submission.
- 2.3.14 Should a hearing by technical expert is held pursuant to this Section, each Party will have the opportunity to make an oral submission. This process will be conducted in private.
- 2.3.15 The procedure for hearing technical disputes will be determined by the technical expert (including number and duration of oral submissions by the Parties).
- 2.3.16 The technical expert will not have the power to appoint any other experts.
- 2.3.17 The technical expert must deliver his decision within fifteen (15) business days of the hearing or after receipt of the last written submission where the arbitration is by documents only.
- 2.3.18 The award of the technical expert will be final and binding on the Parties (in the absence of manifest error or fact or law).
- 2.3.19 If the Parties are unable to resolve an Billing Dispute within thirty (30) days (or such longer period as the Parties may agree), from the date on which the Billing Dispute Notice is received, either Party may seek the consent of the other Party to extend the period for resolution of the Billing Dispute stating the exceptional reasons for such extension.
- 2.3.20 Each of the Parties will appoint a representative who will be authorized to bind the Parties and settle a Billing Dispute. The representatives will meet as often as they deem necessary to resolve the Billing Dispute and will decide among themselves the manner, procedure and format for discussions to resolve the Billing Dispute.

- 2.3.21 Upon the resolution of a Billing Dispute to the satisfaction of the Parties, the payment or repayment of any sum pursuant to that resolution must be made within fourteen (14) days from the date of resolution.
- 2.3.22 Nothing in this Schedule shall prevent either Party from pursuing any other remedy in law or equity that may be available to them if a Billing Dispute cannot be resolved to their satisfaction.
- 2.3.23 A joint investigation of invoice discrepancies may be requested by a Party after having conducted a comprehensive internal investigation, including an examination of its own billing system. Terms of the joint investigation, must be agreed on prior to 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.
- 2.3.24 Enquiries relating to billing, collection and settlement arrangements shall be directed to the Billing Representatives nominated by each Party. Either Party may at any time nominate a substitute Billing Representative provided that ten (10) business days notification is given.
- 2.3.25 If the Parties are unable to resolve the Billing Dispute within thirty (30) days or any extended period agreed upon, or if they are unable to agree on any such extension, either Party may refer the Billing Dispute to the Commission for resolution under Chapter 7 of Part V of the MCMCA.

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PART 2 - SCHEDULE 4

2.4 *Forecasting*

- 2.4.1 The Access Seeker is required to make and provide a Forecast Information of Facility and/or Service it is seeking from Airzëd. The Access Seeker shall provide Airzëd:
- (a) with an initial forecast for the maximum period of one (1) year;
 - (b) on a quarterly basis for the next twelve (12) months reasonably accurate forecasts of its requirements for the Facility and/or Service required from Airzëd.
 - (c) the Facility including the Interconnect Capacity and Service for which access is required;
 - (d) location where access is required;
 - (e) specific time table when each of the Service or Facility is required;
 - (f) any other forecast information as may be reasonably necessary for Airzëd to carry out network planning.
- 2.4.2 The Access Seeker shall provide the Forecast Information to Airzëd within (30) business days from the date of receipt of the request. Airzëd may at its discretion agree to an extension of the time.
- 2.4.3 Airzëd shall treat all information provided by the Access Seeker to Airzëd pursuant to the Access Agreement as confidential.
- 2.4.4 The Access Seeker shall update its forecast on a quarterly basis, so as to enable Airzëd to carry out efficient network planning and management to meet current and future requirements and the performance of its obligations under the Access Agreement.
- 2.4.5 If Airzëd considers that the information supplied by the Access Seeker pursuant to Section 2.4.1 of this Schedule is insufficient, Airzëd will notify the Access Seeker within ten (10) business days of receipt of the information and specify what additional information Airzëd requires.
- 2.4.6 Airzëd may send a rejection notice to the Access Seeker within fifteen (15) business days of receipt of a forecast from the Access Seeker. The rejection notice will specify the reasons for rejection together with an offer by Airzëd to

meet with the Access Seeker within five (5) business days of the rejection notice, to discuss the rejection and alternative methods by which the Access Seeker may comply with the Forecast Request.

- 2.4.7 Upon the rejection of the Forecast Information by Airzëd, the Access Seeker may within twenty one (21) business days from the receipt of the rejection notice by the Access Seeker, either:
- (a) confirm that its rejected forecast is reasonable and submit an explanation justifying it to Airzëd; or
 - (b) submit a new forecast to Airzëd.
- 2.4.8 If an Access Seeker submits an amended forecast, Airzëd shall reconsider the same and the provisions set out in this Sections 2.4.2 to 2.4.5 of this Schedule shall apply as if such amended forecast were a fresh forecast.
- 2.4.9 Airzëd shall determine whether or not the Access Seeker has over-forecasted its requirements on an annual basis by comparing the forecast amount and orders made for that year and the Minimum Usage. Should the Access Seeker's forecasted requirements exceed the Orders for that year or fail to meet the Minimum Usage, then there shall be deemed to be an over-forecast.
- 2.4.10 In the event of any over-forecast by the Access Seeker, then the Access Seeker shall pay to Airzëd all costs and expenses in meeting such forecast, which were reasonably and necessarily incurred by Airzëd.
- 2.4.11 Any failure, neglect or refusal by the Access Seeker to comply with its obligations set out in this Schedule shall entitle Airzëd to continue to provide access to the Access Seeker at the previous year's usage or level but such provision (if any) shall be without prejudice to Airzëd's right to reduce such provision. Airzëd shall not be responsible for any Loss including Consequential Loss suffered or incurred by the Access Seeker.

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PART 2 – SCHEDULE 5

2.5 *Ordering and Provisioning Obligations*

- 2.5.1 The Access Seeker shall provide Airzëd with an Order for each Facility and/or Service it requires from Airzëd. The Order shall contain the following information:
- a) the Services to which access is requested;
 - (b) the proposed time for delivery of access;
 - (c) the location for delivery which shall be selected by the Access Seeker from Airzëd's published points of interface;
 - (d) the specifications, technical data, functionality and interoperability of the Equipment which the Access Seeker will be using in connection with the Order, including information on whether type approval has been obtained for the Equipment;
 - (e) details of the Access Seeker's requirements;
 - (f) the required POI and non-POI capacity; and
 - (g) any other information as the Access Seeker may reasonably believe Airzëd would require in order for Airzëd to plan for the provision of access to the requested Services.
- 2.5.2 Airzëd shall treat all Order information provided by the Access Seeker as confidential.
- 2.5.3 If Airzëd requests additional information, the Access Seeker shall within fourteen (14) business days provide the requested information. Insufficient or incomplete information provided by the Access Seeker will entitle Airzëd to either reject the Order or to remove the Order from the queue until such time as the information is requested is received. Delay in the provision of the requested information will result in the Order being placed in the queue on the date the additional information requested by Airzëd is provided by the Access Seeker and if the information so provided is sufficient and complete.
- 2.5.4 Airzëd will notify the Access Seeker whether it accepts or rejects an Order placed by the Access Seeker, within:
- (a) fourteen (14) business days from the date of receipt of the Order; or
 - (b) if Airzëd intends to carry out a Service Qualification, thirty (30) days from the date of receipt of the Order,

2.5.5 Airzëd may reject an Order on any of the following grounds:

- (a) the specific request is not technically feasible; or
- (b) Airzëd has insufficient capacity to provide the requested Services; or
- (c) the Order exceeds the Agreed Forecasts provided by the Access Seeker; or
- (d) the Access Seeker has not obtained the necessary related agreements from Airzëd; or
- (e) Airzëd is of the reasonable view that the Access Seeker would materially fail to comply with the Access Agreement; or
- (f) Airzëd has reasonable grounds to believe that the Access Seeker would fail, in connection with the supply of the Services; or
- (g) to protect the integrity of Airzëd's network; and/or the safety of individuals working on or using services supplied by Airzëd's network; or
- (h) the Access Seeker has not provided all the information that the Access Seeker required or requested; or
- (i) the Facility and/or Service to which access is requested is not on the Access List; or
- (j) Airzëd does not currently supply or provide access to the requested Facility or Service to itself or any Third Party; or
- (k) the Order cannot be fulfilled on or by the Requested Delivery Date.

2.5.6 If the Order is rejected, then Airzëd shall issue a notice of rejection which shall contain the following information:

- (a) the ground(s) of rejection;
- (b) the time period by which Airzëd will accept a modified Order;
- (c) the nature of such acceptable modifications to the Order

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

2.5.8 If the Access Seeker disagrees with the grounds for rejection, the Access Seeker

may initiate the dispute resolution process specified in the Dispute Resolution in Schedule 3.

- 2.5.9 If the Order is accepted, then Airzëd shall issue a notice of acceptance specifying:
- (a) the delivery date for the Facility and/or Service; and
 - (b) the actual or an estimate of the charges payable to Airzëd by the Access Seeker, for the fulfillment of the Order.
- 2.5.10 The Access Seeker shall within the period of fourteen (14) business days from the date of notice of acceptance, confirm in writing its agreement to proceed with such Order.
- 2.5.11 Pursuant to the receipt of any Order from the Access Seeker, Airzëd shall be entitled to conduct Service Qualifications on the relevant portion of its network. Airzëd will give a written notice to the Access Seeker within ten (10) business days of receipt of the Order or receipt of complete and accurate additional information pursuant to Section 2.5.3 above that it intends to conduct such Service Qualification.
- 2.5.12 Airzëd will inform the Access Seeker of the result of the Service Qualification within three (3) business days of the completion of such Service Qualification.
- 2.5.13 In the event there is a delay in fulfilling the accepted Order, Airzëd will as soon as reasonably practicable, notify the Access Seeker of the reasons for delay and the revised date of delivery.
- 2.5.14 Airzëd will offer all reasonable assistance and co-operation to the Access Seeker in relation to the testing and provisioning of the Order. Airzëd shall be entitled to charge the Access Seeker fee for such assistance and co-operation.
- 2.5.15 If Airzëd reasonably believes that the total capacity required would exceed the capacity which Airzëd can provide, then Airzëd will notify the Access Seeker of such constrained capacity. In such an event, Airzëd will allocate the available capacity to the Access Seeker on a fair and reasonable, non discriminatory and best efforts basis.

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PART 2 – SCHEDULE 6

2.6 *Technical and Implementation*

This Schedule deals with the procedures for the establishment of Interconnection between the network of Airzëd and the network of the Access Seeker.

- 2.6.1 The Access Seeker shall notify Airzëd the type of interconnection that it requires and the location that it proposes to interconnect its network with the network of Airzëd. Such notification shall be given to Airzëd at the time of making a Forecast or placing an Order.
- 2.6.2 For optimum service performance the Access Seeker must implement the appropriate interconnect configuration as determined by Airzëd.
- 2.6.3 Airzëd may consider a request in writing by the Access Seeker to interconnect at a point other than the Point of Interface provided. Airzëd may at its absolute discretion provide access at such unspecified Point of Interface to the Access Seeker. For the avoidance of doubt, this Section does not impose an obligation on Airzëd to interconnect at a non-specified Point of Interface location.
- 2.6.4 Airzëd shall not be required to commence work on the installation of Facilities to support the Point of Interface until the Parties have reached agreement on the correct interconnect configuration.
- 2.6.5 Should the Access Seeker nominate a third party Point of Interface for the purposes of Interconnection between the Access Seeker and Airzëd, it shall first notify Airzëd of such nomination giving sufficient details to Airzëd to enable Airzëd to decide if it accepts or rejects such nomination.
- 2.6.6 If Airzëd accepts such nomination, Airzëd shall notify the Access Seeker and notwithstanding such acceptance by Airzëd, the Access Seeker shall remain responsible at all times for all costs of interconnection, provisioning, maintenance and access. The Access Seeker shall indemnify and keep Airzëd indemnified for the duration of the term of the Access Agreement, against all and any claims, demands, expenses, losses and costs which Airzëd may incur or be exposed to, arising from interconnection at the third party's Point of Interface.
- 2.6.7 If Airzëd rejects such nomination, Airzëd shall notify the Access Seeker of its decision and shall provide reasons for its rejection.
- 2.6.8 Each Party is responsible for the provisioning and maintenance of Facilities (including Network Facilities which form part of the Interconnection Link and the transmission equipment) on its side of the POI.

- 2.6.9 The Parties shall not connect any terminal equipment that may result in changes in the characteristics and functionalities of other terminal equipment of both Parties.
- 2.6.10 A POI may be implemented by way of an In-Span Interconnection whereby the POI lies at some point along the physical cable linking the two parties' Networks. Each party is responsible for the transmission Equipment at its end of the cable, and the cable from its building to the POI. In the case of microwave "In-Span Interconnection", the POI lies between the terminals Equipment of the two parties.
- 2.6.11 With an In-Span Interconnection:
- (a) the Interconnect Link must be provided using fibre optic cable circuits except where as agreed (due to location, timing or other reasons) microwave circuits may be used;
 - (b) microwave circuits may be used as a permanent feature;
 - (c) The links must be shared by the parties;
 - (d) The in-span fibre and/or microwave connection will be at a point mutually agreed and the number of nodes to be served by this POI capacity;
 - (e) The Access Seeker's microwave equipment must be compatible to Airzëd's equipment.
- 2.6.12 If the Access Seeker wishes to establish a new POI, the Access Seeker must:
- (a) notify Airzëd three (3) months in advance; and
 - (b) submit a confirmed Order to Airzëd.
- 2.6.13 The Access Seeker must provide to Airzëd information required by Airzëd for planning for Interconnect Capacity at a new POI when or before submitting an Order, including the following information:
- (a) a Forecast of Interconnect Capacity for five (5) years from the time an Order is placed;
 - (b) the number of routes and nodes that will be served by the interconnect capacity provided at the proposed POI;
 - (c) leased circuits requirements (if any);
 - (d) method of provisioning; and
 - (e) the availability of the equipment capacities at the nodes that have been agreed with the Access Provider, or in the case of POP, the associated

equipment.

- 2.6.14 The five (5)-year Forecast for the Interconnect Capacity at the agreed new POI must be agreed by both parties.
- 2.6.15 If the Access Seeker requires additional interconnect transmission facilities at an existing POI, the Access Seeker must submit an Order to Airzëd.
- 2.6.16 The Access Seeker must provide the following information when or before submitting an Order:
- (a) existing interconnect transmission facilities;
 - (b) the utilisation of each available interconnect transmission media;
 - (c) the amount of leased line (E1s) leased by the Access Seeker(if any);
 - (d) a Forecast for five (5) years from the time an Order is placed.
- 2.6.17 Airzëd will accept and fulfil Orders for additional interconnect transmission facilities at a POI provided the following conditions are met:
- (a) the utilisation of the existing interconnect transmission facilities is more than ninety per centum (90%); and
 - (b) the actual demand for circuits exceeds the Forecasted circuits.
- 2.6.18 The Interconnect Capacity must provide a minimum of three (3) years provisioning period for planning purpose.
- 2.6.19 If the Access Seeker obtains physical co-location at a Point of Interface from Airzëd the Access Seeker shall be, for the purposes of the MSA, a deemed access provider to other Operators, and Airzëd shall be considered as the principal access provider.
- 2.6.20 In case where the Access Seeker is a deemed access provider, the Access Seeker shall notify Airzëd of the identity of all other Operators with whom it has reached co-location agreements within two (2) business days of reaching such agreements, and shall ensure that such other Operators comply with the relevant co-location obligations contained in subsection 5.13 of the MSA and the provisions of this Schedule. Access by such other Operators shall be on terms similar to the Access Seeker.
- 2.6.21 Interconnect Testing will be carried out by the Parties for the purpose of ensuring that the Access Seeker's network can inter-work efficiently with the network of Airzëd and that the Interconnection will not adversely affect the provision of Applications Services and Content Applications Services and other existing

services provided by Airzëd to its Customers.

- 2.6.22 Interconnection to the network of Airzëd will be implemented only after satisfactory completion of the interconnect testing and the results of the interconnect testing are satisfactory to Airzëd.
- 2.6.23 Prior to the conduct of interconnect testing, the Access Seeker shall fully test its network to ensure that it conforms to the interface specification as specified by Airzëd. Any defects in hardware or software of the Access Seeker's network must be corrected before the commencement of interconnect testing.
- 2.6.24 The Parties shall act in good faith and make reasonable endeavors to complete the interconnect testing no later than two (2) weeks from the date of the original testing.
- 2.6.25 In the event that in the course of conducting the interconnect testing any test conducted shall fail the Access Seeker shall do all things necessary to rectify the deficiencies so that the relevant test is successfully completed and the results are satisfactory to Airzëd.
- 2.6.26 The Access Seeker agrees to pay Airzëd for the costs and expenses incurred in the provision of resources and personnel for the interconnect testing.
- 2.6.27 All call communications made during the interconnect testing may be chargeable to the Access Seeker.
- 2.6.28 Any postponement or cancellation of any scheduled interconnect testing shall be at the discretion of Airzëd.
- 2.6.29 A certificate signed by a duly authorized officer of Airzëd of the charges payable by the Access Seeker shall be final and conclusive and binding on the Access Seeker.
- 2.6.30 The following changes would be considered as a Network Change:
- (a) Changes to any technical specification of the Interconnection interface ("Interface Change");
 - (b) Changes to any technical specification or characteristic of the Facilities and/or Services ("Service Change");
 - (c) Changes to any technical specification or characteristic of the altering Party's network which will or might affect the other Party's network ("Network Change");
 - (d) Changes to the operational support systems used for Interconnection purposes (includes billing, ordering and provisioning ("OSS Change");

(e) Any enhancements by the altering Party to the features, functions or capabilities on the Facilities or Services which the other Party has access, and which enhancement the altering Party proposes to make available either:

(i) to itself; or

(ii) to any other Operator (“Functionality Change”),

(all of the above described changes shall collectively be referred to as the “Relevant Changes”).

2.6.31 If either Airzöd or the Access Seeker (as “the altering Party”) proposes to make a Relevant Change to its network, services and procedures, the altering Party will issue to Airzöd or the Access Seeker (as the case may be) (as the “recipient party”) a notice stating the nature, effect, technical details and potential impact on the recipient party’s network (“Change Notice”). Upon receipt of the Change Notice, the recipient party shall immediately identify and begin planning the necessary consequential changes that it has to implement to make its network, services or procedures compatible with the altering Party’s network.

2.6.32 The altering Party will, no later than ten (10) business days from the Change Notice, make its technical representatives available to the recipient party to discuss the Relevant Changes, and the necessary consequential changes that the recipient party has to implement to make the recipient party’s network, services or procedures compatible with the altering Party’s network.

2.6.33 The notifying party will co-operate and meet with the recipient party and provide additional information reasonably requested by the recipient party so as to minimise any adverse impact of the Relevant Changes. The obligation of the recipient party to minimise any adverse impact of the Relevant Changes extends to the recipient party developing at its costs and expense solutions whether software or hardware, purchase software or hardware or adapt or modify or alter its Facilities. The recipient party shall discharge its obligations within a reasonable time and account shall not be taken of the time needed to secure any internal approvals or securing funding. The notifying party shall take reasonable account of concerns raised and proposals made by the recipient part to minimize any adverse impact of the Relevant Changes on the recipient party’s network and revise the Change Notice accordingly.

2.6.34 The altering Party will co-operate with the recipient party in relation to the development of procedures for testing the impact of the Relevant Changes on the proper operation and compatibility of the Parties’ respective networks. The altering Party will jointly with the recipient party carry out such tests as developed above at least twenty (20) business days prior to the altering Party implementing the Relevant Changes.

2.6.35 Each party shall bear its own costs of the tests.

2.6.36 In the event Airzëd is desirous of decommissioning a Point of Interface, either:

- (1) as a result of a third party landlord's notice under a tenancy or lease agreement; or
- (2) for any commercial or technical reason; or
- (3) in compliance with any law or Government Agency directive or instrument or court order;

Airzëd shall give a notice ("Decommissioning Notice") to the Access Seeker.

2.6.37 Airzëd will offer reasonable co-operation to the Access Seeker to work out a timetable for the decommissioning of a relevant Point of Interface, network facility or network service.

2.6.38 Where Airzëd gives a Decommissioning Notice with respect to the decommissioning of a Point of Interface, Airzëd will use all reasonable efforts to provide the Access Seeker, a functionally equivalent Interconnection at an alternative Point of Interface, on terms and conditions (other than Charges) that are similar to that applicable to the Point of Interface that has been decommissioned. The Access Seeker shall use its best efforts to obtain interconnection from another Operator.

2.6.39 Where Airzëd gives a Decommissioning Notice to the Access Seeker that it will decommission a network facility or network service, Airzëd will use all reasonable efforts to provide the Access Seeker access to an alternative network facility or network service on terms and conditions (other than Charges) that are similar to that applicable to the network facility or network service that has been decommissioned. Nothing contained herein shall be construed as an undertaking or obligation on the part of Airzëd to provide alternative network facility or network service to the Access Seeker.

2.6.40 The Parties hereby agree that :-

- (a) The Access Seeker shall within thirty (30) days of the completion of the decommissioning and re-installation at the substitute Point of Interface, submit to Airzëd details of the Access Seeker's reasonable costs;
- (b) in the event Airzëd considers that the submission is insufficient for Airzëd to verify the reasonable costs, Airzëd may request the Access Seeker to provide further information, whereupon the Access Seeker shall within thirty (30) days submit the further information required or provide an explanation as to its unavailability;
- (c) upon receipt of all requisite information from the Access Seeker, Airzëd shall within thirty (30) days, evaluate and determine if the costs incurred is

reasonable and necessary;

- (d) if Airzëd determines that the costs incurred are reasonable and necessary, Airzëd shall notify the Access Seeker in writing of its decision and shall deduct the amount from the next Invoice. If the Invoice amount is insufficient to extinguish such deduction, then Airzëd will pay the Access Seeker the undeducted portion within thirty (30) days from the date of the Invoice;
- (e) if after the period set out in this Section, Airzëd disagrees with the computation by the Access Seeker or disagrees that the costs claimed are reasonable and necessary, then Airzëd shall notify the Access Seeker of its disagreement and state its reasons. Upon such notification, a dispute is deemed to have arisen, which shall be resolved in accordance with the dispute resolution procedure set out herein.

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PART 2 - SCHEDULE 7

2.7 *Operations and Maintenance*

The Parties hereby agree that the management of the operations of their respective networks and the management and rectification of faults shall be dealt with in the manner as set out herein:

- 2.7.1 Airzöd and the Access Seeker will each be responsible for the operations and maintenance of their own Facilities and Services.
- 2.7.2 Airzöd and the Access Seeker will adopt and implement standards and procedures that will:
- (i) ensure that the operations of each of their networks is efficient;
 - (ii) facilitate prompt identification and rectification of interconnect faults to minimize interruption of communication services to customers; and
 - (iii) provide for adequate management of the operations and maintenance of Facilities and support systems
- 2.7.3 Each Party shall be responsible for managing the traffic from its own Gateway to the other Party's Gateway and in particular will implement network management measures for traffic control for abnormal traffic upsurge, network instability and other abnormal traffic behavior.
- 2.7.4 Both Parties shall carry out periodic interconnect link test at agreed intervals to ensure that the QoS levels are maintained.
- 2.7.5 Routine testing of interconnect circuits shall be kept to the minimal and be carried out outside the busy traffic hours (to be determined on a case by case basis).
- 2.7.6 Each Party undertakes to give written notice to the other Party as prescribed in the Access Agreement prior to any system upgrading of their Facilities affecting the interconnect circuits and which may lead to temporary failure.
- 2.7.7 Interconnect testing shall be carried out after the system upgrading is completed to ensure that no inter-working problem arises. The altering Party initiating the upgrading is thereafter required to provide a report on the outcome of the event to the other Party within fourteen (14) Business Days after completion of the work.
- 2.7.8 In the event that in carrying out a system upgrading, the interworking between

the networks of both Parties is adversely affected, the Altering Party shall immediately take and implement all necessary action to effectively overcome the problem so that the networks continue to inter-work efficiently.

- 2.7.9 Each Party shall retain the fault record for a period of one (1) year from the date of the fault report. The records shall contain details such as:
- (a) fault reference number;
 - (b) cause of fault;
 - (c) fault report date/time;
 - (d) restoration action; and
 - (e) the corresponding restoration date/time.
- 2.7.10 These records shall be used to determine the performance of the interconnection of the Facilities.
- 2.7.11 The Party leasing the third party Facilities shall be responsible to ensure that the third party Facilities is maintained in accordance with the terms of the Access Agreement.
- 2.7.12 The Party leasing the third party Facilities shall be responsible to ascertain that the standard and quality of the leased facilities conform to the specifications and standards as prescribed in the Access Agreement.
- 2.7.13 The Party (“Maintenance Operator”) who intends to carry out planned maintenance which may affect the Access Seeker’s Network on any part of its network shall be:
- (a) provide a minimum of seven (7) business days notice of the planned maintenance, where reasonably practical;
 - (b) use reasonable endeavors to minimize any disruption to the Communications crossing between the networks of Airzëd and the Access Seeker; and
 - (c) where reasonably practicable, and if agreed between Airzëd and the Access Seeker, Airzëd will provide an alternative route or carriage of call communications on terms to be agreed.
- 2.7.14 If the Maintenance Operator needs to undertake emergency maintenance on any part of its network, the Maintenance Operator will, if it is able to:
- (a) provide at least one (1) business day notice of the planned maintenance, where reasonably practical;

- (b) use reasonable endeavors to minimize any disruption to the communications crossing between the networks of Airzëd and the Access Seeker; and
 - (c) where reasonably practicable, and if agreed between Airzëd and the Access Seeker, Airzëd will provide an alternative route or carriage of the communications on terms to be agreed.
- 2.7.15 If both Parties agree, the Party which owns or occupies the premises where the POI is located may conduct maintenance of the other Party's equipment located at the POI on agreed terms and conditions.
- 2.7.16 Each Party shall be responsible for the operations and maintenance of their section of the in-span capacity, alongside with any network element under their jurisdiction and ownership.
- 2.7.17 Each Party must:
- (a) maintain its POI equipment located in POI sites in good working order;
 - (b) maintain the POI sites in a secure, tidy and safe condition;
 - (c) ensure that combustible material is not left in or around POI sites following maintenance or other operations.
- 2.7.18 Both Parties shall determine faults on their own equipment. Only genuine interconnect faults shall be reported to the other Party's Interconnect Fault Reporting Centre/Fault Reporting Centre.
- 2.7.19 If a fault is encountered by one Party, that Party must first establish the nature of the fault by carrying out a thorough test on its equipment and if such test proved that the fault is not residing in its own equipment, then that Party must promptly convey this fault report to the other Party for rectification.
- 2.7.20 If a fault occurs, affecting any communication which crosses or is to cross both Parties' network, the initial responsibility for identifying and reporting the fault to the other Party rests with the Party who first becomes aware of the fault condition.
- 2.7.21 If a Party identifies a fault occurring in its network at the POI which may have an adverse effect on the other Party's network, the Party must promptly inform the other Party:
- (a) the nature of the fault;
 - (b) the actions being taken by it to restore service; and

(c) the expected time of restoration and the outcome of those actions.

- 2.7.22 Each Party will be responsible for processing reported faults using its own procedures and shall be obliged to offer full assistance for interconnection faults.
- 2.7.23 Both Parties shall use their best endeavors to meet once every two (2) months or at agreed intervals for the purpose of preventing the recurrences of such fault which adversely affect the traffic across the networks of the Parties. The information provided in such reports is confidential information and subject to the confidentiality obligation under the Access Agreement.
- 2.7.24 Any failure persisting for longer than seconds at any component included in the Interconnection and which is characterized by complete inability to perform all required functions of such component is considered as a failure of Interconnection.
- 2.7.25 All Interconnection faults must be reported to the respective Interconnect Fault Report Centre/Fault Reporting Centre.
- 2.7.26 If the fault occurs at the POI, each Party will use its reasonable endeavors to rectify the fault promptly and restore the service.
- 2.7.27 In case of physical faults, it is each Party's responsibility to check and verify that the fault does not reside within its own network prior to escalating the fault to the other Party.
- 2.7.28 If a major fault occurs in the network affecting the communications that cross between Airzëd's and the Access Seeker's networks, initial identification of the fault will rest with the Party who first becomes aware of the fault. Once it is determined accurately where the fault lies, the affected Party in whose network the fault has occurred will promptly repair the said fault. It is the responsibility of each Party to immediately inform the other Party in writing of any major failures.
- 2.7.29 If a Party identifies a fault occurring in its network which may have an adverse effect on the other Party's network or equipment or affects the services provided to Customers, the Party identifying the fault shall promptly notify the other Party of the existence of the fault, and the remedial actions being taken by it.
- 2.7.30 In the event of interruption or failure of any of the Facilities, the Party which has control or owns the network facility will restore services as soon as is reasonably practicable giving the highest priority and service to faults that are service affecting and to recurring faults affecting any part of its network.
- 2.7.31 Difficult or reoccurring faults may need to be investigated by a joint engineering team with members from each Party. The formation of such joint engineering team does not imply that employees from one Party have any rights of access to

or inspection of the other Party's premises, equipment, documentation, etc.

- 2.7.32 Both Carriers will assist wherever possible in the identification and rectification of faults on an interconnect route.
- 2.7.33 Each Party is responsible for its own fault or problem management escalation procedure. Both Parties will have joint escalation procedures in respect of faults relating to traffic which cross or are to cross both Parties network and also for faults that occur at the POI. These processes will be aimed at achieving restoration times.
- 2.7.34 The fault restoration performance shall be reviewed each quarter or at mutually agreed intervals.
- 2.7.35 Both the Access Seeker and Airzëd will establish and maintain, at their own costs, a fault reporting service that allows their Customers who are connected to their respective networks, to report such faults directly to their fault management systems.
- 2.7.36 Both Airzëd and the Access Seeker will ensure that they advise their directly connected Customers to report all faults to the fault reporting service set up by the relevant operator, and will manage its fault reporting and identification on a non-discriminatory basis.
- 2.7.37 All communication to a Customer must be truthful and reflect the true nature and location of the fault.
- 2.7.38 If a Customer reports a fault to a Party to which it is not directly connected, that Party must promptly inform the other Party to which the Customer is directly connected of this reported fault in order to coordinate efficient and prompt repair regardless of the location of the fault.
- 2.7.39 Each Party to the Access Agreement agrees to respond and rectify faults in its network in accordance with the agreed response and rectification time frames set out in Annex A herein.
- 2.7.40 In undertaking service restoration in respect of interconnect traffic, must have regard to, without limitation, the following principles:
- (a) service restoration taking priority over equipment repair;
 - (b) automatically bringing in available standby capacity and/or undertaking network management actions to restore service;
 - (c) monitoring equipment and alarms and carrying out testing to determine the nature and location of the fault;
 - (d) if the fault is identified, immediately rectifying the fault, if possible;

- (e) if the source of the fault cannot be quickly identified and cleared, the Party which has identified the fault shall notify the other Party of the problem and keep that other Party informed as agreed in the Access Agreement of the progress in relation to the identification and rectification of the fault;
- (f) if the source of the fault has been identified by a Party but immediate rectification is not feasible, the Party responsible for rectification shall immediately notify the other Party of the estimated fault rectification time (which will be based on the Party rectifying the fault using its best endeavors in the light of the nature of the fault and its effect on services); and
- (g) if a Party had rectified a fault on a temporary basis, the said Party must inform the other Party of this fact and provide the timeline for the permanent repair.

2.7.41 The owner of the equipment is responsible for providing spares.

2.7.42 All fault reports to Interconnect Fault Reporting Centre/Fault Reporting Centre shall be acted upon promptly. Such actions shall include the exchange of:

- (a) a unique fault reference number;
- (b) the date and time the fault was initially reported; and
- (c) the date and time the fault was informed to the other Party.

2.7.43 Network failures can have a considerable impact on the quality of service perceived by Customers. Both Parties shall prepare a common interconnection restoration plan and test and review this plan regularly.

2.7.44 In the case of a planned maintenance, the Party planning must inform the other Party, in writing, fourteen (14) business days the following information:

- (a) date and time;
- (b) type of activity;
- (c) expected duration;
- (d) fault impact categories (for example service affecting, service threatening or others);
- (e) contact telephone number and contact person.

2.7.45 If the planned maintenance is not restored to full service within the expected duration, the additional maintenance time shall be regarded as an unplanned maintenance and the procedure for dealing with unplanned maintenance shall apply.

- 2.7.46 Upon detection of a fault requiring emergency maintenance, the relevant Interconnect Fault Reporting Centre/Fault Reporting Centre shall be notified. At the time of notification the fault could have ceased to exist or could still be persisting.
- 2.7.47 In cases where the emergency fault has ceased to exist, the Interconnect Fault Reporting Centre/Fault Reporting Centre will note the occurrence, duration and details of the failure.
- 2.7.48 In the event that either Party reports a service fault, the reporting Party will be required to provide the following information for fault handling and record purposes:
- (a) circuit number;
 - (b) the time the fault occurred;
 - (c) full details of the fault;
 - (d) contact person, telephone number and the fault reference number of the Party reporting the fault;
 - (e) contact name and telephone number of the reporting Party's personnel for fault clearing operation and assistance if needed;
 - (f) agreement from the Customer to release the affected parts of the service for testing. If access to the circuit is withheld by the Customer, the Customer's employees or agent, this withholding period will not be included in the calculation of service availability.
- 2.7.49 Subject to the technical obligations set out in the ARD, each Party will adhere to the relevant guidelines and all applicable technical standards adopted or issued by the Commission from time to time.
- 2.7.50 The Parties shall if necessary agree to a technical and implementation manual in respect of the facilitation of the access to the required Facilities and/or Services. Such manual shall be agreed to within thirty (30) days from the date of execution of the Access Agreement, or such longer period as may be mutually agreed. If the Parties are unable to do so, then there shall be deemed to be a dispute arising between the Parties and notwithstanding the conditionality of the Access Agreement, the provisions of the ARD shall apply.
- 2.7.51 The Parties agree that each of them is responsible for the safe operation of its side of the network boundary, and shall take all reasonable steps to ensure that its side of the network, its network operations, and the implementation of the Access Agreement:
- (a) will not endanger the safety or health of any person, both its own personnel

and those of the other Party;

(b) will not cause physical or technical harm to the other Party's network, including causing damage, interfering with or causing deterioration in the operation of the other Party's network.

2.7.52 Both Parties shall ensure all work places are safe and they are in compliance with safety procedures appropriate to the activities being undertaken.

2.7.53 Due to the dangers of exposure to radiation from optical power sources, it is imperative that safety procedures be followed which ensures that personnel do not work on fibre optical systems unless the power sources to the laser has been turned off at both terminals.

2.7.54 Should a member or staff of either Party become ill or sustain injury while on or at the other Party's site, every priority must be offered to assist the individual to receive first aid.

2.7.55 Should any visitor or employee have an accident, full details must be reported to the other Party within one (1) business day.

2.7.56 Both Airzëd and the Access Seeker shall take all necessary precautions against interference, and shall not knowingly, do anything or permit any third party to do anything in relation to its network and/or equipment which will:

(a) cause radio interference to the other Party's network; and

(b) materially obstruct, interrupt or impede the continuous use or operation of the Facilities, Services or equipment

2.7.57 If either Airzëd or the Access Seeker ("the Notifying Operator") notifies the other Party ("the Recipient Operator") that the Recipient Operator's Facilities, Services or equipment is causing interference to the Notifying Operator's Facilities, Services or equipment, then the Recipient Operator shall upon receipt of the aforesaid notice from the Notifying Operator, complete all rectification and repair works so that the interference ceases or do all things necessary to remove the interference.

2.7.58 If the Recipient Operator is unable to locate the source of the interference, the Recipient Operator shall notify the Operator and the Parties agree to meet within twenty-four (24) hours of such notice and inspect each others Facilities, Services or equipment to locate the source of the interference.

2.7.59 Each Party is responsible for monitoring alarms belonging to its own network.

2.7.60 Regular meetings are to be held to review the performance of the interconnection, the operational information exchanged between the Parties by the Interconnect Steering Group or ISG.

- 2.7.61 A Party leasing Facilities from a third party to install its equipment, shall be responsible to negotiate and obtain approval from the third party in order that the other Party is able to gain access to the third party premises for the purpose of operations and maintenance work.
- 2.7.62 A Party which intends to gain physical access to a POI site belonging to the other Party for installation or operations and maintenance work, must take necessary steps to comply with that Party's existing security procedure/ arrangement in practice at the site.
- 2.7.63 Each Party shall give seven (7) business days prior written notice to the other Party of its intention to access the other Party's POI site for the purpose of carrying out preventive maintenance on its Equipment, unless a fault exists which warrants immediate action.
- 2.7.64 If a Party detects a fault, defect or problem at the other Party's equipment located at the POI site, and this fault, defect or problem causes or might cause damage to its Facilities, the first mentioned party must:
- (a) promptly notify the other Party as soon as possible.
 - (b) take immediate appropriate protective action with respect to its equipment and subsequently notify the other Party.
- 2.7.65 If a Party reasonably determines that the other Party's POI equipment located at the POI site poses an immediate risk of personal injury or significant property damage, it may take interim measures necessary to prevent such injury or damage, pending attendance by the other Party to perform corrective work.
- 2.7.66 The instances necessitating call traces have been classified as emergency or engineering. Both Parties will use their best endeavors to trace calls at the time the call is in progress. On occasions where this is not possible, each Party will endeavor to perform a trace retrospectively using the CDR.
- 2.7.67 Each Party will have to make available a list of contact information consisting of the name, designation of the contact person, contact telephone and facsimile numbers.

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PART 2 – ANNEX A

Fault Rectification Response Times

The following Fault Rectification Response Times shall apply to both Parties:-

Priority Level	Fault Types (examples)	Response Time and Update Frequency	Restoration Time (calculated from time of report)
Level 1	<ol style="list-style-type: none"> 1. Major switch outage 2. Transmission bearer total outage 3. Route blocking > 50% 4. Major signalling problem 5. Major routing issues 	Every 1 hr	4 hrs
Level 2	<ol style="list-style-type: none"> 1. Minor switch outage 2. Minor routing issue 3. Minor signalling problems 4. Route blocking 10%-50% 	Every 4 hrs	24 hrs
Level 3	<ol style="list-style-type: none"> 1. Faults affecting single or small number of Customers 2. Route blocking <10% 	Every 24 hrs	72 hrs
Level 4	<ol style="list-style-type: none"> 1. Remote Congestion 2. External Technical Irregularities (ETI) 3. Other performance related issues 	Every 48 hrs	14 days

For the purposes of this Annex A, the following are the explanatory notes to the above table:

- (a) All faults reported shall be given a “Priority Level” as set out in the above table for response, reporting frequency and restoration purposes and Airzëd and the Access Seeker shall cooperate fully with one another to achieve the given time targets based on the severity of the fault reported.
- (b) “Response Time” refers to the time for either Airzëd the Access Seeker (“the Faulty Party”) whose network or service is faulty to respond to and

appropriately attend to the fault. Response times are to be measured from either the time the fault is notified by the other Party to the Faulty Party or from the time when the Faulty Party first becomes aware of the fault, whichever is the earlier.

- (c) "Restoration Time" refers to the time taken by the Faulty Party to restore a faulty service and is determined by the period between the reporting of a fault to the respective Interconnect Fault Reporting Centre/ Network Management Centre of that Faulty Party and the restoration of the faulty service.
- (d) Where the fault is due to a major external plant failure for example cable dug up or aerial collapse, a longer period of time should be allowed for restoration

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