

Version 1.0  
31 March 2022

# Digital Nasional Berhad Reference Access Offer

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# Contents

## Table of contents

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<b>PART A – INTRODUCTION AND PRINCIPLES</b>	<b>8</b>
<b>1 Definitions and Interpretation</b>	<b>8</b>
1.1 Definitions .....	8
1.2 Interpretation .....	21
1.3 Components.....	22
<b>2 Background, Scope and Structure</b>	<b>22</b>
2.1 Background and objectives.....	22
2.2 Scope .....	23
2.3 Structure and precedence .....	23
2.4 Formation of an Access Agreement .....	24
<b>3 General Principles of Access</b>	<b>24</b>
3.1 Reasonableness .....	24
3.2 Non-discrimination .....	24
3.3 No restriction on re-sale.....	25
3.4 General Principles.....	25
3.5 Scope .....	25
<b>PART B – ACCESS TO THE SERVICES</b>	<b>26</b>
<b>4 Application for Access to Services</b>	<b>26</b>
4.1 Access Request .....	26
4.2 Required information .....	26
4.3 Non-permitted information .....	27
4.4 Information disclosure .....	27
4.5 Obligations upon receipt.....	28
4.6 Refusal response .....	28
4.7 Grounds for refusal .....	29
4.8 Technical infeasibility .....	30
4.9 Capacity constraints.....	30
4.10 Dispute resolution .....	31
<b>5 Negotiation of Access Agreement</b>	<b>31</b>
5.1 Negotiation response .....	31
5.2 Initial meeting .....	31
5.3 Timing .....	32
5.4 Confidentiality .....	32
5.5 Additional matters .....	32
<b>6 Forecasting</b>	<b>33</b>
6.1 Capacity forecast .....	33
<b>7 Supply of Services</b>	<b>34</b>
7.1 Obligation to provide the Services .....	34
7.2 Receipt of the Services and Access Seeker provision to End User Customers	34
7.3 Continuous improvement.....	34
7.4 Product Committee .....	35
7.5 Co-operation .....	35

# Contents

7.6	Suspension of Services .....	35
<b>8</b>	<b>Test Services</b>	<b>35</b>
<b>PART C – OPERATIONAL MANAGEMENT</b>		<b>37</b>
<b>9</b>	<b>Operations Manual</b>	<b>37</b>
9.1	General .....	37
9.2	End User Customer devices .....	37
<b>10</b>	<b>Points of Interface and other Facilities</b>	<b>38</b>
10.1	Interconnection .....	38
10.2	Point of Interface.....	38
<b>11</b>	<b>Decommissioning</b>	<b>40</b>
11.1	Application of this section .....	40
11.2	Decommissioning a Point of Interconnect .....	40
11.3	Decommissioning a Facility or site .....	40
<b>12</b>	<b>Network Rollout</b>	<b>40</b>
12.1	Deployment schedule .....	40
12.2	Planning Committee.....	41
<b>13</b>	<b>Network Change</b>	<b>42</b>
13.1	Notification of change .....	42
13.2	Post-notification procedures .....	42
13.3	Testing .....	42
13.4	Testing failure .....	43
<b>14</b>	<b>Operations and Maintenance</b>	<b>43</b>
14.1	Operations and maintenance responsibility.....	43
14.2	Planned maintenance .....	44
14.3	Emergency maintenance .....	44
14.4	Routine testing .....	44
<b>15</b>	<b>Compatibility and Technical Obligations</b>	<b>44</b>
15.1	General compatibility obligations .....	44
15.2	Technical standards.....	45
15.3	No interference .....	45
15.4	Disconnection of interfering equipment .....	46
15.5	Compliance with instructions, policies and procedures .....	46
<b>16</b>	<b>Reporting Obligations</b>	<b>47</b>
16.1	General reporting obligations.....	47
16.2	Provision of reports .....	47
16.3	Reporting standards .....	47
<b>17</b>	<b>Security Obligations</b>	<b>47</b>
17.1	Compliance with security policies by Access Seeker .....	47
17.2	Risks to the Networks .....	47
17.3	Review of security processes .....	48

# Contents

<b>18</b>	<b>Network Operation Centre</b>	<b>49</b>
<b>19</b>	<b>Service Levels</b>	<b>49</b>
<b>20</b>	<b>Fault Management, Support and Escalations</b>	<b>52</b>
	20.1 Access Seeker fault reporting service .....	52
	20.2 Trouble Tickets .....	53
	20.3 Faults which could impact on the other party's Network or Equipment .....	53
	20.4 Support and Escalation .....	53
<b>21</b>	<b>Business Continuity</b>	<b>53</b>
	<b>PART D – INFORMATION AND RIGHTS MANAGEMENT</b>	<b>55</b>
<b>22</b>	<b>Confidentiality</b>	<b>55</b>
	22.1 General obligation of confidentiality .....	55
	22.2 Permitted use and disclosure of Confidential Information by DNB .....	55
	22.3 Permitted use and disclosure of Confidential Information by Access Seeker ...	56
	22.4 Use of End User Customer Information .....	56
	22.5 Co-operation in the protection of Confidential Information .....	56
	22.6 Unauthorised acts in relation to Confidential Information .....	56
	22.7 Remedies .....	57
	22.8 No warranty .....	57
	22.9 Return of Confidential Information on demand .....	57
	22.10 Application to other parts of this RAO .....	57
<b>23</b>	<b>DNB and Access Seeker Data</b>	<b>57</b>
<b>24</b>	<b>Intellectual Property Rights</b>	<b>58</b>
	24.1 Acknowledgement of ownership .....	58
	24.2 Licence to DNB Material .....	59
	24.3 Licence to Access Seeker Material .....	59
	24.4 Infringement claim process .....	59
<b>25</b>	<b>Data Security Requirements</b>	<b>60</b>
	25.1 Data security .....	60
	25.2 Data Security Incident notification .....	60
	25.3 Protection of online systems .....	61
	25.4 Access .....	61
<b>26</b>	<b>Marketing</b>	<b>61</b>
	<b>PART E – FINANCIAL MANAGEMENT</b>	<b>63</b>
<b>27</b>	<b>Billing and Settlement</b>	<b>63</b>
	27.1 Fees .....	63
	27.2 Invoices .....	63
	27.3 Payment .....	63
	27.4 Taxes .....	64
	27.5 Billing Disputes .....	64
	27.6 Late payments .....	64
	27.7 Backbilling .....	64
	27.8 Provisional billing .....	65
	27.9 Adjustment Period .....	65

# Contents

<b>28</b>	<b>Creditworthiness</b>	<b>65</b>
28.1	Request for Creditworthiness Information .....	65
<b>29</b>	<b>Financial Security</b>	<b>65</b>
29.1	Minimum Financial Security .....	65
29.2	Varying the Minimum Financial Security .....	66
29.3	Request for Additional Financial Security from Access Seeker .....	66
<b>PART F – RISK MANAGEMENT</b>		<b>67</b>
<b>30</b>	<b>Warranties</b>	<b>67</b>
30.1	Mutual warranties .....	67
30.2	Access Seeker Warranties .....	67
30.3	No other warranties .....	67
<b>31</b>	<b>Liability</b>	<b>68</b>
31.1	General principle .....	68
31.2	Limitation of liability .....	68
31.3	Liability for Service Failures .....	68
31.4	Consequential Loss .....	68
31.5	No liability for hacking and malicious code .....	68
31.6	Exclusions from limitations .....	69
31.7	Acknowledgement .....	69
31.8	Duty to mitigate .....	69
31.9	Third party rights and exclusions .....	69
<b>32</b>	<b>Indemnities</b>	<b>70</b>
32.1	Mutual Indemnities .....	70
32.2	Capped indemnities by DNB .....	70
32.3	Indemnity for downstream claims .....	70
<b>33</b>	<b>Insurance Requirements</b>	<b>71</b>
33.1	General .....	71
33.2	Required insurances .....	71
<b>PART G – AGREEMENT MANAGEMENT</b>		<b>72</b>
<b>34</b>	<b>Term</b>	<b>72</b>
<b>35</b>	<b>Termination</b>	<b>72</b>
35.1	Termination by DNB .....	72
35.2	Termination by the Access Seeker .....	72
35.3	Termination due to a change in Law .....	73
35.4	Suspension .....	73
35.5	Notice prior to termination or suspension .....	74
35.6	Consequences of termination .....	74
<b>36</b>	<b>Changes to the Services</b>	<b>75</b>
36.1	Application of this section .....	75
36.2	Change to the technical details of a Service .....	75
36.3	Introduction of a new Service .....	76
36.4	Removal of a Service .....	76
36.5	Changes to the Services required by Law .....	77

# Contents

<b>37</b>	<b>Changes to the Access Agreement and other documents</b>	<b>78</b>
	37.1 Application of this section .....	78
	37.2 Changes to the Access Agreement .....	78
	37.3 Changes required by Law .....	78
	37.4 Changes to the Operations Manual .....	78
	37.5 Changes to this RAO .....	79
<b>38</b>	<b>Force Majeure</b>	<b>80</b>
<b>39</b>	<b>Anti-Bribery and Anti-Money Laundering</b>	<b>80</b>
<b>40</b>	<b>Disputes</b>	<b>81</b>
<b>41</b>	<b>Governance</b>	<b>81</b>
<b>42</b>	<b>Notice</b>	<b>81</b>
	42.1 Form of Notice .....	81
	42.2 How Notice must be given and when Notice is received .....	81
	42.3 Notice must not be given by electronic communication .....	82
<b>43</b>	<b>General terms</b>	<b>82</b>
	43.1 Assignment and novation .....	82
	43.2 Duty, costs and expenses in entering into the Access Agreement .....	82
	43.3 Invalidity and enforceability .....	82
	43.4 Entire RAO .....	83
	43.5 No reliance .....	83
	43.6 Access Agreement binds successors .....	83
	43.7 Waiver .....	83
	43.8 Further action to be taken at each party's own expense .....	83
	43.9 Exercise of rights .....	83
	43.10 Relationship of the parties .....	84
	43.11 Subcontracting .....	84
	43.12 Counterparts .....	84
	43.13 Applicable laws and jurisdiction .....	84
	<b>Schedule 1</b>	
	<b>DNB 5G Access Network Products and Services Catalogue</b>	<b>85</b>
	<b>Schedule 2</b>	
	<b>Pricing</b>	<b>92</b>
	<b>Schedule 3</b>	
	<b>Service Levels and KPIs</b>	<b>94</b>
	<b>Schedule 4</b>	
	<b>Dispute Resolution Procedures</b>	<b>99</b>

# Contents

<b>Schedule 5</b>	
<b>Access Request Application Form</b>	<b>106</b>
<b>Schedule 6</b>	
<b>Confidentiality Agreement</b>	<b>107</b>

## DNB Reference Access Offer

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Version ► 1.0

Date ► 31 March 2022

### **DNB**

#### **Digital Nasional Berhad**

Registration No. 201701005338 (1219503-P) of Level 12, Exchange 106, Lingkaran TRX, Tun Razak Exchange, 55188 Kuala Lumpur, Wilayah Persekutuan Kuala Lumpur, Malaysia.

### **Recitals**

- 1 DNB is licensed under the Act and, pursuant to its licence(s) under the Act, may offer network facilities and network services within Malaysia on a wholesale basis.
- 2 The Access Seeker is a licensed operator under the Act, and operates pursuant to its licence(s) in Malaysia.
- 3 The Access Seeker wishes to be able to rely on the network facilities and network services operated by DNB to offer certain services to its End User Customers.
- 4 This Reference Access Offer sets out the terms and conditions subject to which network services and facilities will be provided by DNB to the Access Seeker.
- 5 For the Access Seeker to acquire the Services from DNB it must enter into an Access Agreement in accordance with the terms set out in this Reference Access Offer.



## PART A – INTRODUCTION AND PRINCIPLES

### 1 Definitions and Interpretation

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#### 1.1 Definitions

The meanings of the terms used in this Reference Access Offer are set out below.

Term	Meaning
<b>12 Month Forecast</b>	has the meaning given in section 6.1(a).
<b>3GPP</b>	the Third Generation Partnership Project, being the organisation that defines technology standards for broadband cellular networks.
<b>4G Evolved Packet Core with 5G Radio Access Network Access or NSA</b>	has the meaning given to '4G Evolved Packet Core with 5G Radio Access Network Access' in paragraph 5(19) of the Access List Determination.
<b>5G</b>	the fifth-generation technology standard for broadband cellular networks as defined by the 3GPP.
<b>5G Standalone Access or SA</b>	has the meaning given in to '5G Standalone Access' in paragraph 5(18) of the Access List Determination.
<b>Access Agreement</b>	an executable document that gives effect to this RAO entered into between the Access Seeker and DNB.
<b>Access List Determination</b>	the Commission Determination on Access List, Determination No. 6 of 2021.
<b>Access Provider</b>	a network facilities provider, a network service provider, an applications service provider or a content applications service provider who is a licensee as defined in the Act.
<b>Access Request</b>	means a request for access made by the Access Seeker under section 4 and containing the information required in section 4.2.
<b>Access Request Application Form</b>	an application form submitted by an Access Seeker in substantially the form set out in Schedule 5.

Term	Meaning
<b>Access Seeker</b>	a network facilities provider, a network service provider, an applications service provider or a content applications service provider who is a licensee as defined in the Act and who makes a written request for access to the Services.
<b>Access Seeker Data</b>	has the meaning given in section 23(a)(1).
<b>Access Seeker Feedback</b>	has the meaning given in section 12.1(c).
<b>Access Seeker Infrastructure</b>	the infrastructure and equipment owned or licensed by the Access Seeker, including any infrastructure and equipment used to connect to a Point of Interface.
<b>Access Seeker Material</b>	any Material which is owned or licensed by the Access Seeker, and provided by the Access Seeker to DNB under the Access Agreement, including any technical data, and any development, modification, enhancement, improvement or adaptation of such materials.
<b>Act</b>	the <i>Communications and Multimedia Act 1998</i> [Act 588].
<b>Additional Financial Security</b>	the additional financial security that may need to be paid by the Access Seeker in accordance with section 29.2.
<b>Adjustment Period</b>	has the meaning given in section 27.9.
<b>Adverse Network Impact</b>	<p>any event or series of events which:</p> <ol style="list-style-type: none"> <li>1 endangers the health or safety of any person;</li> <li>2 damages, threatens, interferes with, prejudices the integrity of, degrades or results in the deterioration of the operation or performance of any other party's Network, systems, Equipment, property, Infrastructure or Facilities;</li> <li>3 causes a nuisance in or while accessing DNB infrastructure or the DNB 5G Access Network; or</li> <li>4 damages, threatens, interferes with, prejudices the integrity of, degrades or causes the deterioration of the operation or performance of: <ul style="list-style-type: none"> <li>– DNB infrastructure or DNB 5G Access Network;</li> <li>– communications within the DNB 5G Access Network (including the Services provided over the Network);</li> </ul> </li> </ol>

Term	Meaning
	<ul style="list-style-type: none"> <li>– any Network, systems, Equipment, property, Infrastructure or Facilities used in connection with the DNB 5G Access Network; or</li> <li>– other property or Facilities of any third party.</li> </ul>
<b>Annual Security Audit</b>	has the meaning given in section 17.3(a).
<b>Base Rate</b>	has the meanings set out in the tables in sections 1.2(a) and 1.3(a) of Schedule 2 (as applicable).
<b>Billing Cycle</b>	the regular periodic basis on which DNB shall issue Invoices for the supply of access to Services during each Billing Period, as specified in Schedule 2 (Pricing).
<b>Billing Period</b>	the period over which the supply of Services is measured for the purposes of billing as contemplated in section 27.1, which shall be no more than one month and in accordance with the relevant calendar month, unless otherwise agreed between the parties in the Access Agreement.
<b>Business Continuity Plan</b>	a plan setting out DNB's approach to dealing with incidents in accordance with section 21 to help ensure the ongoing functioning of the DNB 5G Access Network and the Services.
<b>Business Day</b>	<p>a day other than the followings days:</p> <ol style="list-style-type: none"> <li>1 a Saturday and Sunday;</li> <li>2 in states where Friday is observed as the weekly holiday, a Friday and Saturday; or</li> <li>3 a day which is lawfully observed as a national public holiday throughout Malaysia.</li> </ol>
<b>Change to Service Notice</b>	has the meaning given in section 36.2(a).
<b>Claim</b>	any claim, demand, proceeding, liability, or cause of action of any nature, whether present or future, at law, in equity, under statute or otherwise.
<b>Closed Number Area</b>	a set of digit(s) beginning with the trunk prefix "0" which forms the first part of a national number, and which indicates the defined geographical area within Malaysia where the End User Customer's

Term	Meaning
	fixed number is located, provided always that "09" in the states of Pahang, Terengganu and Kelantan will be treated as one Closed Number Area, "082" to "086" in the state of Sarawak will be treated as one Closed Number Area and "087 to 089" in the state of Sabah will be treated as one Closed Number Area.
<b>Co-Location Facility</b>	has the meaning given in section 14.1(a).
<b>Commencement Date</b>	the date the last party to an Access Agreement executes that Access Agreement.
<b>Commercial Traffic</b>	user data or traffic carried on the DNB 5G Access Network that DNB determines is chargeable to the Access Seeker. Commercial Traffic does not include signalling payload on the DNB 5G Access Network generated by the Access Seeker.
<b>Commission</b>	the Malaysian Communications and Multimedia Commission established under the Act.
<b>Confidential Information</b>	<p>all information, know-how, ideas, concepts, technology, manufacturing processes, industrial, marketing and commercial knowledge of a confidential nature (whether in tangible or intangible form) relating to or developed in connection with or in support of the business of the Disclosing Party, but does not include:</p> <ol style="list-style-type: none"> <li>1 information which is or becomes part of the public domain (other than through any breach of the Access Agreement);</li> <li>2 information rightfully received by the Receiving Party from a third person without a duty of confidentiality being owed to the third person, except where the Receiving Party has knowledge that the third person has obtained that information either directly or indirectly as a result of a breach of any duty of confidence owed to the Disclosing Party;</li> <li>3 information which has been independently developed by the Receiving Party; or</li> <li>4 information required by Law or the business rules of any stock exchange to be disclosed, provided that: <ul style="list-style-type: none"> <li>– the Receiving Party, gives 24 hours' notice to the Disclosing Party of the particulars of the required disclosure; and</li> <li>– the Receiving Party provides the Disclosing Party with all assistance reasonably required by the Disclosing Party (at the Disclosing Party's cost) to enable the Disclosing Party to take any steps available to it to prevent that disclosure or to ensure that it occurs subject to a reasonable obligation of confidence.</li> </ul> </li> </ol>

Term	Meaning
<b>Confidentiality Agreement</b>	the confidentiality agreement set out in Schedule 6.
<b>Consequential Loss</b>	any Loss that does not arise naturally (that is, according to the usual course of things) from the event giving rise to the Loss, and includes any loss of profit, loss of opportunity, loss of or corruption of data, loss of business reputation, loss of savings and loss of revenue.
<b>Contract Year</b>	each 12 month period of an Access Agreement starting on the Commencement Date.
<b>Creditworthiness Information</b>	publicly available information requested by DNB in accordance with section 28.1 regarding the ability for the Access Seeker to meet any liabilities it may have under an Access Agreement.
<b>CSP Portal</b>	a secure platform established by DNB to enable the Access Seeker to access invoices, usage reports, settlements, network performance reports and other relevant information that DNB may make available on the platform from time to time.
<b>Data Security Incident</b>	<p>any:</p> <ol style="list-style-type: none"> <li>1 breach of the security obligations set out in section 25.1;</li> <li>2 any incident, event or problem which does or could result in an actual or potential compromise of the confidentiality, integrity or availability of DNB Material or Access Seeker Material (as applicable) or any Personal Data of the other party;</li> <li>3 information security or data incident or breach that materially affects or has the potential to materially affect the other party, financially or non-financially;</li> <li>4 material information security control weakness which will not be able to be remediated in a timely manner; or</li> <li>5 any compromise, or potential compromise, of the security standards referred to in section 25.1 which has the potential to result in unauthorised access to: <ul style="list-style-type: none"> <li>– Personal Data disclosed or otherwise made available by the other party in connection with this RAO or the Access Agreement; or</li> <li>– the information systems or interfaces of the other party that contain such Personal Data.</li> </ul> </li> </ol>
<b>Defaulting Party</b>	has the meaning given in section 39(c).

Term	Meaning
<b>Disclosing Party</b>	the party disclosing Confidential Information.
<b>Dispute</b>	has the meaning given to it in section 2(a) of Schedule 4.
<b>Dispute Resolution Procedures</b>	the procedures outlined in Schedule 4.
<b>DNB 5G Access Network</b>	the DNB Network used to provide cellular network services on a wholesale basis.
<b>DNB Data</b>	has the meaning given in section 23(a)(2), but for the avoidance of doubt excludes certain categories of data specified in the Operations Manual.
<b>DNB Infrastructure</b>	the infrastructure and equipment owned or licensed by DNB, including any infrastructure and equipment used to connect to a Point of Interface.
<b>DNB Material</b>	any Material which is owned or licensed by DNB, and provided by DNB to the Access Seeker under the Access Agreement, including any technical data, and any development, modification, enhancement, improvement or adaptation of such materials.
<b>DNB Website</b>	<a href="https://www.digital-nasional.com.my">https://www.digital-nasional.com.my</a> .
<b>Duty</b>	any stamp, transaction or registration duty or similar charge imposed by any Tax Authority and includes, but is not limited to, any interest, fine, penalty, charge or other amount imposed in respect of the above, but excludes any Tax.
<b>Emergency</b>	means an imminent actual or potential risk to the safety of persons or property or the integrity of a telecommunications network requiring immediate action to avoid or mitigate any loss, damage or personal injury.
<b>Emergency Maintenance Party</b>	has the meaning given in section 14.3.
<b>End User Customer</b>	a person or entity having a contractual relationship with the Access Seeker for the provision of, or to whom the Access Seeker

<b>Term</b>	<b>Meaning</b>
	provides, communications by means of the Access Seeker's Facilities and/or services.
<b>End User Customer Information</b>	information about an End User Customer of the Access Seeker.
<b>Equipment</b>	any equipment (whether an item of hardware or software) or device which is part of or used within a Network or otherwise used in conjunction with a Network.
<b>Facilities</b>	network facilities and/or other facilities which facilitate the provision of network services or applications services, including content applications services.
<b>Fees</b>	the fees payable by an Access Seeker for the provision of Services as set out in this RAO or the Access Agreement.
<b>Force Majeure</b>	an event or circumstance beyond the reasonable control of a party which affects that party's ability to perform its obligations under this RAO or the Access Agreement, including an act of God, adverse weather conditions, epidemics or pandemics, flood, fire, earthquake and other natural occurrences, electrical failures and blackouts, war, terrorism, civil commotion and riots, strikes and industrial action not impacting solely on the party or an act or omission of a Government Agency.
<b>Gbps</b>	gigabits per second, a measure of the rate of data transmission and which is used as a unit of capacity in the DNB 5G Access Network.
<b>General Principles</b>	has the meaning given in section 3.4
<b>Good Industry Practice</b>	the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading wholesale telecommunication company within the mobile communication sector in Malaysia.
<b>Government Agency</b>	any government or governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in Malaysia and includes the Commission.
<b>Group Member</b>	each party and their Related Corporations.

Term	Meaning
<b>Infrastructure</b>	<ol style="list-style-type: none"> <li>1 in the case of DNB, DNB Infrastructure; or</li> <li>2 in the case of the Access Seeker, Access Seeker Infrastructure.</li> </ol>
<b>Infringement Notifying Party</b>	has the meaning given in section 24.4(a).
<b>Infringement Receiving Party</b>	has the meaning given in section 24.4(a).
<b>Insolvency Event</b>	has the meaning given in section 35.1(c).
<b>Intellectual Property Rights</b>	all rights conferred under statute, common law and equity in and in relation to trade marks, trade names, logos and get up, inventions, patents, designs, copyright, circuit layouts, Confidential Information (subject to the confidentiality obligations), know-how and trade secrets and all rights and interests in them or licences to use any of them.
<b>Interconnect Steering Group</b>	has the meaning given in Schedule 4.
<b>Interference Notifying Party</b>	has the meaning given in section 15.3(b).
<b>Interfering Party</b>	has the meaning given in section 15.3(b).
<b>Invoice</b>	the invoice for amounts due in respect of the supply of the Services during a Billing Period.
<b>ISG Receiving Party</b>	has the meaning given in section 5(a) of Schedule 4.
<b>Key Performance Indicator or KPI</b>	the key performance indicators set out in Schedule 3.
<b>Law</b>	<p>any one or more of the following:</p> <ol style="list-style-type: none"> <li>1 legislation, including regulations, by-laws and other subordinate legislation and/or a decision by a Government Agency, statutory tribunal, Malaysian authority or commission or similar governmental body;</li> </ol>



Term	Meaning
	<p>2 treaties, conventions, agreements, compacts and similar instruments that have been ratified or adopted by Malaysia; and</p> <p>3 guidelines, policies, standards and codes of Malaysia, with which the parties are legally required to comply.</p>
<b>Level 1 Service Credit Cap</b>	has the meaning given in the Access Agreement.
<b>Level 2 Service Credit Cap</b>	has the meaning given in the Access Agreement.
<b>Level 3 Service Credit Cap</b>	has the meaning given in the Access Agreement.
<b>Logo</b>	<p>1 in the case of the Access Seeker, the names, trade marks (whether registered or not and whether in word or stylised formats), logos, slogans or graphics (including the visual identity system) of the Access Seeker; and</p> <p>2 in the case of DNB, the names, trade marks (whether registered or not and whether in word or stylised formats), logos, slogans or graphics (including the visual identity system) of DNB.</p>
<b>Loss</b>	any damage, loss, liability, cost, charge, expense (including reasonable legal costs), outgoing or payment.
<b>Material</b>	material in whatever form, including documents, specifications, designs, plans, reports, products, concepts, inventions, processes, formulae, know-how, graphic layouts, images, software and hardware.
<b>Minimum Financial Security</b>	the minimum amount of financial security that must be paid by the Access Seeker in accordance with section 29.1. The Minimum Financial Security as at the Commencement Date is RM 20 million and (unless otherwise determined by DNB in writing) must be in the form of a bank guarantee.
<b>Minimum Service Term</b>	10 years.
<b>Minister</b>	has the meaning given in the Act.

Term	Meaning
<b>Monthly Average Fee</b>	the total Fees payable by the Access Seeker divided by the number of Sites in the relevant calendar month.
<b>MSA Determination</b>	has the meaning given in section 2.1(a).
<b>Multi-Operator Core Network or MOCN</b>	a method of active RAN sharing to permit two or more core networks to share the same RAN.
<b>Network</b>	network facilities and/or network services comprising a system, or series of systems within Malaysia, that carries or is capable of carrying communications by means of guided or unguided electromagnetic energy or both.
<b>Network Availability</b>	has the meaning given in section 19.2(b).
<b>Network Availability Service Level Target</b>	has the meaning given in section 19.2(a).
<b>Network Change</b>	an architectural or major solution change to any part of the Access Seeker's Network.
<b>New Service Notice</b>	has the meaning given to it in section 36.3(a).
<b>NOC</b>	has the meaning given in section 18(a).
<b>Non-Defaulting Party</b>	has the meaning given in section 39(c).
<b>Notice</b>	has the meaning given to it in section 42.1.
<b>Operations Manual</b>	the document entitled 'Operations Manual' published on the DNB Website and which forms part of the Access Agreement.
<b>OSS</b>	operations support systems used to manage networks, and which typically provide for support functions such as network inventory, service provisioning, network configuration and fault management.
<b>Personal Data</b>	has the meaning given to it in the Privacy Laws.

Term	Meaning
<b>Personnel</b>	in relation to an entity, the individuals who are directors, officers, employees, agents, professional advisers, and contractors or subcontractors of the entity and the directors, officers, employees, agents, professional advisers and contractors of a contractor or subcontractor of the entity.
<b>Planned Maintenance Party</b>	has the meaning given in section 14.2(b).
<b>Planning Committee</b>	has the meaning given in section 12.2(a).
<b>Point of Interface or POI</b>	a point at or between network facilities which demarcates the DNB 5G Access Network of DNB and the Network of an Access Seeker and is the point at which a communication is transferred between the DNB 5G Access Network of DNB and the Network of the relevant Access Seeker.
<b>Polygon</b>	a sub-area based on the administrative division (daerah or districts) in Malaysia, made up of Site(s) where the DNB 5G Access Network is or will be made available as defined by DNB and amended from time to time.
<b>Privacy Laws</b>	<ol style="list-style-type: none"> <li>1 the <i>Personal Data Protection Act 2010 [Act 709]</i>;</li> <li>2 any legislation (to the extent that such legislation applies to a party or any other recipient of Personal Data) from time to time in force in: <ul style="list-style-type: none"> <li>– Malaysia; or</li> <li>– any other jurisdiction (to the extent that any Personal Data, or a party is subject to the laws of that jurisdiction), affecting privacy, Personal Data or the collection, handling, storage, processing, use or disclosure of personal information; and</li> </ul> </li> <li>3 any ancillary rules, regulations, orders, directions, directives, binding codes of conduct, standards or other instruments made or issued under any of the legislation referred to in paragraphs (1) and (2), as amended from time to time.</li> </ol>
<b>Product Committee</b>	has the meaning given in section 7.4(a).
<b>Provisional Invoice</b>	has the meaning given in section 27.8.

Term	Meaning
<b>Quarter</b>	each three month period during the year commencing on 1 January, 1 April, 1 July and 1 October.
<b>RAN</b>	a radio access network, being that part of a mobile telecommunication system that uses radio access technologies to connect phones or user devices to the core network to enable voice and data services to End User Customers.
<b>RAO or Reference Access Offer</b>	sections 1 to 43 of this RAO including any schedule.
<b>Receiving Party</b>	the party receiving Confidential Information.
<b>Related Corporation</b>	has the meaning given in the <i>Companies Act 2016</i> [Act 777].
<b>Relevant Change</b>	any Network Change which may have an effect on the continued proper operation and compatibility of the DNB 5G Access Network, DNB's Facilities and/or the Services.
<b>Removal of Service Notice</b>	has the meaning given in section 36.4(a).
<b>Removal of Service Notice Reply</b>	has the meaning given in section 36.4(b).
<b>Required Insurance</b>	has the meaning given in section 33.2.
<b>Risk Register</b>	has the meaning given in section 17.2(c).
<b>Security Notifying Party</b>	has the meaning given in section 25.2.
<b>Service Credit</b>	the service credit payable in the event the Network Availability Service Level Target is not met, as set out in the Access Agreement.
<b>Service Credit Cap</b>	the cap on the amount of Service Credits payable as set out in the Access Agreement.

Term	Meaning
	<p>The Service Credit Cap will be set at the:</p> <ol style="list-style-type: none"> <li>1 Level 1 Service Credit Cap;</li> <li>2 Level 2 Service Credit Cap; or</li> <li>3 Level 3 Service Credit Cap,</li> </ol> <p>in accordance with section 19.3(b).</p>
<b>Service Level</b>	a measurable metric relating to the Services or the DNB 5G Access Network that DNB is expected to meet or exceed, including as described in this RAO, the Operations Manual or the Access Agreement.
<b>Service Level Failure</b>	has the meaning given in section 19.3(a).
<b>Services</b>	any products or services provided via the DNB 5G Access Network.
<b>Site</b>	the network site that makes up the DNB 5G Access Network required to receive and transmit radio signals for cellular voice and data transmission, comprising transmitters, receivers, power amplifiers, a digital signal processor, a power supply and network interface modules.
<b>Target Capacity</b>	the minimum capacity that the Access Seeker must purchase for the National 5G Wholesale Network Product throughout the Minimum Service Term.
<b>Tax</b>	any tax, levy, charge, impost, fee, deduction, goods and services tax, value added tax, use tax, sales tax, service tax, property tax, compulsory loan or withholding, which is assessed, levied, imposed or collected by any Tax Authority, not including any interest, fine, penalty, charge, fee or any other amount imposed on or in respect of any of the above and any Duty.
<b>Tax Authority</b>	means the Government of Malaysia, any Government Agency and any federal, state, provincial, regional, territorial, local, quasi-governmental or other fiscal, revenue, customs or excise authority, body or official competent to impose, collect or assess taxes, levies, excises or similar charges, including any other such entities in Malaysia.
<b>Term</b>	has the meaning given in section 34.

Term	Meaning
<b>Test Agreements</b>	has the meaning given in section 8.2.
<b>Test Services</b>	means those services identified by DNB as being test services.
<b>Third Party Supplier</b>	a third party engaged by either DNB or the Access Seeker as applicable.
<b>Trouble Ticket</b>	a notification of a fault that is raised with DNB or raised by DNB and notified to the Access Seeker in accordance with the process outlined in the Operations Manual.
<b>TWAMP</b>	two-way active measurement protocol used to measure network performance parameters such as latency, bandwidth, and packet loss by sending probe packets and measuring their experience in the network.
<b>User Equipment or UE</b>	any device used directly by an End User Customer to connect with and communicate over a 3GPP-defined wireless network.
<b>Volume Discount Rate</b>	has the meaning set out in the table in section 1.2(a) of Schedule 2.
<b>Zone 4</b>	population per square kilometre equal to 19 persons or below as defined in <i>Marketing Plan No. 1 of 2017</i> issued pursuant to regulation 6 of the <i>Communications and Multimedia (Spectrum) Regulations 2000</i> .

## 1.2 Interpretation

In this RAO:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this RAO;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this RAO have a corresponding meaning;
- (e) an expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;

- (f) a reference to a section, schedule, attachment or exhibit is a reference to a section of, and a schedule, attachment or exhibit to, this RAO.
- (g) a reference to a party means a party to the Access Agreement entered into between DNB and the Access Seeker;
- (h) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (i) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (j) a reference to a party to a document includes that party's successors and permitted assignees;
- (k) a reference to an agreement other than this RAO includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing;
- (l) no provision of this RAO will be construed adversely to a party because that party was responsible for the preparation of this RAO or that provision;
- (m) a reference to a body, other than a party to the Access Agreement (including an institute, association or authority), whether statutory or not:
  - (1) which ceases to exist; or
  - (2) whose powers or functions are transferred to another body,
 is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (n) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (o) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (p) if an act prescribed under this RAO to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day;
- (q) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day;
- (r) a reference to time is a reference to Kuala Lumpur time; and
- (s) specifying anything in this RAO after the words 'include' or 'for example' or similar expressions does not limit what else is included.

### **1.3 Components**

This RAO includes any schedule specified as forming part of this RAO in section 2.3.

## **2 Background, Scope and Structure**

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### **2.1 Background and objectives**

- (a) The parties acknowledge and agree that this RAO has been prepared with reference to the Commission Determination on Mandatory Standard on Access

Determination No. 3 of 2016 (**MSA Determination**) and Access List Determination.

- (b) The parties intend to enter into an Access Agreement based on terms and conditions in this RAO, but anticipate that the Commission will in due course develop a more comprehensive regulatory framework to govern the provision of the Services.
- (c) The Access Seeker acknowledges and agrees that this RAO and the Access Agreement may need to be amended in order to comply with the regulatory framework contemplated in section 2.1(b) and any other applicable Laws as and when they become applicable, in which case this RAO and the Access Agreement will be amended in accordance with section 37.

## 2.2 Scope

- (a) This RAO sets out the terms and conditions upon which DNB will enter into an Access Agreement with Access Seeker for the supply of the Services.
- (b) In accordance with the Act and subject to exemptions determined by the Minister, DNB will provide access on reasonable terms and conditions to the Services to any:
  - (1) network facilities provider;
  - (2) network services provider;
  - (3) applications services provider; or
  - (4) content applications services provider,who makes a written request to DNB for access.
- (c) Ahead of submitting an Access Request Application Form pursuant to this RAO, the Access Seeker must ensure (and DNB must be satisfied acting reasonably that) they are capable of complying with all the terms and conditions of this RAO, including, without limitation, that such Access Seeker must own and operate (either itself or via its third party providers) the relevant infrastructure necessary to interconnect with the DNB 5G Access Network as set out in the architecture diagram in Schedule 1.

## 2.3 Structure and precedence

- (a) The parties acknowledge and agree that the Access Agreement that is formed between them in accordance with the process set out in this RAO, will be made up of the following parts:

Title	Description
1. The Access Agreement	Executable document setting out any special conditions that apply in addition to the terms of this RAO.
2. The Head Terms: Part A – Introduction and Principles Part B – Access to the Services	Sections 1 to 43 of this RAO.



Part C – Operational Management  
 Part D – Information and Rights Management  
 Part E – Financial Management  
 Part F – Risk Management  
 Part G – Agreement Management

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**3. The Schedules**

Schedule 1 to Schedule 6 of this RAO.

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**4. The Operations Manual**

The Operations Manual sets out additional detail on the mechanics of providing the Services.

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- (b) To the extent of any inconsistency between the Access Agreement, the Head Terms, the Schedules and the Operations Manual, that inconsistency will be resolved by giving the terms precedence in the order set out in section 2.3(a).

## **2.4 Formation of an Access Agreement**

As soon as reasonably practicable after the Commencement Date, and in any event within 7 Business Days, the parties shall take all steps necessary to apply to the Commission for registration of the Access Agreement.

# **3 General Principles of Access**

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## **3.1 Reasonableness**

- (a) DNB may refuse a request from an Access Seeker for access to particular Services if:
- (1) supply of the relevant Services would not be reasonable; or
  - (2) supply of the relevant Services would be reasonable, but the terms and conditions requested by the Access Seeker are not reasonable.
- (b) A request for access to the Services may not be reasonable if one or more of the criteria in section 4.7 are satisfied. For clarity, this RAO does not intend or attempt to narrow the grounds of refusal upon which a party may rely upon under the Act.
- (c) The Act provides for several mechanisms to determine terms and conditions if the parties are unable to reach agreement on the terms and conditions of supply, including dispute resolution by the Commission.

## **3.2 Non-discrimination**

- (a) DNB will provide the Services on an equitable and non-discriminatory basis, whereby the Access Seeker and each other Access Seeker will be offered the same Services on the same terms and prices, using the same systems and processes to the same timescales.

- (b) The Access Seeker acknowledges that the end to end service performance of its End User Customers is dependent on the quality of the service provided by the DNB 5G Access Network as well as the Access Seeker's Network and Facilities, End User Customer settings and other factors.
- (c) Nothing in this RAO will limit the Access Seeker's ability to freely request and agree on access to the Services that are either superior or inferior (in terms of technical standard and quality) to that which DNB provides to other Access Seeker.

### **3.3 No restriction on re-sale**

DNB must not, in relation to the supply of a Facility and/or Service, include a term or condition in an Access Agreement preventing an Access Seeker from re-supplying that Facility and/or Service to any person.

### **3.4 General Principles**

Each party recognises and must act consistently with the following General Principles:

- (a) an individual may be an End User Customer of the Access Seeker and another Access Seeker in respect of the same or different services and / or Facilities;  
and
- (b) the supply of the Services by DNB to the Access Seeker, which the Access Seeker then utilises in providing Services to its End User Customers, does not mean that those End User Customers are also customers of DNB,

(together, the **General Principles**).

### **3.5 Scope**

The General Principles do not expand the scope of the parties' obligations under this RAO or alter the meaning of the terms of this RAO. However, if any term of this RAO is ambiguous then the General Principles will be the primary reference for determining the intention of the parties.

## PART B – ACCESS TO THE SERVICES

### 4 Application for Access to Services

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#### 4.1 Access Request

An Access Seeker may request the provision of the Services by submitting an Access Request Application Form to DNB. This section only applies if:

- (a) there is no Access Agreement in force between DNB and the Access Seeker governing access to the Services to which the Access Seeker seeks access; or
- (b) there is such an Access Agreement, but the current term of that Access Agreement will expire or terminate within the next 4 months.

#### 4.2 Required information

An Access Request must contain the following information:

- (a) the name and contact details of the Access Seeker;
- (b) the Services in respect of which access is sought;
- (c) whether the Access Seeker wishes to accept this RAO or to negotiate amendments to the RAO;
- (d) a list of the relevant licenses held by the Access Seeker;
- (e) the information (if any) the Access Seeker reasonably requires DNB to provide for the purposes of the negotiations. The type of information which may be requested by the Access Seeker is described in, but not limited to the specific items set out in, section 4.4;
- (f) two copies of the Confidentiality Agreement properly executed by the Access Seeker;
- (g) preliminary information regarding the scale and scope of the Services that the Access Seeker expects to acquire from DNB pursuant to the Access Request;
- (h) relevant technical information relating to the interface standards of the Equipment of the Access Seeker;
- (i) 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 DNB 5G Access Network;
- (j) assessed security or (if applicable) confirmation of security provided in accordance with DNB's security requirements, as set out in section 29;
- (k) Creditworthiness Information in accordance with DNB's requirements, as set out in section 28;
- (l) insurance information in accordance with DNB's insurance requirements, as set out in section 33; and
- (m) such other information as DNB may reasonably request for the sole purpose of providing access to the requested Services.

### 4.3 Non-permitted information

Notwithstanding anything else in this RAO, DNB must not impose an obligation on an Access Seeker to provide any of the following information to DNB (whether as a condition of the provision of further information or as a condition of assessing the Access Seeker's application, or at any other time):

- (a) the Access Seeker's proposed service launch date (though DNB may request the Access Seeker to specify any ready-for-service dates which the Access Seeker requires from DNB in respect of the requested Services);
- (b) details of the functionality of the Access Seeker's proposed service, except to the extent that such functionality may affect the DNB 5G Access Network;
- (c) details of the Access Seeker's network rollout plans, except to the extent that such rollout plans relate to ready-for-service dates requested by the Access Seeker;
- (d) details of the Access Seeker's current or proposed retail charges;
- (e) details of the Access Seeker's marketing strategy or proposed client base;
- (f) financial information relating to the Access Seeker's business, except to the extent that such information may be required pursuant to the creditworthiness requirements in section 28;
- (g) details of any other supply arrangements or agreements to which the Access Seeker is or may be a party, except to the extent that such details are directly relevant to technical characteristics of the requested Service; or
- (h) any other commercially sensitive information of the Access Seeker which is not strictly required by DNB to supply the requested Service.

### 4.4 Information disclosure

- (a) DNB will disclose the following information to an Access Seeker within 10 Business Days of receipt of a written request from that Access Seeker for the provision of access (to the extent such information is in the possession or control of DNB):
  - (1) any details of the Service offered by DNB not included in the RAO, including details of network coverage maps including locations of active Polygons, locations of cell sites carrying Commercial Traffic, and POI locations at which physical or virtual co-location is available to Access Seekers;
  - (2) any access charges for access to the Services not included in the RAO (for example, discounts for inferior service levels or surcharges for enhanced service levels);
  - (3) all technical information relating to the Services which may be the subject of the Access Request, which are not included in the RAO;
  - (4) details of DNB's operational processes and procedures not included in the RAO;
  - (5) details of DNB's provisioning cycles not included in the RAO and any impact such cycles may have upon an Access Request by the Access Seeker;
  - (6) details of DNB's alternative quality of service targets not included in the RAO and actual achievements of service targets in respect of the Services which may be the subject of the Access Request;

- (7) any security requirements, insurance requirements and creditworthiness information (including a credit assessment form, if available) required by DNB; and
  - (8) DNB's reasons for failing to supply any of the information referred to in this section 4.4.
- (b) Prior to the provision of information under this section 4.4, DNB:
- (1) may request the Access Seeker enter into the Confidentiality Agreement; and
  - (2) must be satisfied (acting reasonably) that such disclosure is in the national interest and does not affect national security or defence.

## **4.5 Obligations upon receipt**

DNB must, within 10 Business Days of receipt of an Access Request, respond to the Access Seeker in writing acknowledging receipt of the Access Request and stating that:

- (a) if the Access Seeker is willing to accept this RAO, DNB must provide access in accordance with the RAO;
- (b) the Access Seeker does not meet the minimum requirements necessary for DNB to provide access in accordance with the RAO or DNB cannot fulfil the request based on one or more of the grounds in section 4.7; or
- (c) DNB requires specified additional information to make a decision on the Access Request in accordance with sections 4.5(a) to 4.5(b), and once such information is received from the Access Seeker, DNB will reconsider the Access Request in accordance with this section and the 10 Business Days for DNB to consider the Access Request will recommence from DNB's receipt of all relevant information from the Access Seeker.

## **4.6 Refusal response**

- (a) If DNB decides to refuse the Access Request under section 4.5(b), DNB must set out in its response to the Access Seeker:
  - (1) the grounds in section 4.7 on which DNB is relying;
  - (2) the basis of DNB's decision with sufficient particulars to enable the Access Seeker to make its own assessment about the applicability of the specified grounds of refusal;
  - (3) a reasonable period after which the Access Seeker may re-submit (and DNB will reassess) its Access Request; and
  - (4) a place, date and time, not later than 7 Business Days from the date of DNB's response, at which representatives of DNB authorised to review DNB's assessment of the Access Request will be available to meet with representatives of the Access Seeker, for the purpose of discussing:
    - (A) the refusal of the Access Request; and
    - (B) (if requested by the Access Seeker) the necessary steps that will need to be taken (if any) to enable DNB to provide access to the Access Seeker in the future (following re-submission of the Access Request).

At this meeting, the Access Seeker may request DNB to substantiate its reasons for refusal (and DNB must do so), and if access has been refused on the basis of the grounds in:

- (C) section 4.7(a)(2), DNB must reassess the Access Seeker's original Access Request considering any supplementary information provided by the Access Seeker;
  - (D) section 4.7(a)(4), DNB must identify when additional capacity or space is likely to be available; and
  - (E) section 4.7(a)(5), DNB must identify the form of security requirement which would satisfy its concern that the Access Seeker may fail to make timely payment for the requested Services, its reasons for the security requirement and why it considers such concern cannot be addressed through a security requirement under section 25.
- (b) If DNB decides to refuse the Access Request under section 4.5(b) and one or more of the grounds for refusal relates to a matter in the control of:
- (1) the Access Seeker, then DNB will provide the Access Seeker with any information reasonably required to enable the Access Seeker to work towards meeting the minimum requirements necessary for DNB to provide access in accordance with the RAO; or
  - (2) DNB, then DNB will to the extent reasonably and commercially practicable uplift the DNB 5G Access Network or take such other steps that may be reasonably necessary to enable it to provide access to the Access Seeker in future.

#### **4.7 Grounds for refusal**

- (a) Except where expressly permitted otherwise under the Act, DNB must not refuse an Access Request, except on the grounds that:
- (1) DNB does not currently supply, or provide access to, the relevant Services (in which case it shall identify any alternative facilities and/or services which it does provide to itself or to any third parties, which may be acceptable substitutes), except where the Access Seeker compensates DNB for the original supply of access to the Services to the Access Seeker;
  - (2) the Access Seeker has not provided all of the information required to be provided in accordance with section 4.2;
  - (3) subject to section 4.8 below, it is not technically feasible to provide access to the Services requested by the Access Seeker;
  - (4) subject to section 4.8(d) below, DNB has insufficient capacity or space to provide the requested Services;
  - (5) DNB has reasonable grounds to believe that the Access Seeker may fail to make timely payment for the requested Services and such concern cannot be addressed through a security requirement in accordance with section 25;
  - (6) there are reasonable grounds 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 Services; or

- (7) there are reasonable grounds for DNB to refuse access in the national interest.

## **4.8 Technical infeasibility**

For the purposes of section 4.7(a)(3), DNB must not refuse an Access Request on the grounds of technical infeasibility unless DNB establishes that there are substantial technical or operational concerns preventing the fulfilment of the Access Request (and provided that the relevant cost implications of the Access Request are at all times borne by the Access Seeker). Each of the following matters shall be taken into account in determining whether access is technically feasible:

- (a) economic, accounting, billing, space or site concerns shall be disregarded by DNB except that space or site concerns may be taken into account in circumstances where there is no possibility of expanding the space available on the relevant site;
- (b) any requirement for DNB to modify its Facilities or Equipment in order to meet the Access Request will not, on its own, mean that the access is not technically feasible;
- (c) if DNB asserts that meeting the Access Request would have an adverse impact on network reliability, DNB must provide evidence that provision of the requested Services would result in a specific and significant adverse impact on network reliability; and
- (d) DNB must be able to demonstrate that it has considered and found not to be technically feasible (in accordance with this section) improvements that would allow DNB to meet the Access Request (in whole, or in part, and including for an interim period until any primary difficulties can be resolved).

## **4.9 Capacity constraints**

- (a) DNB may only refuse an Access Request on the ground that DNB has insufficient capacity or space under section 4.7(a)(4) where DNB notifies the Commission in writing that it does not have sufficient capacity to meet the Access Request because the requisite capacity is:
  - (1) already carrying traffic to full capacity or near full capacity, or above the capacity threshold determined by DNB as being necessary to provide an efficient network; or
  - (2) already reserved for future use by other Access Seekers, where such future use shall commence not later than 6 months from the date of the Access Request. If the reserved capacity is not subsequently used by the reserving party within 7 months from the date of the Access Request, DNB must promptly inform the Access Seeker and, if required by the Access Seeker, re-consider the Access Request in accordance with the process set out in this section 4; and
  - (3) in the case of both sections 4.9(a)(1) and 4.9(a)(2), DNB is unable to expand capacity to meet the requirements in the Access Seeker's Access Request.
- (b) If DNB decides to refuse the Access Request on the ground that DNB has insufficient capacity or space under section 4.7(a)(4), then DNB will to the extent reasonably and commercially practicable uplift the DNB 5G Access Network or take such other steps that may be reasonably necessary to build in additional capacity to accommodate the Access Seeker. The Access Seeker acknowledges that any such uplift (if practicable) will have an indicative lead

time of 6 months from the date DNB informs the Access Seeker under section 4.5, after which the Access Seeker may re-submit its Access Request for reassessment (and DNB must do so).

#### **4.10 Dispute resolution**

If, following the meeting between the parties required to be held pursuant to section 4.6(a)(4), for the purposes of discussing DNB's refusal of an Access Request, the parties have been unable to resolve any differences about the validity of the Access Request and the Access Seeker disagrees with DNB's refusal of the Access Request, either party may request resolution of the dispute in accordance with the Dispute Resolution Procedures.

## **5 Negotiation of Access Agreement**

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### **5.1 Negotiation response**

If the Access Seeker provides DNB with an Access Request stating that it is willing to accept this RAO, DNB must set out in its response to the Access Seeker:

- (a) a place, date and time, not later than 15 Business Days from the date of DNB's response, when DNB's representative that is authorised to negotiate the terms of the Access Agreement, will be available for an initial meeting with the Access Seeker's representative that is authorised to negotiate the terms of the Access Agreement; and
- (b) one copy of the executed Confidentiality Agreement returned by the Access Seeker in accordance with section 4.2(f) that has also been properly executed by DNB.

### **5.2 Initial meeting**

Unless otherwise agreed between the parties, each party must ensure that its representatives meet on the date notified pursuant to section 5.1(a) and that such representatives:

- (a) use their reasonable efforts to agree on a timetable for the negotiations, including milestones and dates for subsequent meetings within the applicable timeframe for negotiations under section 5.1;
- (b) use their reasonable efforts to agree on negotiating procedures, including:
  - (1) the process for calling for, and chairing, meetings and how resolutions or other determinations will be made in such meetings;
  - (2) which party and individual has responsibility for keeping minutes of the meetings and the process for obtaining joint approval of those minutes;
  - (3) clearly defined pathways and timetables for escalation and resolution by each party of matters not agreed in the meetings;
  - (4) procedures for consulting, and including in the negotiating process, relevant experts from each of the parties; and
  - (5) procedures for preparing and exchanging position papers;
- (c) review the information requested and provided to date and identify information yet to be provided by each party; and



- (d) identify what technical investigations, if any, need to be made and by whom such investigations should be made.

### **5.3 Timing**

- (a) If the Access Seeker wishes to negotiate an Access Agreement with DNB, each party must use their best endeavours to conclude the Access Agreement within:
  - (1) where there is no Access Agreement in place between the parties, 3 months; or
  - (2) where there is already a commercial agreement or an Access Agreement in place between the parties, 2 months,after a written request by the Access Seeker to commence negotiations under section 4.2(c) and DNB's response confirming it is willing to proceed to negotiate under section 4.5(a).
- (b) If negotiations are not completed within the applicable timeframe specified under section 5.3(a):
  - (1) the parties may jointly apply to the Commission for an extension of time to negotiate the Access Agreement and, if the extension of time is not granted by the Commission, there shall be deemed to be a dispute between the parties and the Dispute Resolution Procedures shall take effect; or
  - (2) either party may initiate the Dispute Resolution Procedures; andif the Commission grants an extension of time under section 5.3(b)(1), it may do so subject to such conditions as it specifies (such as an ongoing requirement to provide updates on negotiations at specified intervals and the right to reduce or extend any extension).

### **5.4 Confidentiality**

Each party must protect from disclosure any Confidential Information provided by another the other party in the course of negotiating an Access Agreement and during the Term of an Access Agreement in accordance with the Confidentiality Agreement.

### **5.5 Additional matters**

DNB must not do, or threaten to do, anything that has the effect or likely effect of, any of the following:

- (a) refuse to negotiate terms of access not related to price, for the reason that the rate, charge, charging principles or methodologies of access has not been agreed upon;
- (b) refuse to negotiate access to the Services because the Access Seeker has not agreed to acquire access to other Services or because the Access Seeker has not agreed to acquire a particular configuration, option or feature of a requested Service;
- (c) require an Access Seeker to enter into a confidentiality agreement the terms of which would preclude the disclosure of information requested by the Commission or required to be disclosed for the purposes of dispute resolution;
- (d) require an Access Seeker to warrant that the Access Agreement complies with all applicable laws (provided that this would not prevent DNB from requiring an

Access Seeker to warrant or otherwise commit that it will comply with all applicable laws);

- (e) refuse to include in any Access Agreement a provision permitting variation of the Access Agreement in the event of any change in rules, applicable laws or applicable regulations (including Commission decisions and determinations);
- (f) make any negotiation conditional on the Access Seeker first obtaining any regulatory approval or consent (provided that this will not prevent DNB from refusing to enter into any Access Agreement where in DNB's opinion the Access Seeker is required to have any specific regulatory approval or consent and the Access Seeker does not have any such approval or consent);
- (g) intentionally mislead or coerce an Access Seeker into reaching an agreement, which would not otherwise have been reached if not for the misleading act or coercion;
- (h) intentionally obstruct or delay negotiations or any dispute resolution process;
- (i) fail to nominate representatives who have sufficient authority and with sufficient availability to progress negotiations in a timely and efficient manner; and
- (j) fail to provide information that is necessary to conclude an Access Agreement including, without limitation:
  - (1) information about the DNB 5G Access Network that the Access Seeker reasonably requires in identifying the network elements or network components to which it requires access; and
  - (2) information about the basis of the determination of rates, charges or fees.

## 6 Forecasting

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### 6.1 Capacity forecast

- (a) The Access Seeker must provide DNB with a forecast of its anticipated Service capacity requirements for each Polygon for the upcoming 12 month period (**12 Month Forecast**).
- (b) The 12 Month Forecast must be provided to DNB at the end of each Quarter during the Term, and must contain:
  - (1) the anticipated highest hourly average reading for each month of the 12 Month Forecast for each Polygon;
  - (2) the number of End User Customers accessing the Services on the Access Seeker's Network and the data usage per End User Customer; and
  - (3) any other information reasonably required by DNB.
- (c) The 12 Month Forecast will be used by DNB on a confidential basis to plan and manage the DNB 5G Access Network. The Access Seeker agrees to promptly provide any additional information reasonably requested by DNB in connection with a 12 Month Forecast.
- (d) The parties acknowledge and agree that the 12 Month Forecast is provided on a best-efforts basis and is not a guarantee by the Access Seeker of its actual Service capacity requirements.

## 7 Supply of Services

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### 7.1 Obligation to provide the Services

DNB will provide the Services to the Access Seeker in accordance with the terms of this RAO and the Access Agreement.

### 7.2 Receipt of the Services and Access Seeker provision to End User Customers

- (a) The parties acknowledge and agree that the Services will be provided by DNB to the Access Seeker who will then utilise the Services to develop and provide retail 5G services to End User Customers.
- (b) The Access Seeker must not use, or knowingly permit the Services to be used:
  - (1) for any illegal, immoral, indecent or unlawful purpose;
  - (2) in any way that may infringe Intellectual Property Rights; or
  - (3) in any way that may be in breach of any obligation of confidence, privacy or any other rights.
- (c) The Access Seeker must ensure that all contracts with End User Customers contain equivalent restrictions to those set out in section 7.2(b).
- (d) The Access Seeker must take all necessary steps to enforce contractual restrictions against End User Customers equivalent to those set out in section 7.2(b) (including by suspending or terminating an infringing End User Customer's access to the Services).
- (e) The Access Seeker must ensure their End User Customers are subject to fair and/or acceptable use policy (or equivalent) that is consistent with Good Industry Practice and take all reasonable steps to properly enforce such policies to protect the quality, availability and integrity of the DNB 5G Access Network and the Services.
- (f) The Access Seeker must not, and must not permit any third party or End User Customer, to:
  - (1) do anything that may interfere with the DNB 5G Access Network and/or the Facilities owned or operated by DNB (and its third party service providers); or
  - (2) without the prior written consent of DNB, connect or knowingly permit any third party to connect any Equipment to the DNB 5G Access Network except as permitted by this RAO.

### 7.3 Continuous improvement

DNB agrees that it will use reasonable endeavours to implement continuous improvements in the provision of Services, including by:

- (a) improving the performance and the efficiency of the Services during the Term; and
- (b) introducing new products and services under this RAO once DNB considers that such services can feasibly be added to the DNB 5G Access Network.

## 7.4 Product Committee

- (a) The Access Seeker will, after having executed an Access Agreement, be invited to participate in a committee with other Access Seekers run and facilitated by DNB on a half-yearly basis (or such other frequency mutually agreed between DNB and the Access Seeker) during the Term to share and discuss new product updates, and potential future releases of new or amended Services (the **Product Committee**).
- (b) The parties acknowledge and agree that the discussions held during, and any information provided in connection with, the Product Committee meetings are considered to be the Confidential Information of the party providing that information. Unless otherwise agreed explicitly in writing, all discussions and all information provided are provided on a strictly no-reliance basis and is subject to change based on a number of factors. DNB retains, at all times, sole and absolute discretion regarding the timeline for rolling out any changes to the Services.

## 7.5 Co-operation

The Access Seeker must:

- (a) provide all assistance reasonably requested by DNB (or any third party subcontractor acting on behalf of DNB) in connection with the provision of Services;
- (b) participate in any training and other familiarisation processes from time to time to allow the Access Seeker to obtain the knowledge necessary to receive the Services; and
- (c) not cause any detriment, inconvenience or damage to any other Access Seekers, DNB, or other third parties in its receipt of the Services.

## 7.6 Suspension of Services

- (a) Subject to DNB complying with the notification requirements in section 35.5, DNB will have the right to suspend the supply of a Service (or any functionality within a Service) where required by a Government Agency, or pursuant to any other legal obligation or if reasonably required by DNB to prevent fraud.
- (b) DNB will, at the Access Seeker's expense, assist the Access Seeker in any related appeals to a Government Agency.

# 8 Test Services

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## 8.1 Use of Test Services

- (a) DNB may make Test Services available on a trial only and limited time basis from time to time during the Term.
- (b) The parties acknowledge and agree that the intention of the Test Services is for DNB to test changes to existing Services or to test new Services prior to their use across the DNB 5G Access Network.
- (c) The Access Seeker acknowledges and agrees that Test Services may not be:

- (1) made available to the Access Seeker in the same manner as other Access Seekers; or
  - (2) may be made available to other Access Seekers but not the Access Seeker,
- as a result of DNB attempting to test particular aspects of the Test Services.
- (d) Notwithstanding anything to the contrary in a Test Agreement or as may be set out elsewhere in this RAO and the Access Agreement, and to the maximum extent permitted by law, the Access Seeker acknowledges and agrees that:
  - (1) the Test Services are not subject to any service levels or key performance indicators;
  - (2) the Test Services may be withdrawn by DNB on 5 Business Days' written notice;
  - (3) it releases and discharges DNB from any and all liability arising from or in connection with the Test Services; and
  - (4) it indemnifies DNB and holds DNB and its Personnel harmless in respect of any Loss suffered arising from or in connection with the Test Services.

## 8.2 Test Agreements

DNB may make the Test Services available to the Access Seeker in accordance with additional terms and conditions (**Test Agreements**).

## PART C – OPERATIONAL MANAGEMENT

### 9 Operations Manual

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#### 9.1 General

- (a) The Operations Manual and associated documents (published on the DNB Website as updated from time to time) set out the operational engagement processes, procedures, roles and responsibilities between DNB and the Access Seeker.
- (b) The Access Seeker acknowledges that the Operations Manual and associated documents will contain additional detail and processes regarding (but not limited to):
  - (1) the roles and responsibilities of DNB, the Access Seeker and other Access Seekers;
  - (2) planning, including processes around the provision of network information, interconnection of equipment, ordering services, reservation of co-location space, service provisioning and service handover;
  - (3) operational support and maintenance processes;
  - (4) service monitoring and network traffic management;
  - (5) modes of communications;
  - (6) billing and CSP Portal access and operation procedures;
  - (7) reporting and document sharing;
  - (8) operational governance;
  - (9) fault management, KPIs and Service Level monitoring and reporting;
  - (10) contact details and escalation matrix; and
  - (11) other details and processes that DNB considers appropriate from time to time.
- (c) Each party acknowledges and agrees that they must comply with their respective obligations set out in the Operations Manual.

#### 9.2 End User Customer devices

The Access Seeker acknowledges that the Operations Manual will set out minimum requirements for End User Customer devices to work with the Service. The Access Seeker further acknowledges and agrees that the Service provided by DNB may not work with any End User Customer device that does not meet the requirements set out in the Operations Manual.

## 10 Points of Interface and other Facilities

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### 10.1 Interconnection

- (a) Each party must at all times ensure its Infrastructure, to the extent that its Infrastructure may affect the other party's Infrastructure:
  - (1) meets any compatibility requirements set out in the Operations Manual; and
  - (2) has all necessary regulatory approvals in place and complies with all applicable Laws.
- (b) Each party will be responsible for all its Infrastructure (including those Facilities which form part of the interconnection links and the transmission equipment) up to and including the connection to the Point of Interface.
- (c) The Access Seeker must ensure that any connection to the DNB Infrastructure made by the Access Seeker (or on behalf of the Access Seeker), is made and maintained in compliance with this RAO, the Access Agreement and all applicable Laws.
- (d) DNB must ensure that any connection to the Access Seeker Infrastructure made by DNB (or on behalf of DNB), is made and maintained in compliance with this RAO, the Access Agreement and all applicable Laws.

### 10.2 Point of Interface

- (a) The Access Seeker acknowledges that in order to receive the Services it will be required to provide a connection to relevant Points of Interface, which will connect the Access Seeker's Network to the DNB 5G Access Network.
- (b) Subject to section 10.2(g), DNB shall publish and keep updated on the DNB Website a list of the Points of Interface and other Facilities, including those Facilities:
  - (1) at which physical co-location is available; and
  - (2) in respect of which virtual co-location is available.
- (c) Subject to section 10.2(g), DNB will provide such information regarding the Points of Interface and Facilities as required by the Operations Manual and will make that information available on the DNB Website or otherwise in the manner set out in the Operations Manual.
- (d) DNB may from time to time make new Points of Interface available to Access Seekers. DNB will use reasonable endeavours to provide the Access Seeker with at least 6 months prior notice of any new Points of Interface before making the new Point of Interface available and will provide such information as set out in the Operations Manual in respect of any new Point of Interface.
- (e) DNB may from time to time close or relocate a Point of Interface. Any closure or relocation of a Point of Interface will take place in accordance with section 11.2 and the process set out in the Operations Manual, provided that any closure or relocation of a Point of Interface will only occur following the provision of:
  - (1) in the event of an Emergency, as much notice as can reasonably be provided; and
  - (2) in all other circumstances, 6 months' notice,

to the Access Seeker and the Commission. DNB may only give effect to the proposed closure or relocation with the Commission's written consent and subject to any time delay or conditions which the Commission may specify.

- (f) In the event a Point of Interface needs to be closed or relocated on less than 6 months' notice due to an Emergency, each party agrees to co-operate and work together in good faith to mitigate (to the extent reasonably possible) any impact to the End User Customers of the Access Seeker.
- (g) When determining which locations are to be listed under section 10.2(b), DNB will have regard to each of the following:
  - (1) DNB shall offer physical co-location in at least one POI location for every Closed Number Area throughout Malaysia in which DNB has network facilities, but may additionally offer other forms of co-location in relation to a particular location (e.g. virtual co-location); and
  - (2) DNB shall not reserve space other than the needs of other Access Seekers who are currently occupying or have ordered additional space from DNB.
- (h) Notwithstanding the requirements in sections 10.2(b) and 10.2(c), DNB is not required to, and may decline to provide certain details of one or more Points of Interface and other Facilities (including the location of those Points of Interface and other Facilities), for national or operational security reasons. If DNB chooses to withhold information regarding a Point of Interface or a Facility in accordance with this section 10.2(g), DNB must:
  - (1) promptly provide such information to the Access Seeker on request, subject at all times to the confidentiality requirements reasonably notified to the Access Seeker in respect of that information (which the Access Seeker must, and must ensure that any relevant Personnel, comply with at all times);
  - (2) offer to provide, and if the offer is accepted, provide, updated location details to the Access Seeker as Points of Interface and Facilities are withdrawn, introduced and changed (subject to the same confidentiality obligations referred to in section 10.2(h)(1)); and
  - (3) provide all such information to the Commission and, on a 6 monthly basis, the locations at which DNB is offering to supply the Services, the locations at which Access Seekers have requested the Services, and the locations at which DNB is actively supplying Services.
- (i) DNB may establish reasonable security procedures and processes (such as identity checks) to apply to the Personnel of the Access Seeker who will physically access Points of Interface or other locations where Facilities are located. Those security procedures and processes may be set out in the Operations Manual, and may also be notified to the Access Seeker and its relevant Personnel at or prior to the Access Seeker attempting to physically access the Points of Interface or other locations where the Facilities are located. However, such procedures and processes must:
  - (1) not completely or substantially prohibit the Access Seeker from physically accessing a POI or other relevant location unless DNB has been directed in writing to do so by a Government Agency; and
  - (2) be no more restrictive or onerous than the procedures and processes that DNB imposes on its own Personnel who physically access the same Points of Interface and locations.



## 11 Decommissioning

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### 11.1 Application of this section

This section 11:

- (a) applies where DNB proposes to decommission Facilities (including a POI) or a Site associated with Facilities and/or the Services which may have a materially adverse impact on the continued and proper operation and compatibility of the Access Seeker's Facilities and/or services; and
- (b) applies subject to the notification obligations in section 10.

### 11.2 Decommissioning a Point of Interconnect

- (a) If DNB notifies the Access Seeker of its intention to close or relocate a Point of Interface that the Access Seeker is using, DNB shall use reasonable endeavours to make an alternative Point of Interface available to the Access Seeker, on terms and conditions which are not materially disadvantageous to the Access Seeker, relative to the terms and conditions applicable in respect of the Point of Interface that is proposed to be closed or relocated, for a period that is not less than 3 years from the date of decommissioning.
- (b) Each party will bear its own costs associated with a closure or relocation of a Point of Interface.

### 11.3 Decommissioning a Facility or Site

- (a) If DNB notifies the Access Seeker of its intention to close or relocate any Facilities (or a Site associated with Facilities and/or the Services) other than a Point of Interface, DNB shall use reasonable endeavours to provide to the Access Seeker access to alternative Facilities or Site(s) on terms and conditions which are not materially disadvantageous to the Access Seeker, relative to the terms and conditions applicable in respect of the Facilities or Site(s) that are proposed to be closed or relocated, for a period that is not less than 3 years from the date of decommissioning.
- (b) Each party will bear its own costs associated with a closure or relocation of any Facilities (or a Site associated with Facilities and/or the Services).

## 12 Network Rollout

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### 12.1 Deployment schedule

- (a) DNB intends to deploy the DNB 5G Access Network in various phases during the Term of the Access Agreement. Each phase is intended to increase coverage to a wider percentage of the Malaysian population.
- (b) An indicative plan for the various phases in the DNB 5G Access Network may be published on the DNB Website or may otherwise be requested from DNB. Any information relating to the deployment schedule published on the DNB Website or otherwise provided to the Access Seeker is indicative only and subject to change based on a number of factors including consolidated Access

Seeker prioritization inputs and estimated population coverage targets mandated by the Commission.

- (c) The Access Seeker must provide DNB with input and feedback on its prioritization and capacity requirements in relation to the rollout of DNB 5G Access Network and the Services at each meeting of the Planning Committee (**Access Seeker Feedback**). DNB must:
  - (1) consider and have regard to any Access Seeker Feedback provided by the Access Seeker; and
  - (2) on request make itself available to meet with the Access Seeker and (which may be together with other Access Seekers) to discuss such input or feedback.
- (d) The Access Seeker must use reasonable efforts to provide Access Seeker Feedback that is complete, accurate, up to date and not misleading at the time it is provided, but DNB acknowledge that such Access Seeker Feedback may contain inaccuracies or change based on a number of factors, in which case the Access Seeker must update and correct the Access Seeker Feedback as soon as reasonably practicable.
- (e) DNB will use reasonable endeavours to consider and consolidate the Access Seeker's input and feedback within 30 days of the Access Seeker providing the Access Seeker Feedback to prepare and provide the Access Seeker with:
  - (1) an indicative list of all Polygons that DNB intends to roll out in the following calendar year;
  - (2) the indicative scheduled deployment timeline for each Polygon.
- (f) Notwithstanding anything in this section 12.1, the parties acknowledge and agree that:
  - (1) DNB will define the rollout and configuration of the DNB 5G Access Network and Services (including with respect to prioritization and capacity) subject to compliance with the terms of this RAO and approval from the Commission; and
  - (2) any information provided by DNB to the Access Seeker relating to the deployment of the DNB 5G Access Network is subject to change based on a number of factors, including directions and guidance from the Commission.

## 12.2 Planning Committee

- (a) The parties must, as soon as reasonably practicable following execution of the Access Agreement, establish a committee comprised of representatives from DNB, the Access Seeker and other Access Seekers (**Planning Committee**).
- (b) The Planning Committee must meet at Quarterly intervals (or such other frequency agreed between the parties) to collaborate, jointly discuss and exchange information for the purposes of the continuous development and enhancement of the Services.
- (c) At meetings of the Planning Committee:
  - (1) DNB will share relevant information in relation to the Services and DNB 5G Access Network, including:
    - (A) network quality and capability status;
    - (B) status of network coverage;

- (C) network quality improvement plans; and
- (D) changes in network capability plans; and
- (2) the Access Seeker will share relevant information reasonably requested by DNB, which may include:
  - (A) forecast capacity requirements;
  - (B) network quality improvement requests; and
  - (C) requests for changes in network capability.

## 13 Network Change

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### 13.1 Notification of change

If the Access Seeker proposes to make a Relevant Change to its Network, Facilities services or procedures, it must provide DNB with notice in writing (**Change Notice**) of:

- (a) the nature, effect, technical details, potential impact on the DNB 5G Access Network, DNB's Facilities and/or the Services and the expected completion date of the proposed Relevant Change, described at a sufficient level of detail to enable DNB to identify and begin planning such changes as may be necessary or desirable DNB to make to DNB 5G Access Network, DNB's Facilities and/or the Services in consequence of the Relevant Change; and
- (b) a date, which shall be no later than 10 Business Days from the date of the Change Notice, on which the representatives of the Access Seeker will be available to discuss with the representatives of DNB, the proposed Relevant Change and the changes that may be necessary or desirable for DNB to make to the DNB 5G Access Network, DNB's Facilities and/or the Services in consequence of the Relevant Change,

as soon as reasonably practicable and, in any case, with not less than 3 months' notice.

### 13.2 Post-notification procedures

After having provided DNB with a Change Notice in accordance with section 13.1, the Access Seeker must:

- (a) meet with the representatives of DNB on the date set out in the Change Notice or as soon as practicable thereafter (but no later one month), for the purpose of discussing the Relevant Changes and any changes that may be necessary or desirable for DNB to make to the DNB 5G Access Network, DNB's Facilities and/or the Services in consequence of the Relevant Changes;
- (b) provide any additional information reasonably requested by the DNB no later than 10 Business Days after DNB's request for such additional information; and
- (c) take reasonable account of concerns raised and proposals made by DNB to minimise any adverse impact of the Relevant Changes on DNB and revise the Change Notice accordingly.

### 13.3 Testing

The Access Seeker must:

- (a) co-operate with DNB to develop procedures for testing the impact of the Relevant Changes on the proper operation and compatibility of the DNB 5G Access Network, DNB's Facilities and/or the Services; and
- (b) jointly carry out testing with DNB in a timely manner, using its best endeavours to accommodate any timing requested by DNB and, in any case, no less than 20 Business Days before the Access Seeker proposes to effect the Relevant Changes. The testing shall be conducted in accordance with the testing procedures developed under section 13.3(a) above.

#### 13.4 Testing failure

Subject to DNB having co-operated with the Access Seeker in relation to the conduct of tests under section 13.3, if such tests:

- (a) are not accepted by 10 Business Days prior to the date when the Access Seeker proposes to effect the Relevant Changes; or
- (b) do not provide reasonable assurance of the continued proper operation and compatibility of the respective Networks, Facilities, services and procedures,

the Access Seeker must postpone implementation of the Relevant Changes. The period of postponement will be the period necessary to allow the steps in sections 13.1 to 13.3 to be repeated.

## 14 Operations and Maintenance

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### 14.1 Operations and maintenance responsibility

- (a) DNB shall be responsible for the operation and maintenance of its own Network, Facilities and Services, including any co-location facilities owned and operated by or for DNB (**Co-Location Facility**).
- (b) The Access Seeker shall be responsible for the operation and maintenance of its own Network, Facilities and services, and any of its Equipment at any Co-Location Facility.
- (c) If the Access Seeker co-locates at a Co-Location Facility, the Access Seeker must (at its own cost):
  - (1) keep its assigned area of the Co-Location Facility in a tidy and safe condition;
  - (2) ensure that all Personnel deployed at a Co-Location Facility: (i) are adequately trained, qualified, competent and properly certified in all environmental, safety, and health standards; and (ii) meet the requirements of any applicable Laws;
  - (3) ensure that any hazardous or combustible material is not left in or around the Co-Location Facility, except as agreed between the parties and provided the Access Seeker complies with any safety and operational controls established by DNB; and
  - (4) take such other action as a prudent operator of such Co-Location Facility and Equipment would take in the circumstances in respect of its assigned area of the Co-Location Facility.

## 14.2 Planned maintenance

- (a) If a party intends to undertake planned maintenance (**Planned Maintenance Party**) which may affect the other party's Network, Facilities and/or services, the Planned Maintenance Party must:
  - (1) provide the other party with at least 10 Business Days' notice of the planned maintenance;
  - (2) use its reasonable endeavours to minimise any disruption to the carriage of communications that crosses or would cross the other party's Network, and which is caused by the maintenance or re-routing; and
  - (3) where the parties (acting reasonably) agree that it is practicable, provide alternative routing or carriage at no additional cost to the Access Seeker (except that the Access Seeker will be responsible for any additional costs that may apply in respect of re-routing or carriage on its own Network).
- (b) A Planned Maintenance Party shall undertake planned maintenance within the time window agreed with the other party, and where the time window for such planned maintenance has the least effect on End Users Customers.

## 14.3 Emergency maintenance

- (a) If a party needs to undertake Emergency maintenance (**Emergency Maintenance Party**) which may affect the other party, the Emergency Maintenance Party must, if it is able to:
  - (1) provide as much notice as is reasonably possible of the Emergency maintenance; and
  - (2) use its reasonable endeavours to minimise any disruption to the carriage of communications that crosses or would cross any other party's Network, and which is caused by the maintenance or re-routing; and
  - (3) where the parties (acting reasonably) agree that it is practicable, provide alternative routing or carriage at no additional cost to the Access Seeker (except that the Access Seeker will be responsible for any additional costs that may apply in respect of re-routing or carriage on its own Network).

## 14.4 Routine testing

Each party shall conduct interconnection service tests at agreed annual intervals to ensure the maintenance of interconnection services at agreed Services Levels in accordance with standards set out in the Operations Manual or such other standards as may be determined by the Commission.

# 15 Compatibility and Technical Obligations

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## 15.1 General compatibility obligations

- (a) Each party:

- (1) must take reasonable measures to ensure that interconnection and access do not cause physical or technical harm to the other party's Network, which measures shall be no less robust than the measures which the party takes in respect of new Facilities or Equipment incorporated into its own Network;
- (2) must not, and must ensure that:
  - (A) acts or omissions of its Personnel, and each of its Related Corporations (and their Personnel) do not; and
  - (B) its Networks, systems, Equipment and Facilities and those of its Personnel and its Related Corporations (and their Personnel) do not,
 

give rise to an Adverse Network Impact in the carrying out of any activities or the exercise of rights or the performance of obligations under this RAO and the Access Agreement; and
- (3) must ensure that its Network is subject to a Network alarm management system that enables it to monitor and detect Adverse Network Impacts, and that is monitored in a manner consistent with industry best practice.
- (b) Each party shall adhere to the relevant guidelines issued by the Commission from time to time to the extent that they have not been expressly revoked and are not inconsistent with any technical obligations set out this RAO and the Access Agreement.
- (c) The Access Seeker is responsible for and must ensure that its core Network (if applicable) is compatible with the DNB 5G Access Network and otherwise complies with all applicable Laws.
- (d) DNB will co-operate with and provide the Access Seeker (at Access Seeker's cost) with reasonable assistance and support to enable the Access Seeker to comply with any mandatory standards established by the Commission, including such modification or variation and any other mandatory standards as may be determined by the Commission from time to time.

## 15.2 Technical standards

Each party must comply with any applicable technical standard(s) adopted or required by the Commission.

## 15.3 No interference

- (a) Each party must not do anything, or knowingly permit any third person to do anything, in relation to a Network, network facilities, network services or Equipment which:
  - (1) causes interference; or
  - (2) materially obstructs, interrupts or impedes the continuous use or operation of, the Network, Facilities, services or Equipment of the other party.
- (b) Subject at all times to section 15.4, if the party notifies (**Interference Notifying Party**) the other party that the other party's Network (**Interfering Party**), network facilities, network services or Equipment is causing interference to the Interference Notifying Party's Network, network facilities, network services or Equipment:

- (1) the Interfering Party shall use reasonable endeavours to rectify the situation as soon as possible, and in any case, within the interference resolution timeframes set out in the Operations Manual, so that no interference is caused; or
- (2) if the Interfering Party is not able to locate the source of the interference within 24 hours under section 15.3(b)(1), the Interfering Party shall promptly notify the Interference Notifying Party, and both parties shall meet as soon as possible and, in any case, within 24 hours of such notice and jointly examine each other's Network, network facilities, network services or Equipment to locate the source of the interference. However, access to any DNB Facility or premises remains at the sole and absolute discretion of DNB and subject to any access requirements or other conditions DNB may determine.

## **15.4 Disconnection of interfering equipment**

- (a) Notwithstanding anything to the contrary in this RAO or the Access Agreement, DNB will at all times have the right to disconnect any Equipment which in its reasonable opinion adversely affects (other than immaterially) or may adversely affect (other than immaterially) or unlawfully interferes (or may unlawfully interfere) with the operation of the DNB 5G Access Network or any Services provided by DNB.
- (b) Ahead of exercising its right in section 15.4(a), DNB will, to the extent reasonably practicable, use reasonable endeavours to consult with the Access Seeker to resolve the interference in a manner that minimises disruption to the Access Seeker, its Network and its End User Customers.
- (c) If DNB considers it is not practicable to consult with the Access Seeker in accordance with section 15.4(b) and exercises its right in section 15.4(a), it will provide the Access Seeker with as much notice as is reasonably practicable in the circumstances.

## **15.5 Compliance with instructions, policies and procedures**

The Access Seeker must comply with any policies, procedures or reasonable instructions given by DNB to the Access Seeker or any of its Personnel that relate to:

- (a) protecting the integrity of the DNB 5G Access Network, systems, Equipment or Facilities;
- (b) protecting the integrity of any Network, systems, Equipment or Facilities used in connection with the DNB 5G Access Network;
- (c) ensuring the quality of Service supplied by DNB to the Access Seeker or any other Access Seeker; or
- (d) protecting the health or safety of any person.

DNB must provide the Access Seeker with reasonable prior notice of a policy, procedure or instruction issued under this section 15.5 where feasible in the circumstances.

## 16 Reporting Obligations

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### 16.1 General reporting obligations

The Access Seeker acknowledges that DNB has separate requirements to provide information in respect of the DNB 5G Access Network and the Services to the Commission, and the Access Seeker agrees to co-operate with and assist DNB in providing information requested by the Commission. Nothing in this section prohibits the Access Seeker from providing the relevant information directly to the Commission.

### 16.2 Provision of reports

- (a) Each party must provide the other with the reports set out in and in accordance with the Operations Manual.
- (b) Without limiting the Access Seeker's obligation to provide the reports referred to above, the Access Seeker agrees to provide DNB with any additional data or information reasonably required by DNB for the purposes of planning and providing the Services.

### 16.3 Reporting standards

Each party must ensure that when providing any of the reports set out in this section 16, that those reports:

- (a) are submitted in accordance with the date or timeframe specified in the Operations Manual, or if no date or timeframe is specified then as soon as reasonably practicable; and
- (b) comply with any quality requirements set out in the Operations Manual.

## 17 Security Obligations

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### 17.1 Compliance with security policies by Access Seeker

- (a) The Access Seeker must comply with and must ensure that its Personnel accessing any Facilities owned or operated by DNB (including any online systems or Points of Interface) comply with, the information technology or security policies, standards, requirements or procedures notified to the Access Seeker by DNB with respect to those Facilities from time to time.
- (b) The Access Seeker must immediately notify DNB as soon as it becomes aware of an actual or potential breach of the policies, standards, requirements or procedures referred to in section 17.1(a) and assist DNB in any investigations regarding that actual or potential breach.

### 17.2 Risks to the Networks

- (a) Each party must adopt a responsive and proactive approach to addressing risks to its own Network which seeks to identify, mitigate and manage risks in line with ISO 27001 and Good Industry Practice, with such security measures intended to:



- (1) ensure that data transmitted by an End User Customer is transmitted in a secure manner over each party's Network;
  - (2) ensure that appropriate access controls are implemented to prevent unauthorised access and to protect Facilities and other equipment used in each party's Network from both internal and external threats;
  - (3) ensure that vulnerability risks are managed, and that there is a process in place to patch any security vulnerabilities;
  - (4) ensure that there is appropriate segmentation between Networks to prevent interference, data access from unauthorised parties and data interception; and
  - (5) ensure that appropriate measures are implemented to secure the interconnection links and the transmission Equipment between each party's Network.
- (b) Without limiting section 17.2(a), each party must implement, and regularly review during the Term, information technology and security policies, standards and procedures, relating to cybersecurity, data privacy and protection, network security and net neutrality. These policies, standards and procedures must adopt industry best practice and appropriate standards in line with 3GPP, the Global System for Mobile Communications (GSMA), the International Telecommunication Union (ITU), the International Organisation for Standardisation (ISO) 27001, the Centre for Internet Security (CIS), and the Malaysian Technical Standards Forum Bhd (MTSFB).
- (c) Each party must actively maintain a cybersecurity risk register (**Risk Register**) that addresses all material risks to its Network and, in the case of DNB only, the Services. The Risk Register must include:
- (1) a detailed description of each risk;
  - (2) a categorisation of each risk as determined by each party;
  - (3) the likelihood and impact of each risk occurring; and
  - (4) the mitigation measures that each party will take to reduce the danger posed by each risk.
- Each party must ensure that mitigating measures to address the risks in the Risk Register are undertaken and regularly reviewed, particularly with respect to any risks that relate to national security, and the availability and integrity of their Network.
- (d) Each party must establish and operate a security operations centre, which must satisfy the requirements set out in the Operations Manual but at a minimum will operate on a 24 hour 7 day a week basis, to provide proactive monitoring and detection, mitigating and co-ordination of responses to any malicious cybersecurity threats that could potentially lead to disruption of the DNB 5G Access Network or the Services, interception of the Services, unauthorised disclosure of Personal Data or Confidential Information, or other material security breaches in connection with the Services.

### 17.3 Review of security processes

- (a) Each party must (at its own cost) undertake an annual security audit of its own Network and Facilities (**Annual Security Audit**) to monitor and evaluate the security controls implemented by itself in accordance with this section 17.

- (b) At each party's discretion the Annual Security Audit may involve the use of one or more third party external auditors.
- (c) Each party must manage and address any risks identified during the Annual Security Audit within a commercially reasonable period of time with respect to the threat posed by the security risk identified.
- (d) Each party agrees to promptly share the results of each Annual Security Audit with the other party (who acknowledge and agree that the results of the Annual Security Audit will constitute the Confidential Information of that party).
- (e) Each party agrees to provide any assistance reasonably requested by the other party in connection with each Annual Security Audit.

## 18 Network Operation Centre

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- (a) DNB must establish and operate a Network Operation Centre (**NOC**) as the central point for its management of the DNB 5G Access Network. The NOC functions and responsibilities will include supervision and monitoring of all network elements and network services to enable DNB to manage any degradation in network performance, network security, network availability and the Services.
- (b) The functions and interfaces of the NOC are set out in the Operations Manual, but include (without limitation):
  - 1. incident management;
  - 2. performance management and reporting;
  - 3. incident support and escalation management; and
  - 4. security management.
- (c) The Access Seeker must interface with the NOC through the mechanisms and processes defined in the Operations Manual. The NOC will include a service desk and Trouble Ticket system to support the Access Seeker's interactions with DNB.
- (d) The NOC will operate on a 24x7x365 basis.

## 19 Service Levels

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### 19.1 Obligation to achieve the Service Levels

DNB must meet or exceed the Service Levels in accordance with the terms of this RAO and the Access Agreement.

## 19.2 Network Availability Service Level Target

- (a) DNB will aim to achieve the following “**Network Availability Service Level Target**” for all Sites that transmit Commercial Traffic across the DNB 5G Access Network:

Service Level	Target
Network Availability	99.5%

- (b) “**Network Availability**” is an indicator of the availability of the DNB 5G Access Network calculated by measuring the daily uptime percentage of each Site that is then averaged across the relevant calendar month and across all Sites that transmit Commercial Traffic in accordance with the following formula:

$$\text{Network Availability} = \frac{(\text{Site Minutes} - \text{Unavailable Time})}{\text{Site Minutes}} * 100$$

$$\text{Site Minutes} = \text{Measurement Period} \times \text{Number of Sites}$$

Where:

“**Measurement Period**” means the total number of minutes DNB has agreed the 5G Access Network will be available in the relevant calendar month.

“**Number of Sites**” means the aggregate number of Sites that transmit Commercial Traffic across the DNB 5G Access Network in the relevant calendar month.

“**Site Minutes**” means the Measurement Period multiplied by the Number of Sites.

“**Unavailable Time**” means the aggregate number of minutes that Sites that transmit Commercial Traffic are unavailable or not operational in the relevant calendar month.

- (c) Only Sites that are capable of transmitting Commercial Traffic prior to the start of the relevant calendar month for which Network Availability is being calculated will be included in the Network Availability calculation.
- (d) Site outages caused or contributed to by:
- (1) a Force Majeure event;
  - (2) vandalism;
  - (3) planned maintenance;
  - (4) Emergency maintenance;
  - (5) delay or failure to obtain access from other third party Access Providers, Government Agencies and Access Seekers;
  - (6) prolonged fibre rectifications in Zone 4;
  - (7) prolonged energy or power blackout;
  - (8) damage to DNB's Network or Facilities caused by third parties;

- (9) any other events due to reasons beyond DNB's reasonable control such as rodent bite; or
  - (10) any similar cause or other outages caused or contributed to by the Access Seeker (including with respect to their Equipment and any Access Seeker Infrastructure),
- will be excluded from the Network Availability Service Level Target calculation.

### 19.3 Service Credits

- (a) If in any calendar month Network Availability falls below the Network Availability Service Level Target (**Service Level Failure**) the Access Seeker will be eligible to request to receive a Service Credit. The processes and procedures relevant to claiming a Service Credit are described in the Operations Manual.
- (b) Sites with a Network Availability lower than the Network Availability Service Level Target are entitled to receive Service Credit calculated as set out in the following table:

<i>Network Availability per calendar month</i>	<i>Applicable Service Credit</i>
$99.0\% \leq X < 99.5\%$	0.5% x Monthly Average Fees
$95.0\% \leq X < 99.0\%$	1% x Monthly Average Fees
$90.0\% \leq X < 95.0\%$	2.5% x Monthly Average Fees
$< 90.00\%$	5% x Monthly Average Fees

- (c) Service Credits shall be payable up to the Service Credit Cap, which will be calculated as follows:
  - (1) if Service Credits are payable to the Access Seeker in connection with a Service Level Failure arising from a single root cause, and that Service Level Failure is not resolved:
    - (A) within 2 months from the date the Service Level Failure is first reported to or by DNB in accordance with this RAO and the Operations Manual, then Service Credits will be payable up to the Level 1 Service Credit Cap;
    - (B) within 4 months from the date of the Service Level Failure is first reported to or by DNB in accordance with this RAO and the Operations Manual, then Service Credits will be payable up to the Level 2 Service Credit Cap; and
    - (C) within 6 months from the date of the Service Level Failure is first reported to or by DNB in accordance with this RAO and the Operations Manual, then Service Credits will be payable up to the Level 3 Service Credit Cap; and
  - (2) the Service Credit Cap will revert to the Level 1 Service Credit Cap once the relevant Service Level Failure is resolved.

### 19.4 Limitation on remedy

The Access Seeker acknowledges and agrees that the Access Seeker's sole and exclusive remedy in the event of a Service Level Failure is the payment of a Service Credit. The payment of a Service Credit in full represents the final satisfaction of DNB's liability for a Service Level Failure.

## **19.5 Reporting**

- (a) DNB must track its performance against the KPIs and Service Levels.
- (b) DNB must issue the Access Seeker with a report on its performance against each KPI and Service Level in a month within 7 days of the end of that month.
- (c) DNB must make data regarding its Service Level and KPI performance available for checking and audit by the Access Seeker at any time reasonably required, while ensuring such performance data is properly backed up and stored securely such that any part of the data can be readily extracted for analysis, reporting and presentation purposes.

## **19.6 Service Level management**

- (a) If the Access Seeker becomes aware of a possible Service Level failure that has not been notified to the Access Seeker by DNB in accordance with the process set out in Schedule 3, the Access Seeker may notify the DNB of the potential Service Level failure. Any notification under this section 19.6(a) must be made within 14 days of the Service Level failure occurring.
- (b) If the Access Seeker notifies DNB of a possible Service Level failure under this section 19.6, DNB will investigate the possible Service Level failure and will provide the Access Seeker with a written notice at the conclusion of that investigation, and if:
  - (1) DNB determines that a Service Level failure has occurred, the Access Seeker will be permitted to seek a Service Credit in accordance with the process set out in Schedule 3 (with such Service Credit to be made in the month following the determination by DNB); or
  - (2) DNB determines that a Service Level failure has not occurred, the Access Seeker will not be permitted to seek a Service Credit. However, the Access Seeker may escalate the matter as a Dispute in accordance with the Dispute Resolution Procedures.

# **20 Fault Management, Support and Escalations**

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## **20.1 Access Seeker fault reporting service**

- (a) The Access Seeker must establish and maintain (at its own cost) a fault reporting service that allows End User Customers to whom that Access Seeker supplies Facilities and/or services (inter alia) to report faults relating to any Network, Facility and/or service.
- (b) If an End User Customer reports a fault to the Access Seeker:
  - (1) when the End User Customer is directly connected to another Access Seeker; or
  - (2) which clearly relates to a Network, Facility and/or service of another Access Seeker,the Access Seeker shall promptly inform the other Access Seeker of the reported fault or refer that End User Customer to the other Access Seeker's own fault reporting service.

## **20.2 Trouble Tickets**

- (a) If the Access Seeker becomes aware of a possible fault or issue involving the Services, the Access Seeker must raise a Trouble Ticket with DNB following the process in the Operations Manual. DNB shall maintain a 24 hours a day, 7 days a week Trouble Ticket reporting and rectification service.
- (b) Once a Trouble Ticket has been raised, DNB will follow the process set out in the Operations Manual for resolving that Trouble Ticket.
- (c) DNB shall:
  - (1) handle and resolve Trouble Tickets in accordance with the Operations Manual and on a non-discriminatory basis; and
  - (2) treat Trouble Tickets raised by the Access Seeker on an equivalent basis as it treats any Trouble Tickets reported by itself.
- (d) Any Trouble Tickets should be rectified on a non-discriminatory basis with priority given according to the criticality of that Trouble Ticket.

## **20.3 Faults which could impact on the other party's Network or Equipment**

- (a) If either party identifies a fault occurring in its Network or with its network facilities which may have an adverse effect on another party's Network, network facilities, network services or Equipment, the first-mentioned party must promptly inform the other party of:
  - (1) the existence of the fault;
  - (2) the actions being taken by the first-mentioned party to rectify the identified faults and restore the service; and
  - (3) the outcome of those actions.
- (b) If a fault with a 'Critical' or 'Major' severity level (as defined in Schedule 3) occurs and such fault affects communication that crosses or would cross both DNB's and the Access Seeker's Networks, initial responsibility for identifying the fault rests with the party who first becomes aware of the fault. However, for the avoidance of doubt, the party in whose Network a fault occurs is responsible for rectifying it and restoring services including for the purpose of restoring the supply of Facilities and/or services which are used in another party's Network.

## **20.4 Support and Escalation**

- (a) Each party agrees to comply with the support and escalation procedures set out in the Operations Manual.
- (b) Each party must maintain their own respective support and fault reporting centre for handling faults between Networks, coordinating fault clearance (including escalations) within its own Network and reporting of any faults and their clearance to the other party.

## **21 Business Continuity**

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- (a) DNB must ensure that a Business Continuity Plan is in place during the Term in relation to the DNB 5G Access Network and the Services.

- (b) The Business Continuity Plan shall address probable, adverse scenarios, such as failure, operational disruption, natural or human-made disasters, pandemics, outbreaks of infectious disease or other health-related disasters, substantial loss of Personnel and loss of access to premises, and other matters which DNB considers appropriate from time to time.
- (c) As set out in the Business Continuity Plan, DNB must put in place response measures to help ensure continuity of critical functions and operations with minimal impact and disruptions to operations of the DNB 5G Access Network.
- (d) DNB must ensure that the Business Continuity Plan is tested on a regular basis.
- (e) The Access Seeker may, from time to time and at DNB's discretion, be allowed to participate in a joint testing of the Business Continuity Plan and disaster recovery exercises.
- (f) The Access Seeker shall fully cooperate with DNB in the event of any request by a Government Agency to inspect any information or documentation related to the Business Continuity Plan and business continuity testing.

## PART D – INFORMATION AND RIGHTS MANAGEMENT

### 22 Confidentiality

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#### 22.1 General obligation of confidentiality

- (a) Subject to sections 22.2 and 22.3, each party agrees to keep confidential, and must ensure that its directors, officers, employees and agents keep confidential, and not to use or disclose, other than as expressly permitted by this RAO or the Access Agreement, any Confidential Information of another party.
- (b) Each party must establish and maintain effective security measures to safeguard the Confidential Information from unauthorised access, use, copying or disclosure and use the same degree of care as it uses to protect its own confidential information or which a prudent person would use to protect the Confidential Information (whichever standard is the higher).

#### 22.2 Permitted use and disclosure of Confidential Information by DNB

- (a) Subject to section 22.2(b), Confidential Information of the Access Seeker may be used and disclosed by DNB:
  - (1) for the purposes of undertaking planning, maintenance, construction, provisioning, testing, operations or reconfiguration of the Network;
  - (2) for the purposes of understanding the needs of End User Customers and to improve the experience of End User Customers;
  - (3) for the purpose of developing, supplying or marketing new services;
  - (4) to the directors, officers, employees, agents, Third Party Suppliers or professional advisors (each of whom must be under a similar duty of confidentiality);
  - (5) to comply with any reporting requirements that may be imposed on it by a Government Agency;
  - (6) where that information relates to the activity of End User Customers (individually or as a whole), but which does not identify and cannot be used to identify the activity of End User Customers (individually or as a whole) separately from other End User Customers;
  - (7) for billing purposes; and
  - (8) to the extent necessary for DNB to exercise its rights or perform its obligations under this RAO and the Access Agreement.
- (b) Any disclosure by DNB for the purposes referred to in section 22.2(a) must only occur:
  - (1) on a 'need to know' and confidential basis;
  - (2) solely to persons who, in DNB's reasonable opinion, require the information to carry out or give effect to the purposes listed in section 22.2(a); and
  - (3) if DNB ensures that any person to whom it discloses the Confidential Information of the Access Seeker under this section keeps that Confidential Information confidential.



## **22.3 Permitted use and disclosure of Confidential Information by Access Seeker**

- (a) Subject to section 22.3(b), Confidential Information of DNB may be used and disclosed by Access Seeker to the extent necessary:
  - (1) to use the Services;
  - (2) to the directors, officers, employees, agents, Third Party Suppliers or professional advisors (each of whom must be under a similar duty of confidentiality);
  - (3) to on-supply the Services to End User Customers; and
  - (4) to exercise its rights or perform its obligations under this RAO or the Access Agreement.
- (b) Any disclosure by Access Seeker for the purposes referred to in section 22.3(a) must only occur:
  - (1) on a 'need to know' and confidential basis;
  - (2) solely to persons who, in the Access Seeker's reasonable opinion, require the information to carry out or give effect to the purposes listed in section 22.3(a); and
  - (3) if the Access Seeker ensures that any person to whom it discloses the Confidential Information of DNB under this section keeps that Confidential Information confidential.

## **22.4 Use of End User Customer Information**

DNB is expressly prohibited from using any the Access Seeker's End User Customer Information to market or offer to supply its goods or services to that or any other End User Customer, except where:

- (a) the End User Customer Information is publicly available;
- (b) the End User Customer Information has been received or developed by DNB from sources other than the Access Seeker,

and, in either case, that information has not been collected or generated with reference to, or combined with or compared to, information provided in connection with DNB's supply of the Services. This includes any use or intended use by DNB to dissuade that End User Customer from entering into a contractual relationship with the Access Seeker for retail services that use the Services as an input or more generally, to persuade that End User Customer to enter into a contractual relationship with DNB.

## **22.5 Co-operation in the protection of Confidential Information**

Each party agrees to co-operate with the other to protect the confidentiality of the other party's Confidential Information.

## **22.6 Unauthorised acts in relation to Confidential Information**

- (a) An unauthorised act in relation to Confidential Information occurs if there is any unauthorised disclosure, use, or access, attempted unauthorised disclosure, use or access, or loss of such Confidential Information.

- (b) If a Receiving Party becomes aware of any unauthorised disclosure, use, or access, attempted unauthorised disclosure, use or access, or loss in relation to a Disclosing Party's Confidential Information (**Unauthorised Act**), it must:
  - (1) notify the Disclosing Party as soon as it becomes aware of such unauthorised act;
  - (2) promptly provide the Disclosing Party with full details of, and assist the Disclosing Party in investigating, that Unauthorised Act;
  - (3) co-operate with the Disclosing Party in any investigation or litigation against third parties deemed necessary by the Disclosing Party to protect its rights in its Confidential Information; and
  - (4) use its reasonable endeavours to prevent a recurrence of that Unauthorised Act.

## 22.7 Remedies

Each party acknowledges that:

- (a) the Disclosing Party, its Group Members, or Personnel may suffer financial and other Loss if any Unauthorised Act occurs in relation to Confidential Information, and that monetary damages would be an insufficient remedy; and
- (b) in addition to any other remedy available at law or in equity, the Disclosing Party or its Group Members or Personnel are entitled to injunctive relief to prevent a breach of, and to compel specific performance of, this section 22.

## 22.8 No warranty

Each party acknowledges and agrees that except where expressly contemplated by this RAO or the Access Agreement, no warranty is given by the Disclosing Party that the Confidential Information is or will be correct.

## 22.9 Return of Confidential Information on demand

On demand by the Disclosing Party, the Receiving Party must return, destroy or delete the Disclosing Party's Confidential Information within 14 days (or such other period that is mutually agreed) except to the extent it is impracticable to do so, or necessary to comply with the Receiving Party's internal governance processes, or any applicable Law.

## 22.10 Application to other parts of this RAO

The rights arising under this section 22 do not exclude or limit any other rights of either party, including rights to use Intellectual Property Rights in accordance with this RAO.

# 23 DNB and Access Seeker Data

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- (a) Each party must provide the other party with all data or information required to:
  - (1) in the case of DNB, supply and/or maintain the Services or to perform its obligations under this RAO and the Access Agreement (**Access Seeker Data**); and

- (2) in the case of the Access Seeker, to receive the Services and perform its obligations under this RAO and the Access Agreement (**DNB Data**).
- (b) Each party represents and warrants that:
  - (1) it holds all necessary legal rights, title, consents and authority to provide the other party with DNB Data and Access Seeker Data (as applicable) and authorises the other party to use such data in accordance with section 23(d);
  - (2) all consents and authorisations are freely given, informed and in accordance with the Privacy Laws;
  - (3) its supply of the DNB Data and Access Seeker Data (as applicable) will not infringe the Intellectual Property Rights of any person;
  - (4) the DNB Data and Access Seeker Data (as applicable) is complete, accurate, up to date and not misleading at the time it is provided; and
  - (5) it will supply DNB with all information to correct and update the DNB Data and Access Seeker Data (as applicable) from time to time and each party authorises the other to apply those corrections and updates.
- (c) The Access Seeker acknowledges that the quality of the Services relies on the Access Seeker Data it provides and DNB will not be liable for any Loss arising from failure or delay by the Access Seeker in providing the Access Seeker Data or for any inaccuracy, omission or other defect in the Access Seeker Data.
- (d) Where permitted by Law:
  - (1) DNB grants the Access Seeker and its Related Corporations a non-exclusive, non-transferable, royalty-free licence use the DNB Data to the limited extent necessary to receive the Services and to other fulfil its obligations under this RAO and the Access Agreement; and
  - (2) the Access Seeker grants DNB and its Related Corporations a non-exclusive, perpetual, irrevocable, transferable, royalty-free licence to use and sub-licence the Access Seeker Data to supply the Services to the Access Seeker and to others, to otherwise fulfil DNB's obligations under this RAO and the Access Agreement, to validate and enhance the Services, and for any other lawful purpose or for any purpose expressly authorised by the Access Seeker.

## 24 Intellectual Property Rights

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### 24.1 Acknowledgement of ownership

- (a) Nothing in the Access Agreement operates to transfer or assign ownership of Intellectual Property Rights.
- (b) All Intellectual Property Rights in any information, data, products or services prepared or supplied by either party for use in connection with this RAO and the Access Agreement shall remain the sole property of the contributing party.

## 24.2 Licence to DNB Material

DNB grants to the Access Seeker a revocable, non-exclusive, royalty-free, non-transferable, worldwide licence for the Term to:

- (a) use, reproduce, communicate (but only to the extent permitted in this RAO for marketing purposes), adapt or exploit the Intellectual Property Rights in any DNB Material that is embodied in the Services; and
- (b) use, reproduce and communicate any other DNB Material that is provided to the Access Seeker by DNB,

solely to the extent required for the Access Seeker to perform its obligations and exercise its rights under this RAO and the Access Agreement, including:

- (c) to use the Services and provide the Services on to its End User Customers; and
- (d) to develop and connect its Equipment and Network to the Network operated by DNB,

subject at all times to any relevant third party licences (and where such third party licences apply, DNB must do all things reasonably necessary to procure from the third party a sufficient licence to comply with the terms of this section). The licence granted in this section 24.2 includes the right of disclosure to Third Party Suppliers, and use by appropriate Third Party Suppliers, engaged by the Access Seeker provided such disclosure or use complies with the applicable terms of this RAO and the Access Agreement.

## 24.3 Licence to Access Seeker Material

The Access Seeker grants to DNB and its Related Corporations an irrevocable, non-exclusive, royalty free, non-transferable licence to reproduce, communicate and adapt Access Seeker Material internally by any DNB Group Member to the extent necessary for any DNB Group Member to supply the Services to the Access Seeker and to undertake any activities that are ancillary to the supply of Services to the Access Seeker, subject at all times to any relevant third party licences (and where such third party licences apply, the Access Seeker must do all things reasonably necessary to procure from the third party a sufficient licence to comply with the terms of this section).

## 24.4 Infringement claim process

- (a) Each party (**Infringement Notifying Party**) must promptly notify the other party (**Infringement Receiving Party**) if any claim or demand is made or brought against the Infringement Receiving Party for infringement of any Intellectual Property Rights which affects the provision, receipt or use of the Services.
- (b) The Infringement Receiving Party shall, at its own expense, conduct any litigation arising from such claim or demand and all negotiations in connection with such claim or demand and the Infringement Notifying Party agrees that the Infringement Receiving Party shall have exclusive control of any such litigation and such negotiations. The Infringement Receiving Party will not enter into a settlement or compromise or otherwise admit liability on behalf of the Infringement Notifying Party without the Infringement Notifying Party's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed).
- (c) Where DNB is the Infringement Receiving Party, and a claim or demand is made or an action brought to which section 24.4(a) may apply, or if in the

reasonable opinion of DNB such a claim or demand may be brought, then DNB may either:

- (1) modify or substitute any or all of the Services affected without materially reducing or altering the performance and functionality of the Services; or
  - (2) procure a licence for the Access Seeker to use the Intellectual Property Rights which are infringing or alleged to be infringing.
- (d) Where DNB is the Infringement Receiving Party, DNB may suspend the Services for the purpose of carrying out a modification or substitution in accordance with section 24.4(c)(1) without liability to the Access Seeker, provided DNB uses reasonable efforts to minimise the length of any suspension.

## 25 Data Security Requirements

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### 25.1 Data security

- (a) Each party must:
  - (1) apply reasonable security standards and other appropriate measures in respect of data or other information obtained from the other party (including Confidential Information and Personal Data) having regard to the nature of the data or information and the party's obligations under applicable Law (including the Privacy Laws);
  - (2) ensure that whenever it collects, stores, uses or discloses any of the information referred to in section 25.1(a)(1) to third parties by any means inside or outside Malaysia that the other party ensures compliance at all times with the provisions and obligations contained in all applicable Laws (including the Privacy Laws), including but not limited to the *Personal Data Protection Act 2010*, its subsidiary legislation and associated *Personal Data Protection Code of Practice* as amended from time to time; and
  - (3) must not allow any person inside or outside of Malaysia to access any such data or information except in compliance with those data security standards and all applicable Laws (including the Privacy Laws).
- (b) Each party must, on request from the other party, provide the other party with an outline of their then current safety and security procedures and safeguards implemented in accordance with section 25.1(a) with respect to the security of Access Seeker data and DNB data (as applicable).

### 25.2 Data Security Incident notification

If a party (**Security Notifying Party**) becomes aware of a Data Security Incident the Security Notifying Party must:

- (a) immediately, and in any event within 24 hours after becoming aware of the Data Security Incident, notify the other party in writing, and give the other party full details regarding the Data Security Incident;
- (b) provide reasonable co-operation in connection with any audit or investigation launched by the other party into the Data Security Incident (except that nothing

in this section is to be read as requiring DNB to provide the Access Seeker or any third party with access to its premises, Personnel and systems); and

- (c) immediately activate containment measures to minimise the impact of the Data Security Incident;
- (d) conduct its own investigation into the Data Security Incident, and if the Data Security Incident is determined or likely to have been caused by the Security Notifying Party's systems or processes:
  - (1) implement rectification measures to prevent any further Data Security Incidents; and
  - (2) confirm to the other party that such rectification measures have been implemented.

## **25.3 Protection of online systems**

Without limiting anything else set out in section 17 and this section 25, each party must each maintain commercially reasonable security measures designed to protect their systems, Facilities and Networks from unauthorised access by third parties, and in particular from disruption by any 'virus', 'back door', 'time bomb', 'Trojan Horse', 'worm' or other software routine or code which is intended or designed to:

- (a) misuse, interfere with, or cause loss of, information or data held on any of that party's systems, Facilities or transmitted across that party's Network;
- (b) permit unauthorised access to, or use, modification or disclosure of any of that party's systems, Facilities or Networks by a third person; or
- (c) disable, damage or erase, or disrupt or impair the normal operation of any of that party's systems, Facilities or Networks.

## **25.4 Access**

Each party must not, and must ensure that no:

- (a) Group Member; and
- (b) Personnel of any Group Member,

intentionally accesses any software, systems, data, Facilities or Network of the other party that are not related to the Services without the prior written consent of the other party.

## **26 Marketing**

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- (a) Each party must:
  - (1) comply with any brand guidelines or directions notified by the other party from time to time in respect of the other party's Logos; and
  - (2) not use the other party's Logos on any marketing materials or other materials, except in a manner which has been specifically approved in writing by the other party in advance.
- (b) In its marketing or promotional efforts, DNB must not directly target End User Customers with specifically created differential offers or incentives. However, DNB reserves the right, in pursuance of its mission to accelerate the adoption of 5G in Malaysia, to create marketing or promotional campaigns aimed at such

adoption to the general public, including but not limited to the promotion of the DNB 5G Access Network, the explanation of the benefits of 5G, the creation of demand for 5G services amongst the public, and other such campaigns as DNB may consider appropriate from time to time.

- (c) In its marketing or promotional efforts, the Access Seeker must not make any claims or representations to End User Customers or the general public regarding the Services, including but not limited to download speeds, network capabilities, coverage or any part of the Services, except to the extent such claims or representations are consistent with information set out in technical specifications publicly available on the DNB Website or otherwise set out in this RAO and the Access Agreement.
- (d) DNB agrees to use reasonable endeavours to ensure that the information referred to in section 26(c) is, insofar as is reasonably practicable, kept accurate and up to date.

## **PART E – FINANCIAL MANAGEMENT**

### **27 Billing and Settlement**

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#### **27.1 Fees**

- (a) In consideration for the provision of the Services, the Access Seeker agrees to pay DNB the Fees and any other fees, charges and expenses payable by the Access Seeker to DNB under this RAO or the Access Agreement.
- (b) The Fees for the supply of the Services are set out in Schedule 2.
- (c) Unless otherwise agreed between the parties, the Access Seeker will be responsible for all of its own costs associated with integration of the Access Seeker's Network and any other Facilities or Equipment to the DNB 5G Access Network.

#### **27.2 Invoices**

- (a) DNB must use its best endeavours to issue to the Access Seeker an Invoice in writing or in electronic form via the CSP Portal within 30 days of the end of the preceding Billing Cycle, where the Billing Cycle applies in arrears for amounts due in respect of the supply of Services during the relevant Billing Period.
- (b) Unless otherwise agreed by DNB and the Access Seeker in the Access Agreement, DNB shall specify all Invoices in Ringgit Malaysia and payment shall be made by the Access Seeker in Ringgit Malaysia.
- (c) DNB must make available in the CSP Portal, such information as may be reasonably necessary for the Access Seeker to verify rates and charges contained in an Invoice.
- (d) If the Access Seeker discovers an error in an Invoice, it must promptly (and in any event within 30 days from the date of the Invoice) notify DNB in accordance with the process set out in the Operations Manual, in which case DNB must:
  - (1) make necessary adjustments to correct that error within one month of notification; or
  - (2) notify the Access Seeker that it does not believe that there was any error in the Invoice, in which case the Access Seeker may raise a dispute in accordance with the Dispute Resolution Procedures.
- (e) The Access Seeker must provide DNB with usage and other relevant data for reconciliation in accordance the requirements set out in the Operations Manual.
- (f) Invoices will be downloadable from the CSP Portal and will remain available online in the CSP Portal for 2 years from the invoice date.

#### **27.3 Payment**

- (a) Subject to section 27.3(d), the Access Seeker must pay each Invoice within 30 days of the date of the Invoice.
- (b) DNB shall allow the Access Seeker to pay an Invoice by electronic funds transfer directly to an account nominated by DNB, or as otherwise agreed between the parties in writing.



- (c) Unless otherwise agreed by DNB and the Access Seeker in the Access Agreement, DNB may not set-off Invoices except where the Access Seeker has suffered an Insolvency Event or at least 3 Invoices have been issued and such Invoices have not been paid (excluding disputed amounts).
- (d) DNB shall allow the Access Seeker to withhold payment of any amount reasonably disputed in good faith by the Access Seeker if:
  - (1) the Access Seeker notifies DNB within 15 Business Days from the date of receipt of the Invoice of such dispute (or such other period of time agreed by DNB and the Access Seeker in the Access Agreement); and
  - (2) the Access Seeker's notification specifies the information referred to in section 7(d) of Schedule 4.

If the Access Seeker reasonably and in good faith disputes any portion of an Invoice, the Access Seeker must pay the undisputed portion of the invoice in accordance with the terms and conditions of this RAO and the Access Agreement.

## **27.4 Taxes**

The Fees stated in the Invoices are exclusive of Taxes. Where applicable, the Access Seeker will bear and be liable for all Taxes applied in respect of the provision of the Services or in connection with this RAO and the Access Agreement and DNB shall be entitled to impose and collect Taxes from the Access Seeker and remit Taxes to the Tax Authority in accordance with the relevant Law where applicable.

## **27.5 Billing Disputes**

DNB shall allow the Access Seeker to dispute any amount in an Invoice if the Access Seeker notifies DNB within 30 Business Days after the date of receipt of such Invoice, provided that, in any case specified above, the Access Seeker's notification specifies the information referred to in Schedule 4.

## **27.6 Late payments**

Except for any amount in an Invoice being disputed by the Access Seeker in good faith in accordance with section 27.5, DNB may charge interest on any amount outstanding from the Access Seeker from time to time, in respect of that overdue sum for the period beginning on its due date and ending on the date of the receipt of the overdue sum by DNB. The interest that may be charged by DNB shall be at the rate of 2% per annum above Malayan Banking Berhad's base rate calculated daily from the due date until the date of actual payment. Payments which are overdue by more than 2 months will bear interest at the rate of 3% per annum above Malayan Banking Berhad's base rate calculated from the due date until the date of receipt by DNB of full payment. For clarification, DNB shall not charge interest on an amount which is disputed by the Access Seeker in good faith.

## **27.7 Backbilling**

Unless otherwise agreed by DNB and the Access Seeker in the Access Agreement, DNB may include omitted or miscalculated charges from an earlier Invoice in a later Invoice, or issue an Invoice for charges which have previously not been invoiced provided that DNB is able to substantiate the charges to the Access Seeker and such inclusion, amendment

or issuance is made within 3 months from the end of the Billing Cycle in which the Services were provided.

## **27.8 Provisional billing**

Where DNB is unable to issue an Invoice within one month after the end of the Billing Cycle in accordance with 27.1, it may issue an Invoice to the Access Seeker for a provisional amount, based on the last Invoice (**Provisional Invoice**). In such circumstances, DNB may invoice the Access Seeker for a provisional amount for a period of not more than 3 successive Billing Cycles, provided that the total provisional amount is no more than the average of the 3 most recent Invoices. Where there have not been 3 past Invoices for access to the Services, DNB may issue a Provisional Invoice up to the full value of the amount based on the most recent Invoice.

## **27.9 Adjustment Period**

Where a Provisional Invoice is issued by DNB, within the next 2 months or such other time period as may be agreed in the Access Agreement (**Adjustment Period**), DNB must issue an Invoice for the actual amount due for access to the relevant Services. If that Invoice for the actual amount is not issued within the Adjustment Period, the Access Seeker shall treat the provisional amount as the actual amount. 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 one month from the receipt of the actual Invoice to DNB. If the actual amount for a particular Billing Period is lower than the provisional amount for the Billing Period, then DNB will reimburse in full such difference (free of interest) within one month from the receipt of the actual Invoice to the Access Seeker.

# **28 Creditworthiness**

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## **28.1 Request for Creditworthiness Information**

- (a) If DNB reasonably believes that the Access Seeker may not be able to meet any liabilities that may arise under this RAO or the Access Agreement (including the obligation to pay the Fees), DNB may request that the Access Seeker provide to DNB any Creditworthiness Information reasonably requested by DNB.
- (b) If DNB makes a request for Creditworthiness Information in accordance with this section 28.1, the Access Seeker agrees to promptly provide the Creditworthiness Information requested by DNB, and warrants that any Creditworthiness Information provided to DNB is accurate and complete as at the date it is provided to DNB.

# **29 Financial Security**

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## **29.1 Minimum Financial Security**

The Access Seeker must provide DNB with the Minimum Financial Security within 30 days of entering into the Access Agreement.

## **29.2 Varying the Minimum Financial Security**

- (a) DNB may vary the amount and/or the type of Minimum Financial Security once each Contract Year by providing the Access Seeker with written notice.
- (b) If DNB amends the Minimum Financial Security in accordance with this section 29.2, then unless otherwise agreed by the parties in writing:
  - (1) the amended Minimum Financial Security must not exceed an amount equivalent to the average of the 3 most recent Invoices; and
  - (2) the Access Seeker must provide that amended Minimum Financial Security within 30 Business Days of receiving written notice under section 29.2(a).

## **29.3 Request for Additional Financial Security from Access Seeker**

- (a) At any time during the Term of the Access Agreement, DNB may issue a notice to the Access Seeker requiring the Access Seeker to provide a reasonable form of Additional Financial Security.
- (b) DNB shall not impose any security requirements on the Access Seeker unless DNB determines, acting reasonably, that the Access Seeker presents a credit risk and that imposing the security requirement will materially reduce or remove that risk.
- (c) DNB shall ensure that the amount and type of any security requirements to be imposed on the Access Seeker are consistent with DNB's then-current security policy and is commensurate with:
  - (1) a commercially reasonable estimate of the charges under the Access Agreement that will be incurred by the Access Seeker during the Minimum Service Term of the Access Agreement;
  - (2) the creditworthiness of the Access Seeker (including prior record of payment by the Access Seeker); and
  - (3) security that has previously been required by DNB in similar circumstances.
- (d) DNB must not impose a security requirement on the Access Seeker which:
  - (1) exceeds a commercially reasonable estimate of the charges that will be incurred by the Access Seeker over the Minimum Service Term of the Access Agreement; or
  - (2) is designed to, or has the effect of, denying or delaying the Access Seeker's access to Services.
- (e) If DNB issues the Access Seeker with a request for a financial security in accordance with this section the Access Seeker must provide that financial security within 30 Business Days of the request, unless the parties agree otherwise in writing.

## PART F – RISK MANAGEMENT

### 30 Warranties

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#### 30.1 Mutual warranties

Each party represents and warrants to the other that:

- (a) it has the capacity and authority to enter into and perform the Access Agreement;
- (b) the Access Agreement has been executed by a duly authorised representative of that party;
- (c) the making of and performance of the Access Agreement does not conflict with any existing obligations of that party;
- (d) once duly signed the Access Agreement will constitute legal, valid and binding obligations; and
- (e) it will perform its obligations under the Access Agreement in accordance with all applicable Laws.

#### 30.2 Access Seeker Warranties

The Access Seeker warrants and represents to DNB that:

- (a) it has in place, and that it will maintain for the duration of the Term, all licences, authorisations, registrations, consents and approvals required by applicable Law to:
  - (1) operate as a mobile communications provider in Malaysia; and
  - (2) provide retail 5G services to its End User Customers;
- (b) there are no actions, suits or proceedings pending or, to the Access Seeker's knowledge, threatened against or affecting the Access Seeker or any of its Group Members before any court or administrative body or arbitral tribunal that might have a material effect on the ability of the Access Seeker to perform its obligations under this RAO and the Access Agreement; and
- (c) it is not suffering an Insolvency Event.

#### 30.3 No other warranties

- (a) Except as expressly provided in this RAO or the Access Agreement, no representation, guarantee, warranty or condition, express or implied, statutory or otherwise, as to condition, quality, performance or fitness for purpose or otherwise is given by either party or by any related body corporate of either party and all such representations, warranties and conditions are excluded except to the extent that their exclusion is prohibited by law.
- (b) Without limiting section 30.3(a), the Access Seeker acknowledges that DNB gives no representation or any express or implied warranty in respect of the:
  - (1) condition, state of repair, quality, fitness for purpose or merchantability of the DNB 5G Access Network; or
  - (2) speed, accuracy or suitability of the Services,

other than the express warranties provided in this RAO.

## 31 Liability

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### 31.1 General principle

Save to the extent that another provision of this RAO or the Access Agreement expressly provides for (or expressly excludes or limits) a remedy, a liability or a form of compensation in relation to an act, omission or event, this section 31 and section 32 will regulate the liability (whether arising in contract, in tort, under statute or in any other way and whether due to negligence, wilful or deliberate breach or any other cause) of a party to the other party under and in relation to this RAO and in relation to an act, omission or event relating to or arising out of this RAO, the Access Agreement or the provision of the Services.

### 31.2 Limitation of liability

To the extent permitted by law and subject to sections 31.3, 31.4, and 31.6, the aggregate liability of a party (**Respondent**) to the other party in respect of all Claims arising under or in connection with this RAO, the Access Agreement or the provision of the Services, whether in contract, tort (including negligence), or otherwise, in any Contract Year, is limited to the amount set out in the Access Agreement, such that the Respondent's liability for a Claim, determined at the time the relevant Claim is to be paid, will not exceed the amount referred to in the Access Agreement less all amounts paid for all other Claims arising in the relevant Contract Year at that time.

### 31.3 Liability for Service Failures

To the maximum extent permitted by law and subject to sections 31.4 and 31.6:

- (a) the Access Seeker's sole and exclusive remedy for any failure to meet a Service Level will be the applicable Service Credit; and
- (b) in no event will DNB be liable to pay Service Credits in excess of the Service Credit Cap.

### 31.4 Consequential Loss

To the maximum extent permitted by law and subject to section 31.6, each party excludes all liability whether in contract, tort (including negligence) or otherwise, for any Consequential Loss arising out of or in connection with this RAO, the Access Agreement or the provision of the Services.

### 31.5 No liability for hacking and malicious code

To the maximum extent permitted by law and subject to section 31.6, DNB shall not be liable for damage to property due to hacking and the transmission of malicious codes/an or programs by third parties (other than its Personnel) provided that DNB has put in place security measures and controls in line with sections 17 and 25 of this RAO.

### **31.6 Exclusions from limitations**

Sections 31.1, 31.3, and 31.4 do not apply to, and neither party excludes or limits any of the following kinds of Loss:

- (a) any liability for death or personal injury of any person caused by any negligent act or omission or wilful misconduct;
- (b) any liability for fraudulent misrepresentation;
- (c) the Access Seeker's liability to pay any undisputed Fees;
- (d) any liability arising from or in connection with a breach of section 22 (Confidentiality); and
- (e) any liability arising from a breach of the indemnities in sections 32.1 and 32.3.

### **31.7 Acknowledgement**

The parties agree that the limitations and exclusions set out in this section are reasonable having regard to all the relevant circumstances, and the levels of risk associated with each party's obligations under this RAO and the Access Agreement.

### **31.8 Duty to mitigate**

- (a) Each party must take all reasonable steps to mitigate its Loss arising in relation to any Claim.
- (b) Each party's liability under the Access Agreement for any Loss suffered by the other party will be reduced to the extent that the Loss was caused or contributed to by:
  - (1) a failure by the other party or its Personnel to comply with the terms of this RAO or the Access Agreement; or
  - (2) the negligent acts or omissions of the other party or its Personnel.

### **31.9 Third party rights and exclusions**

- (a) Except where an indemnity, promise or obligation is expressly stated to be for the benefit of a third party or a Group Member, no person (including an employee or a downstream Access Seeker) other than DNB or the Access Seeker has or is intended to have any right, power or remedy or derives or is intended to derive any benefit under this RAO or the Access Agreement.
- (b) The Access Seeker agrees that any Claim in connection with this RAO, the Access Agreement or the Services must be brought under the Access Agreement by the Access Seeker. The Access Seeker acknowledges and agrees that DNB has no obligation with respect to any End User Customer and that no End User Customer can bring a claim against DNB.
- (c) Subject to section 32, DNB will not be liable to the Access Seeker or any third party including an End User Customer and does not indemnify the Access Seeker for any Claim brought or made by a third party against the Access Seeker, howsoever arising, including:
  - (1) the lack of or loss of interruption or any delays to access, interconnection, transmission or otherwise; and

- (2) any Claims brought or made against DNB by any person (including an End User Customer and other Access Seekers) pursuant to a contractual relationship with the Access Seeker.

## 32 Indemnities

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### 32.1 Mutual Indemnities

Each party (**Indemnifying Party**) indemnifies the other party, and each of that other party's Group Member and Personnel (the **Indemnified Party**), in respect of any Claim or Loss which an Indemnified Party pays, suffers, incurs or is liable for in connection with:

- (a) any breach of section 22 (Confidentiality);
- (b) any breach of section 30.2 (Access Seeker Warranties);
- (c) any breach of section 39(b) (Anti-Bribery and Anti-Money Laundering);
- (d) any fraud or wilful misconduct by the Indemnifying Party or its Personnel;
- (e) personal injury (including sickness or death) to the extent caused by an act or omission of the Indemnifying Party or its Personnel in relation to this RAO; and
- (f) loss of, damage to, or loss of use of, any tangible property to the extent caused by an act or omission of the Indemnified Party or its Personnel in relation to this RAO,

except to the limited extent that the loss or liability is directly attributable to the act or omission of an Indemnified Party.

### 32.2 Capped indemnities

Subject to sections 31.2 and 31.4, each party (**Indemnifying Party**) indemnifies the other party (**Indemnified Party**) against all Losses arising out of or in connection with:

- (a) any infringement of a third party's Intellectual Property Rights in connection with the use of any Intellectual Property Rights in any Material licensed under this RAO or the Access Agreement (except where that use is other than in accordance with the terms of this RAO or the Access Agreement); and
- (b) any breach by the Indemnifying Party of section 25 (Data Security Requirements).

This parties acknowledge and agrees that the indemnity in section 32.2(a) will represent the sole and exclusive remedy and form of compensation available to the Indemnified Party in relation to infringement of a third party's Intellectual Property Rights in connection with the use of any Intellectual Property Rights in any Material licensed under this RAO or the Access Agreement.

### 32.3 Indemnity for downstream claims

Access Seeker agrees to indemnify DNB, and each DNB Group Member and their Personnel, in respect of any Claim or Loss which each DNB Group Member and their Personnel pays, suffers, incurs or is liable for in connection with an End User Customer.

## 33 Insurance Requirements

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### 33.1 General

Each party must:

- (a) ensure that the Required Insurances are effected with insurers which are rated not less than A by Standard & Poor's (or an equivalent rating agency) and cover all risks which are reasonable and prudent in accordance with good business practice;
- (b) provide certificates of currency for the Required Insurances upon execution of the Access Agreement, and on each 12 month anniversary of the Commencement Date (or at such other times as agreed between the parties in writing);
- (c) pay any excess or deductible under the Required Insurances; and
- (d) not do or allow anything to be done which would prejudice or otherwise cause the Required Insurances to be terminated.

### 33.2 Required insurance

Each party must effect and maintain at all times during the Term, and at their own cost, the following insurance policies:

- (a) worker's compensation, social security, employer's liability insurance and insurance within statutory limits as required by applicable Law in respect of its employees employed in connection with the work covered by this RAO and the Access Agreement; and
- (b) comprehensive general liability insurance of Ringgit Malaysia Twenty Million (RM20,000,000.00) in the aggregate for any one claim or series of claims arising out of an accident or occurrence in connection with this RAO and the Access Agreement,

(together, the **Required Insurance**).



## PART G – AGREEMENT MANAGEMENT

### 34 Term

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The Access Agreement commences on the Commencement Date and continues until the expiry of the later of:

- (a) the Minimum Service Term; and
- (b) such longer period mutually agreed between the parties in the Access Agreement,

unless renewed or terminated earlier (**Term**).

### 35 Termination

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#### 35.1 Termination by DNB

Subject to section 35.5, DNB may terminate the Access Agreement by providing notice to the Access Seeker if:

- (a) DNB or the Access Seeker is no longer licensed under the Act or DNB is otherwise unable to secure the spectrum necessary to provide the Services;
- (b) the Access Seeker has materially breached the Access Agreement (which without limitation includes a breach of sections 22, 25.1(a), 15, 17 and 24.1-24.3 of this RAO), DNB has notified the Access Seeker that it will terminate in no less than 30 days if the Access Seeker has not remedied its breach by the end of that period and the Access Seeker has failed to remedy its breach in accordance with such a notification;
- (c) the Access Seeker has become subject to a winding up order (whether compulsorily or voluntarily) or ceases to trade in the normal course of business or becomes insolvent or a receiving order is made against it or has entered into any agreement or composition with or assignment for the benefit of its creditors or the Access Seeker's assets are subject of any form of distress or execution or any analogous insolvency event related to the Access Seeker has occurred in any jurisdiction (**Insolvency Event**); or
- (d) a Force Majeure has continued for a period of more than 3 months.

#### 35.2 Termination by the Access Seeker

Subject to section 35.5, the Access Seeker may only terminate the Access Agreement by providing notice to the Access Seeker if:

- (a) DNB is no longer licensed under the Act or is otherwise unable to secure the spectrum necessary to provide the Services;
- (b) DNB has materially breached the Access Agreement (which without limitation includes a breach of sections 22, 25.1(a), 15, 17 and 24.1-24.3 of this RAO), the Access Seeker has notified DNB that it will terminate in no less than 30 days if DNB has not remedied its breach by the end of that period and DNB has failed to remedy its breach in accordance with such a notification;

- (c) DNB has become subject to a winding up order (whether compulsorily or voluntarily) or ceases to trade in the normal course of business or becomes insolvent or a receiving order is made against it or has entered into any agreement or composition with or assignment for the benefit of its creditors or DNB's assets are subject of any form of distress or execution or any analogous insolvency event related to DNB has occurred in any jurisdiction; or
- (d) a Force Majeure that substantially affects the provision of the Services by DNB and deprives the Access Seeker of the benefit of the Services has continued for a period of more than 3 months.

### **35.3 Termination due to a change in Law**

Where continued operation of the Access Agreement or access to any or all of the Services is or will be unlawful (as a result of a legislative or regulatory change), the Access Seeker and DNB must meet within 5 Business Days of becoming aware of the relevant change in Law to review whether access to the relevant Services may be provided by DNB on different terms and conditions that comply with the relevant law as changed (and which terms and conditions are acceptable to the Access Seeker). If the parties cannot agree to the provision of access on different terms and conditions, DNB may terminate the provision of access to the relevant Service(s).

### **35.4 Suspension**

Subject to section 35.5, DNB may suspend access to any Facilities and/or the Services if:

- (a) the Access Seeker's facilities materially and adversely affect the normal operation of the DNB 5G Access Network, or are a material threat to any person's safety;
- (b) the Access Seeker's facilities or the supply of services pose an imminent threat to life or property of DNB, its employees or contractors;
- (c) the Access Seeker's facilities cause material, physical or technical harm to any facilities of DNB or any other person;
- (d) where the Access Seeker has failed to pay Invoices in accordance with section 27 (and subject to any right that the Access Seeker has under section 27 to dispute any amount in an Invoice);
- (e) where the Access Seeker has failed to provide any new security amount as required under section 29;
- (f) where Force Majeure applies; or
- (g) the Access Seeker breaches any applicable Law which has a material and adverse effect on DNB or the provision by DNB of Services under this RAO or the Access Agreement.

For the purpose of this section 35.4, DNB must provide the Access Seeker with 5 Business Days' notice, including reasons, prior to suspending access to any Facilities and/or Services. DNB shall forward to the Commission a copy of the notice of suspension at the same time as providing the notice of suspension to the Access Seeker. For clarity, a notice to be given under this section 35.4 is in addition to the notice required under section 35.5.

### 35.5 Notice prior to termination or suspension

- (a) Prior to terminating the Access Agreement or suspending access to any Facilities and/or the Services in accordance with this section 35, DNB must provide the:
- (1) Access Seeker; and
  - (2) Commission,
- with 30 days' prior notice in writing of the action DNB proposes to take and the reasons why it considers such action is appropriate. The Commission may invite the Access Seeker to make submissions to the Commission regarding the proposed termination or suspension. DNB:
- (3) shall only give effect to the proposed termination or suspension with the Commission's written consent and subject to any time delay or conditions which the Commission may specify (if any). The Commission will endeavour to respond to DNB's notice within 10 Business Days or such other period that the Commission considers is reasonable;
  - (4) must not give effect to the proposed termination or suspension unless DNB has received written consent from the Commission to such termination, suspension or material variation; and
  - (5) shall take all steps practicable to minimise disruptions and inconvenience to the End User Customers of the Access Seeker, including providing the Access Seeker with a reasonable period of time (as determined by DNB) within which to make alternative arrangements prior to the suspension or termination of the Access Agreement, or access to Services provided under it.
- (b) If the parties to the Access Agreement adopt the terms and conditions specified in an access undertaking that has been registered with the Commission in accordance with the Act, the parties must notify the Commission within 5 Business Days of such adoption. In such circumstances, the terms and conditions of the Access Agreement will continue in force for the remainder of the Term of the Access Agreement, even if the access undertaking is withdrawn or expires prior to the expiry of the Term.

### 35.6 Consequences of termination

Upon termination or expiry of the Access Agreement, for whatever reason:

- (a) the Access Seeker must:
- (1) immediately cease using all of the Services;
  - (2) comply with any reasonable directions given by DNB;
  - (3) return or destroy (at DNB's election) all Confidential Information and other property of DNB (unless otherwise advised by DNB); and
  - (4) in the case of termination under sections 35.1(b), 35.1(c), 35.3 and 39(c) (where the Access Seeker is the Defaulting Party) only, within 20 Business Days of receiving written demand from DNB, pay to DNB in immediately available funds an amount equal to the Fees that would have been payable for the National 5G Wholesale Network Product throughout the remainder of the Minimum Service Term (including any amounts payable in respect of the Target Capacity in accordance with section 1.2(c) of Schedule 2); and

- (b) DNB must:
  - (1) not recover any additional charges, costs or expenses on termination or suspension of an Access Agreement or access to any Facilities and/or Services provided under it except:
    - (A) charges invoiced in arrears and not yet paid; or
    - (B) (if applicable) charges set out in section 35.6(a)(4) provided that DNB must use reasonable endeavours to mitigate its costs of termination or suspension;
  - (2) within two (2) months of termination of the Access Agreement return to the Access Seeker any financial security provided by the Access Seeker to DNB, provided all other amounts payable by the Access Seeker to DNB have been paid; and
  - (3) promptly and unconditionally waive any rights under any guarantees provided by the Access Seeker except in respect of amounts payable by the Access Seeker to DNB as at the date of termination.

## 36 Changes to the Services

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### 36.1 Application of this section

This section 36 is intended to apply to any:

- (a) material change (as determined by DNB acting reasonably) to the technical details of Services;
- (b) the introduction of a new Service; or
- (c) the removal of a Service.

Any other changes to the Access Agreement (including this RAO) will occur in accordance with the process set out in section 37.

### 36.2 Change to the technical details of a Service

- (a) If at any time during the Term, DNB wishes to amend the technical details of an existing Service, DNB must issue the Access Seeker with a notice outlining:
  - (1) the proposed amendments to the technical details;
  - (2) when the proposed amendments are proposed to be introduced;
  - (3) any proposed amendments to the pricing for the relevant Service; and
  - (4) inviting the Access Seeker to provide any written feedback and to take part in consultations run by DNB,
 (the notice being a **Change to Service Notice**).
- (b) Following the Change to Service Notice being issued, DNB agrees to run a consultation period with the Access Seeker and the other Access Seekers in accordance with the process set out in the Operations Manual.
- (c) During the consultation period described in section 36.2(b), the Access Seeker may submit a written response to DNB addressing the Change to Service Notice.

- (d) DNB agrees to consider any written feedback provided by the Access Seeker in accordance with section 36.2(c) in good faith.
- (e) The Access Seeker acknowledges and agrees that prior to making any changes to the technical details of a Service effective, DNB may first test those changes in the form of Test Services in accordance with section 8.

### 36.3 Introduction of a new Service

- (a) If at any time during the Term, DNB wishes to add a new Service, DNB must issue the Access Seeker with a notice outlining:
  - (1) the proposed new Service;
  - (2) the technical details of the proposed new Service;
  - (3) where the proposed new Service will be rolled out and when;
  - (4) the proposed pricing for the proposed new Service; and
  - (5) inviting the Access Seeker to provide any written feedback and to take part in consultations run by DNB,
 (the notice being a **New Service Notice**).
- (b) DNB must discuss the introduction of a new Service at the Product Committee before providing a New Service Notice.
- (c) Following the New Service Notice being issued, DNB agrees to run a consultation period with the Access Seeker and the other Access Seekers in accordance with the process set out in the Operations Manual.
- (d) During the consultation period described in section 36.3(b), the Access Seeker may submit a written response to DNB addressing the New Service Notice.
- (e) DNB agrees to consider any written feedback provided by the Access Seeker in accordance with section 36.3(d) in good faith.
- (f) The Access Seeker acknowledges and agrees that prior to making a new Service available, DNB may first make the proposed new Service available as a Test Service in accordance with section 8.

### 36.4 Removal of a Service

- (a) Prior to removing a Service, DNB must issue the Access Seeker and the Commission with written notice outlining:
  - (1) the Service that is proposed to be removed;
  - (2) when the Service is proposed to be removed (such period to be no less than 6 months); and
  - (3) the reason for the removal of the Service;
 (the notice being a **Removal of Service Notice**).
- (b) Within 30 days of receiving the Removal of Service Notice, the Access Seeker may issue DNB with a notice requesting either:
  - (1) the ongoing continuation of the Service the subject of the Removal of Service Notice, in which case the Access Seeker must include in the notice:
    - (A) an explanation as to why the Service should continue; and

- (B) an outline of the impact that discontinuing the Service would have on the Access Seeker; or
- (2) that the removal of the Service the subject of the Removal of Service Notice is delayed for an additional period of time, in which case the Access Seeker must include in the notice:
  - (A) the additional time requested by the Access Seeker prior to the removal of the relevant Service; and
  - (B) an explanation as to why the removal of the Service should be delayed,

(such notice being the **Removal of Service Notice Reply**).
- (c) If the Access Seeker does not issue a Removal of Service Notice Reply in accordance with section 36.4(b) DNB may proceed to remove the relevant Service with the Commission's written consent and subject to any time delay or conditions which the Commission may specify (if any).
- (d) If the Access Seeker issues a Removal of Service Notice Reply in accordance with section 36.4(b), the appropriate representative of each party must promptly meet to discuss in good faith the Removal of Service Notice Reply. As a part of these discussions, DNB may invite any other Access Seekers who issued a similar notice to the Removal of Service Notice Reply to take part in the discussions.
- (e) At any time following the issuing of a Removal of Service Notice, DNB may (at its absolute discretion):
  - (1) amend the terms of the Removal of Service Notice (in which case DNB must provide the Access Seeker with an 'additional 30 days' notice of any such amendments); or
  - (2) rescind the Removal of Service Notice, provided any such rescission occurs no less than 30 days prior to the proposed date for the removal of the relevant Service in the Removal of Service Notice.
- (f) If, following the meeting of the parties in accordance with section 36.4(d), the Access Seeker continues to have concerns regarding the Removal of Service Notice, the Access Seeker may escalate the issue to the Commission in accordance with the Dispute Resolution Procedures.

## 36.5 Changes to the Services required by Law

Notwithstanding anything to the contrary in this section 36 or otherwise in this RAO, DNB may change the Services (including by adding or removing a Service) at any time and by providing only with as much notice as is practicable in the circumstances where the change is:

- (a) necessary to comply with any applicable law or reasonably necessary or otherwise desirable to comply with or respond to a regulatory event;
- (b) in response to a direction or determination made by the Minister relating to the subject matter of this RAO;
- (c) if the Commission issues a direction or determination relating to the subject matter of this RAO;
- (d) if the Act is amended in relation to the subject matter of this RAO; or
- (e) if a condition of DNB's licence is amended or deleted or a new condition is imposed in relation to the subject matter of this RAO.

## **37 Changes to the Access Agreement and other documents**

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### **37.1 Application of this section**

The parties acknowledge and agree that this section 37 applies subject to section 36.

### **37.2 Changes to the Access Agreement**

Any change to the Access Agreement must:

- (a) be agreed in writing and executed by both parties; or
- (b) be permitted under this section 37.

### **37.3 Changes required by Law**

DNB may by mutual agreement change the Access Agreement by providing the Access Seeker with written notice if that change is:

- (a) necessary to comply with any applicable Law or reasonably necessary or otherwise desirable to comply with or respond to a regulatory event;
- (b) in response to a direction or determination made by the Minister relating to the subject matter of the Access Agreement;
- (c) if the Commission issues a direction or determination relating to subject matter of the Access Agreement;
- (d) if the Act is amended in relation to the subject matter of the Access Agreement; or
- (e) if a condition of DNB's licence is amended or deleted or a new condition is imposed in relation to the subject matter of the Access Agreement.

### **37.4 Changes to the Operations Manual**

- (a) DNB may change the Operations Manual from time to time subject to:
  - (1) DNB first consulting with the Access Seeker in accordance with sections 37.4(b) and 37.4(c); and
  - (2) following the completion of that period of consultation, giving 30 days' notice of any changes to the Operations Manual.
- (b) At the commencement of any consultation period in connection with a change to the Operations Manual, DNB must provide the Access Seeker with a written notice outlining:
  - (1) that DNB is conducting a consultation in accordance with this section 37.4 and the period of that consultation (which must not be more than 30 days); and
  - (2) the proposed changes to the Operations Manual and the reasons for those changes.
- (c) During the consultation period, DNB must:
  - (1) give the Access Seeker an opportunity to provide feedback on the proposed changes to the Operations Manual;
  - (2) consider and have regard to any submissions or feedback given by the Access Seeker during the consultation period; and

- (3) on request make itself available to meet with the Access Seeker and to discuss any submissions or feedback.
- (d) DNB may by providing written notice to the Access Seeker during or after the conclusion of the consultation period, vary the proposed changes or to extend the consultation period.

### **37.5 Changes to this RAO**

- (a) DNB may change this RAO from time to time subject to:
  - (1) DNB first consulting with the Access Seeker in accordance with sections 37.5(b) and 37.5(c);
  - (2) following the completion of that period of consultation, providing the Access Seeker 30 days' notice of any changes to this RAO; and
  - (3) obtaining approval from the Commission, and publishing the updated RAO on the DNB Website.
- (b) At the commencement of any consultation period, DNB must provide the Commission and the Access Seeker with a written notice outlining:
  - (1) that DNB is conducting a consultation in accordance with this section 37.5 and the period of that consultation (which must not be more than 30 days); and
  - (2) the proposed changes to this RAO and the reasons for those changes.
- (c) During the consultation period, DNB must:
  - (1) give the Access Seeker an opportunity to provide feedback on the proposed changes to the RAO;
  - (2) consider and have regard to any submissions or feedback given by the Commission and the Access Seeker during the consultation period; and
  - (3) on request make itself available to meet with the Access Seeker and to discuss any submissions or feedback.
- (d) DNB may by providing written notice to the Access Seeker during or after the conclusion of the consultation period, vary the proposed changes or to extend the consultation period.
- (e) At or before the expiry of the consultation period described in section 37.5(b)(1), the Access Seeker must either notify DNB that the Access Seeker:
  - (1) accepts the proposed amendments to this RAO; or
  - (2) does not accept the proposed amendments to this RAO.
- (f) If the Access Seeker notifies DNB under section 37.5(e)(1) that it accepts the proposed amendments to this RAO, then as soon as is reasonably practicable, and in any event within 30 days of receiving the notice under section 37.5(e)(1), the parties agree to:
  - (1) negotiate in good faith any amendments to Access Agreement as the parties believe necessary (acting reasonably); and
  - (2) execute a variation to the Access Agreement to give effect to the agreed amendments in accordance with the relevant provisions of the Access Agreement, and take all steps register such amended Access Agreement with the Commission in accordance with applicable Law.



- (g) If:
- (1) the parties are unable to agree on any further amendments required under section 37.5(f) within the timeframe set out in section 37.5(f) (or such further timeframe the parties may agree in writing);
  - (2) the Access Seeker notifies DNB under section 37.5(e)(2) that it does not accept the proposed amendments to this RAO; or
  - (3) the Access Seeker does not provide DNB with a notice within the timeframe under section 37.5(e),
- there shall be deemed to be a dispute between the parties and either party may initiate the Dispute Resolution Procedures.

## 38 Force Majeure

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- (a) Neither party will be responsible for the performance of any obligation under this RAO or the Access Agreement (except the obligation to pay any Fees) to the extent that the performance of such obligation is prevented by a Force Majeure event.
- (b) The party claiming relief due to an event of Force Majeure must promptly notify the other party in writing of the nature and extent of the circumstances giving rise to the Force Majeure event, and must use its best endeavours to mitigate the effect of the Force Majeure event and to carry out its obligations under this RAO or the Access Agreement in any other way that is practicable in the circumstances.

## 39 Anti-Bribery and Anti-Money Laundering

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- (a) Each party shall observe and comply with all applicable anti-bribery and anti-money laundering laws and shall ensure that its directors, employees, representatives, agents and sub-contractors do not violate any applicable anti-bribery or any anti-money laundering laws.
- (b) Neither party shall, under any circumstances and whether directly or through a third party:
  - (1) give, agree to give, promise, offer or authorise the giving, the entry into any agreement to give, promise, offer or payment of, any gratification or financial or other advantage:
    - (A) to any person who is a director, employee or representative of any of the other party's Group Members or acting on its behalf; or
    - (B) to any family member of such director, employee or representative of any other party's group members,as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to this RAO or the Access Agreement, or showing or forbearing to show favour or disfavour to any person in relation to this RAO or the Access Agreement; or

- (2) do or carry out any acts in furtherance of a gift, letter to give, offer, payment, promise to pay or authorisation referred to in section 39(b)(1).
- (c) A party (**Defaulting Party**) that becomes aware of a failure to comply with section 39(a) and section 39(b) must immediately notify the other party (**Non-Defaulting Party**), in which case, the Non-Defaulting Party will be entitled to immediately terminate the Access Agreement by providing written notice to the Defaulting Party and shall not be liable for any loss or damage or other costs or expenses of any kind whatsoever that the Defaulting Party may suffer as a result of such termination.

## 40 Disputes

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Each party must comply with the Dispute Resolution Procedures in the event a Dispute arises.

## 41 Governance

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At least 30 days prior to the Commencement Date the parties must meet in good-faith to discuss and agree whether any governance arrangements in addition to the Product Committee and Planning Committee are necessary to enable the parties to effectively manage the performance of their obligations under this RAO and the Access Agreement, and the supply by DNB of the Services to the Access Seeker.

## 42 Notice

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### 42.1 Form of Notice

A notice, demand, consent or other communication to a party under this RAO or the Access Agreement (but excluding notices to the Commission) (**Notice**) must be:

- (a) in writing and in English or Bahasa Malaysia;
- (b) signed by the sending party or a person duly authorised by the sending party; and
- (c) addressed and delivered to that party in accordance with the details nominated in the Access Agreement (or any alternative details nominated to the sending party by Notice).

### 42.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.
- (c) However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be

regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address.
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting.
By email to the nominated email address	When the email (including any attachment) is transmitted to the recipient party or a person acting on its behalf (unless the sender receives a delivery failure notification indication that the email has not been delivered to the addressee).

### **42.3 Notice must not be given by electronic communication**

A Notice must not be given by any electronic means of communication (other than email as permitted in section 42.2).

## **43 General terms**

### **43.1 Assignment and novation**

Neither party may assign or novate its rights and obligations under this RAO or the Access Agreement without the other party's prior written consent (such consent not to be unreasonably withheld or delayed).

### **43.2 Duty, costs and expenses in entering into the Access Agreement**

Each party shall bear its own costs and expenses (including legal fees) in relation to the preparation, negotiation and execution of the Access Agreement to which they are parties. All Duty payable on or in connection with the Access Agreement and any instrument executed under the Access Agreement (if any) shall be borne equally by the parties.

### **43.3 Invalidity and enforceability**

- (a) If any provision of this RAO or the Access Agreement is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Section 43.3(a) does not apply where enforcement of the provision of this RAO or the Access Agreement in accordance with section 43.3(a) would materially affect the nature or effect of the parties' obligations under this RAO or the Access Agreement.

#### **43.4 Entire RAO**

This RAO states all the express terms upon which DNB is willing to offer the provision of the Services to the Access Seeker. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.

#### **43.5 No reliance**

Neither party has relied on any statement by the other party not expressly included in this RAO or the Access Agreement.

#### **43.6 Access Agreement binds successors**

Each party acknowledges and agrees that the Access Agreement, and each of the obligations imposed on it under the Access Agreement, are binding upon its successors and assigns.

#### **43.7 Waiver**

No party to the Access Agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this section 43.7 are set out below.

Term	Meaning
conduct	includes delay in the exercise of a right.
right	any right arising under or in connection with this RAO or the Access Agreement and includes the right to rely on this section.
waiver	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

#### **43.8 Further action to be taken at each party's own expense**

Each party must, at its own expense, do all things and execute all documents necessary to give full effect to this RAO and the Access Agreement and the transactions contemplated by it.

#### **43.9 Exercise of rights**

- (a) Unless expressly required by the terms of this RAO or the Access Agreement, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this RAO or the Access Agreement.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power,

authority, discretion or remedy, under or in connection with the Access Agreement. Any conditions must be complied with by the party relying on the consent, approval or waiver.

#### **43.10 Relationship of the parties**

- (a) Nothing in this RAO or the Access Agreement shall be deemed to constitute either party as a partner, an agent or legal representative of the other party, or to create any fiduciary relationship between the parties.
- (b) No party shall have any authority, except as provided for in this RAO, the Access Agreement or as otherwise authorised in writing by the other party, to make any statements, representations or commitments or to take any action which is binding on the other party.

#### **43.11 Subcontracting**

- (a) DNB may subcontract to any person (including any DNB Group Member), the supply of all or part of any Services or the performance of one or more of its other obligations under the Access Agreement in its discretion and without the prior written consent of the Access Seeker.
- (b) The Access Seeker may only subcontract its obligations under the Access Agreement with the prior written consent of DNB.
- (c) If the Access Seeker subcontracts any of its obligations under the Access Agreement, subject to sections 43.11(b), the Access Seeker is not relieved of its obligations under the Access Agreement and will be liable for the acts or omissions of its sub-contractors.

#### **43.12 Counterparts**

The Access Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

#### **43.13 Applicable laws and jurisdiction**

- (a) This RAO and the Access Agreement will be governed by the laws of Malaysia and each party agrees to comply with all applicable directions issued by the Malaysian regulatory authorities.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in Malaysia and courts of appeal from them in respect of any proceedings arising out of or in connection with this RAO. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

## DNB 5G Access Network Products and Services Catalogue

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### 1 DNB 5G Access Network

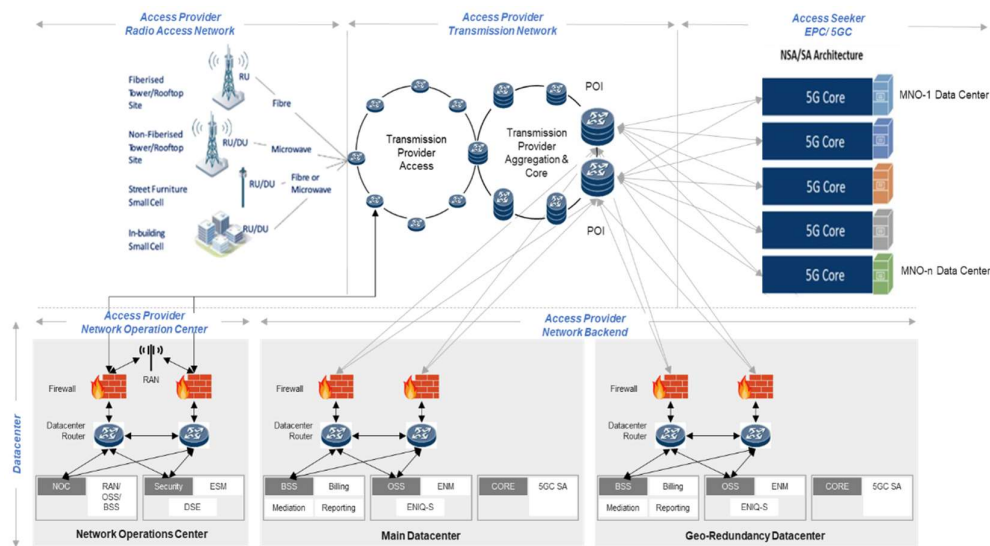
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- (a) DNB is licensed under the Act and has been mandated by the Commission to deploy a 3GPP compliant 5G RAN (i.e. the DNB 5G Access Network) and provide access to the Access Seeker and other Access Seekers.
- (b) The DNB 5G Access Network has been designed to provide Malaysia with the latest and most advanced technology in radio access. The main advantages of the DNB 5G Access Network are greater speed in the transmissions, a lower latency and therefore greater capacity and reliability of remote execution, the capability to handle a greater number of connected devices and the ability to implement virtual networks, providing the relevant and required connectivity to the specific needs of individuals and businesses.
- (c) The DNB 5G Access Network is designed to provide a range of MOCN RAN sharing services (as defined in this Schedule 1) on both NSA and SA architectures. The Services utilize the 700 MHz (758-778 MHz), 3.5 GHz (3400-3600 MHz) and millimetre wave high-band 5G (26.5 GHz-28.1 GHz) spectrum and are designed to be compliant with 3GPP Release 16.
- (d) The Services provide both indoor and outdoor coverage with progressive deployments to cover more than 80% of the nationwide population.
- (e) The Access Seeker may access the Services by subscribing to the National 5G Wholesale Network Product and other products (described below). The products have been developed to allow the Access Seeker to offer a full range of products and services to their End User Customers.
- (f) An Access Seeker must connect to the service at a POI at which point communication is transferred between the DNB 5G Access Network and the Access Seeker's Network.

### 2 Diagram of the DNB 5G Access Network

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A diagram of the simplified high-level architecture of the DNB 5G Access Network is set out below (references to the Access Provider in the below are references to DNB).

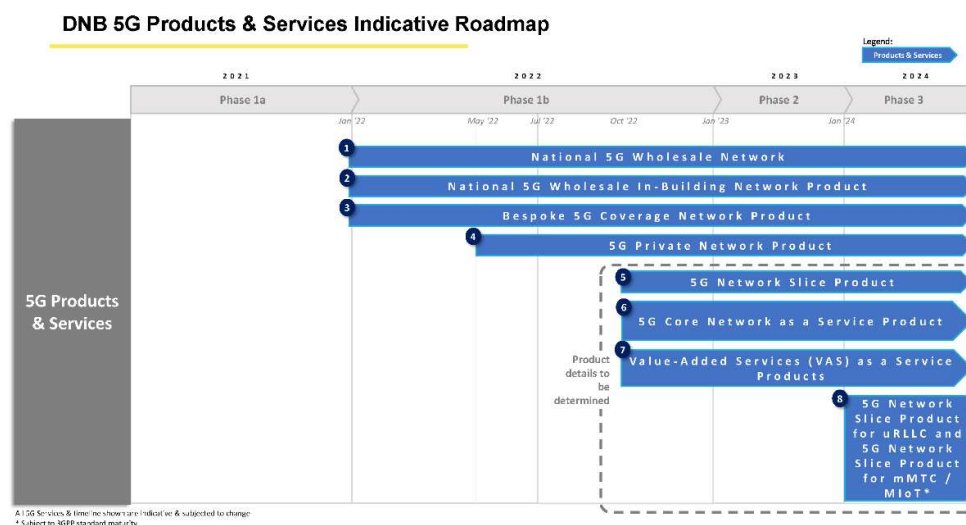


### 3 National 5G Wholesale Network Product

- (a) The National 5G Wholesale Network Product is the base product on the DNB 5G Access Network. The Access Seeker acknowledges and agrees that the Access Seeker must subscribe to the National 5G Wholesale Network Product in order to gain access to any other Service provided over the DNB 5G Access Network.
- (b) An Access Seeker subscribing to the National 5G Wholesale Network Product obtains access to Polygons launched by the National 5G Wholesale Network Product and any future Polygons that will be launched by the National 5G Wholesale Network Product nationwide.
- (c) The National 5G Wholesale Network Product is available via SA and NSA architecture. An Access Seeker must connect to the DNB 5G Access Network through certain interfaces identified by DNB in order to access the National 5G Wholesale Network Product.
  1. The interfaces required to connect to the DNB 5G Access Network are N1/N2/N3 for SA mode.
  2. The interfaces required to connect to the DNB 5G Access Network are S1-U, S1-C for NSA mode.
- (d) For the NSA deployment mode, the Access Seeker is required to have deployed an Evolved Packet Core (EPC). For the SA deployment mode, the Access Seeker is required to have deployed a 5G Core Network (5GC). Alternatively, for SA deployment mode, the Access Seeker may also subscribe to the DNB 5G Core Network as a Service Product once made available by DNB (as described below).

## 4 Indicative Product Rollout Roadmap

The Indicative Product Rollout Roadmap below provides a forward view of upcoming Services that DNB intends to rollout out during the Minimum Service Term. The information and timelines set out in the Indicative Product Rollout Roadmap are indicative only and subject to change based on a number of factors. All dates are forecasts only and may be updated from time to time on the DNB Website. Where possible, DNB will use reasonable endeavours to provide the Access Seeker with updates of any developments that DNB reasonably considers will have a material adverse impact on the Access Seeker.



As set out in the Indicative Product Rollout Roadmap, DNB intends to offer a number of additional Services on the DNB 5G Access Network to complement its National 5G Wholesale Network Product. The intended features of the proposed Services are set out in the sections below.

### 4.1 National 5G Wholesale In-Building Network Product

- (a) The National 5G Wholesale In-Building Network Product is provided via Polygons that are separate from the Polygons used to support the National 5G Wholesale Network Product.
- (b) Polygons  
The National 5G Wholesale In-Building Network Product will be launched via Polygons in buildings or areas that have been selected for indoor coverage by DNB in consultation with Access Seekers.
- (c) Service Levels  
The Service Levels for the National 5G Wholesale In-Building Network Product will be developed by DNB on substantially the same principles and terms as the Service Levels for the National 5G Wholesale Network Product.



## 4.2 **Bespoke 5G Coverage Network Product**

- (a) The Bespoke 5G Coverage Network Product will be offered at specific areas, buildings or venues that require 5G coverage. DNB can deliver the Bespoke 5G Coverage Network Product for network coverage that is unique to an Access Seeker's needs.
- (b) The 5G Bespoke Coverage Product may be unique from Access Seeker to Access Seeker since it does not sit within the footprint of the National 5G Wholesale Network Product or the National 5G Wholesale In-Building Network Product. However, the requesting Access Seeker will not necessarily have exclusive use of the 5G Bespoke Coverage Product if another Access Seeker is willing to use the same Product.
- (c) DNB may offer the Bespoke 5G Coverage Network Product to other Access Seekers upon request or may extend the Network to the National 5G Wholesale Network Product or the National 5G Wholesale In-Building Network Product at its absolute discretion. If DNB so elects, the specific minimum usage capacity (expressed in Gb) made available to the initial requesting Access Seeker may be reduced in order to accommodate another Access Seeker.
- (d) **Polygons**  
The Bespoke 5G Coverage Network Product allows Access Seeker to freely define the coverage area and sub-area(s) (i.e. the Polygons) jointly with DNB's radio planning service. However, the Access Seeker must subscribe to all of the defined Polygons.
- (e) **Capacity, quality of service and network availability performance**  
The Bespoke 5G Coverage Network Product requires a specific minimum usage capacity (expressed in Gb) to be available within the defined Polygon(s). The capacity, quality of service and network availability performance will be developed by DNB on substantially the same principles and terms as the National 5G Wholesale In-Building Coverage Network Product.
- (f) **Product requirements, limitations and pre-requisites**  
Access Seekers are required to subscribe to the National 5G Wholesale Network Product to gain access to the Bespoke 5G Coverage Network Product. The connection requirements and technical pre-requisites will be developed by DNB on substantially the same principles and terms as the National 5G Wholesale Network Product.

## 4.3 **5G Network Slice Product**

- (a) The 5G Network Slice Product DNB offers Access Seekers the option of subscribing to virtualized, isolated end-to-end networks developed in accordance with 3GPP TS 23.501. Each network slice is tailored to fulfil diverse requirements. By subscribing to the 5G Network Slice Product, Access Seekers can offer its End User Customer a plethora of services with different service level requirements. The 5G Network Slice Product effectively enables DNB to lease its physical resources to an Access Seeker that shares the underlying physical 5G Network. According to the availability of the assigned resources, an Access Seeker can autonomously deploy subscriptions to multiple network slices that are customized to the various applications provided to its End User Customers.
- (b) **Polygons**

The 5G Network Slice Product may cover one or more geodetic shapes, referred to as Polygons. DNB's radio planning service will work with Access Seekers to define the Polygon(s) required by Access Seeker.

- (c) Capacity, quality of service and network availability performance

The 5G Network Slice Product will be defined by capacity such as maximum uplink and downlink throughput, slice quality of service such as 3GPP 5QI, priority level, latency, availability and other parameters as defined by the GSMA NG.116 Generic Network Slice Template.

- (d) Product requirements, limitations and pre-requisites

Access Seekers are required to subscribe to the National 5G Wholesale Network Product to gain access to the 5G Network Slice Product. The connection requirements and technical pre-requisites will be developed by DNB on substantially the same principles and terms as the National 5G Wholesale Network Product.

#### **4.4 5G Core Network as a Service Product**

- (a) Access Seekers subscribing to the 5G Core Network as a Service Product are able to utilize the service functions of the DNB core Network such as NSSF, PCF, AMF, UDM/UDR, NEF, MEC, NVF, SEAF and AUSF. Access Seekers can minimize their initial investments in hardware and software and go to market with new 5G services sooner by utilizing the DNB 5G core Network as a Service Product.

- (b) 5G Core Stack

The DNB 5G Core Stack is compatible with current network generations and standards and will be continuously upgraded to incorporate new functionality and capabilities as standards further mature. The 5G Core Stack is based on an open, containerized and native cloud platform allow for rapid deployment and transparent change management of network functions. It includes an automation framework for rapid service definition and deployment.

- (c) Product requirements, limitations and pre-requisites

Access Seekers are required to subscribe to the National 5G Wholesale Network Product to gain access to the 5G Core Network as a Service Product. Access Seekers will connect to the 5G Core Network as a Service Product via the N6 User Plane Function interface to their Data Network. The 5G Core Network as a Service Product is only available in SA mode.

#### **4.5 5G Value Added Services (VAS) as a Service Product**

- (a) Access Seekers subscribing to the VAS as a Service Product are able to utilize traditional telecommunication software products such as Billing and Customer Relationship Management (CRM) enabled for 5G as well as 5G specific products such as VoNR/IMS for offering ultra-high definition voice and video calls on a subscriptions basis for the 5G services that they provide to their End User Customers.

- (b) Access Seekers can minimize their initial investments in hardware and software and go to market with new 5G Services sooner by utilizing the DNB VAS as a Service Product.

- (c) 5G VAS Services

The DNB 5G VAS Services are compatible with current network generations and standards and will be continuously upgraded to incorporate new functionality and capabilities as standards further mature. The billing platform specifically designed for managing charging and billing for 5G services. The multi-channel CRM provides a central communication hub for interacting with subscribers and the 3GPP IP Multimedia Subsystem (IMS) supports voice and video communication services for Voice over New Ran (VoNR).

- (d) Product requirements, limitations and pre-requisites

Access Seekers are required to subscribe to the National 5G Wholesale Network Product and the 5G Core Network as a Service product to gain access to the 5G VAS as a Service Product. Access Seekers will connect to the 5G Core Network as a Service Product via the N6 User Plane Function interface to their Data Network. The 5G Core Network as a Service Product is only available in SA mode.

#### 4.6 **5G Network Slice Product for uRLLC and 5G Network Slice Product for mMTC / MIoT**

- (a) Access Seekers subscribing to the 5G Network Slice Product for ultra-reliable low latency communication (uRLLC) or Massive IoT (MIoT) obtain a 5G network slice service type that is configured according to 3GPP TS 23.501[1].

- (b) Polygons

The 5G Network Slice Product for uRLLC and mMTC / MIoT may cover one or more geodetic shapes, referred to as Polygons. DNB's radio planning service will work with Access Seekers to define the Polygon(s) to be extended to by the Access Seeker.

- (c) Capacity, quality of service and network availability performance

The 5G Network Slice Product for uRLLC and mMTC / MIoT has pre-defined availability, session and service continuity support, slice quality of service as defined by 3GPP 5QI and supported device velocity configurations, DNB's radio planning service will work with Access Seekers to define the capacity required by the Access Seeker and other optional parameters as defined by the GSMA NG.116 that are relevant to the subscribed uRLLC or mMTC / MIoT slice(s).

- (d) Product requirements, limitations and pre-requisites

Access Seekers are required to subscribe to the National 5G Wholesale Network Product to gain access to the 5G Network Slice Product. The connection requirements and technical pre-requisites will be developed by DNB on substantially the same principles and terms as the National 5G Wholesale Network Product. The National 5G Wholesale Network Product is only available in SA mode.

#### 4.7 **Private 5G Network Product**

- (a) Private 5G networks (referred to as "non-public networks" by 3GPP) are networks that use licensed, wireless spectrum and 5G cellular networking base stations, small cells, and other RAN infrastructure to transmit voice and data to edge devices, including smart phones, embedded modules, routers and gateways. These networks use cellular technologies, and are compatible with public cellular networks, which means they offer organizations many of the coverage, security, and other capabilities necessary for more advanced IoT applications.

- (b) The Private 5G Network Product allows Access Seekers to subscribe to a service that comprises of allocated spectrum to support the required capacity, RAN equipment, and managed network capability. The defined network requirements will result in a network design by DNB that is designed to allow the private 5G network to completely isolate its customers from its own and other Access Seekers' public networks.
- (c) The Private 5G Network Product allows Access Seekers to define the coverage area and sub-area(s) jointly with DNB. The Access Seeker will then subscribe to the mutually agreed coverage area and sub-area(s).
- (d) The Private 5G Network Product allows Access Seekers to specify the capacity (in Mbps or Gbps) available within the defined coverage area and sub-area(s). DNB will ensure that the 5G RAN is designed for the specified capacity and delivered with managed network capability.

## Pricing

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### 1 Fees

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#### 1.1 General principles

- (a) The parties acknowledge and agree that as a general principle between the parties, DNB's commercial principle is one that is based on a cost plus approach and any services that may be delivered on the DNB 5G Access Network other than the Services will be made available on a cost plus approach on the marginal investment to be incurred.
- (b) DNB agrees to conduct periodic pricing reviews in accordance with applicable Law, and as approved by the Commission.
- (c) The pricing set out in this Schedule 2 is conditional on the Access Seeker entering into an Access Agreement with DNB for at least the Minimum Service Term.

#### 1.2 National 5G Wholesale Network Product rates

- (a) The following table sets out the National 5G Wholesale Network Product rates applicable per Gbps per calendar month based on the usage capacity of the Access Seeker:

Usage Capacity Rate	Rate (RM) (per Gbps)	Billing Cycle
<b>Base Rate – up to 1,200 Gbps</b>	RM 30,000	Monthly in arrears.
<b>Volume Discount Rate – for capacity above 1,200 Gbps</b>	RM 22,000	Monthly in arrears.

- (b) For example, if the Access Seeker consumes 1,500 Gbps of capacity in a calendar month: the indicative Fees for that calendar month will be:
  1. the first 1,200 Gbps will be charged at the Base Rate of RM 30,000 per Gbps for a sub-total of RM 36 million; and
  2. the next 300 Gbps over 1,200 Gbps will be charged at the Volume Discount Rate of RM 22,000 per Gbps for a sub-total of RM 6.6 million,
 making the total indicative Fees for that calendar month RM 42.6 million for 1,500 Gbps.

- (c) The Access Seeker acknowledges and agrees that the Target Capacity will be determined by DNB and set out in the Access Agreement.
- (d) The rates above (including the worked example) do not include the Universal Service Provision (USP) charges and any other applicable Taxes.

### 1.3 National 5G Wholesale In-Building Network Product rate

- (a) The following table sets out the National 5G Wholesale In-Building Network Product rates applicable per Gbps per calendar month based on the usage capacity of the Access Seeker:

Usage Capacity Rate	Rate (RM) (per Gbps)	Billing Cycle
Base Rate	RM 30,000	Monthly in arrears.

- (b) The rate above does not include the Universal Service Provision (USP) charges and any other applicable Taxes.

### 1.4 Bespoke 5G Coverage Network Product rates

The rates applicable to the Bespoke 5G Coverage Network Product will be mutually agreed between the parties on a case-by-case basis.

### 1.5 Private 5G Network Product rates

The rates applicable to the Private 5G Network Product will be mutually agreed between the parties on a case-by-case basis.

## 2 Usage capacity measurement

- (a) The monthly usage capacity of the Access Seeker will be determined for each Polygon based on the following steps:
  1. the usage capacity is aggregated for all Sites within each Polygon for every hour interval of a calendar day;
  2. an average hourly Polygon utilisation is then determined for every hour for that calendar day;
  3. a daily peak (**Polygon Peak per Day**) for each Polygon is selected based on the highest average hourly reading for that calendar day; and
  4. a monthly peak for each Polygon is selected based on the highest reading from all available Polygon Peak per Day readings in a calendar month.

### Service Levels and KPIs

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#### 1 Overview

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- (a) DNB will establish a service performance management function to comply with its obligation to achieve the Service Levels as set out in section 19.1 of this RAO. DNB will take all reasonable steps to monitor and report on performance, identify current or pending breaches in the Service Levels, and perform corrective actions to ensure the Service Levels are met.
- (b) DNB provides the Access Seeker with status and reporting on performance details against Service Levels as well as root cause analysis if DNB fails to meet each of the Service Levels.
- (c) The Access Seeker obtains access to the Service Levels through the CSP Portal.
- (d) The Operations Manual also contains further details and processes in relation to fault management, Service Level monitoring and reporting.

#### 2 Fault Management Service Levels

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- (a) DNB's operational response processes and associated Service Level targets for incident management will be based on the severity level classifications of each incident that occurs in the DNB 5G Access Network. Incidents will be classified as either Critical, Major or Minor according to the table below.

Severity Level	Definition
Critical	<ul style="list-style-type: none"><li>• Total failure of the DNB 5G Access Network.</li><li>• A single event that causes 20 Sites or more to experience loss of service, or severe traffic degradation.</li><li>• Total loss of network management visibility from the DNB NOC.</li><li>• Cybersecurity breach that severely affects DNB's normal business operation or the delivery of the Services.</li><li>• Loss of redundancy at the Points of Interface.</li><li>• Single site outage affecting designated VIP sites.</li></ul>
Major	<ul style="list-style-type: none"><li>• A single event that causes 5 to 19 Sites to experience loss of service, or significant traffic degradation.</li></ul>

- Loss of performance management visibility from the DNB Network Operations Centre.
- Cybersecurity breach that has a major impact on DNB's business operation, but critical business processes and 5G services are still operational.

- Minor
- A single event that causes a single sector to 1 – 4 Sites to experience loss of service, or significant traffic degradation.
  - Non service affecting incidents, defects or configuration issues.

(b) Except where affected by a Force Majeure event or an Emergency, each party shall respond to and rectify faults within the response timeframes, notification timeframes, restoration timeframes and progress notification frequencies set out in the following table:

Service Level	Definition	Severity	Timeframe
Mean Time to Respond	Time to receive and acknowledge fault notification from the Access Seeker, assign a Trouble Ticket and initiate the actions necessary to resolve the fault.	Critical Major Minor	20 minutes 30 minutes 60 minutes  * for 95% of cases.
Mean Time to Notify	Time from the occurrence and diagnosis of service affecting events via fault management systems, until the Access Seeker is notified. Notification can be via phone call, messaging or direct system updates (or such other method as DNB reasonably determines in consultation with the Access Seeker);	Critical Major Minor	30 minutes 45 minutes 60 minutes  * for 95% of cases.
Mean Time to Restore	Time to restore service and clear the fault Trouble Ticket. This is measured from the initiation of the restoration process until the service is restored.	Critical Major Minor	4 hours 8 hours 24 hours  * for 95% of cases.
Progress Notification Frequency	Frequency of reporting of progress of fault resolution to the Access Seeker, from the initiation of the fault until resolution. Reporting can be in the form of verbal, email or messaging updates, or can be provided via status	Critical Major Minor	Every 60 minutes Every 4 hours Every 12 hours  * for 95% of cases.



updates in the ticketing system (or such other method as DNB reasonably determines in consultation with the Access Seeker).

Service Disruption Report	Time to issue a comprehensive root cause analysis report after restoration of service affecting incidents.	Critical	5 days
		Major	5 days

(c) Explanatory notes for the table above:

1. all faults reported shall be ascribed with a 'Severity' level as mutually agreed between the parties or failing agreement the 'Severity' level is to be assigned by the party of the Network within which the fault arises. Each party shall co-operate with the other (and where applicable with relevant third parties) to achieve the target timeframes corresponding to the 'Severity' level of the fault reported;
2. the quantitative and descriptive definitions of 'Critical', 'Major' and 'Minor' will be reviewed and updated by DNB from time to time;
3. 'Timeframe' is to be measured from either the time the fault is notified by the Access Seeker or from the time when DNB first becomes aware of the fault, whichever is the earlier;
4. incidents arising from planned works, such as causing outages on equipment not included in the plan, or failing to complete the works within the plan period, will be classified as new outages using the same classification as above;
5. Service Level commitments exclude incidents where normal service restoration is affected due to Force Majeure events or other factors outside of DNB's control;
6. Service Level commitments exclude situations where the site providers and transmission providers supporting the DNB 5G Access Network also have exclusions applied to their service levels; and
7. all Service Levels will be measured and monitored on a monthly basis. All incidents that occur within a given month, except for those excluded above, will be considered in the calculation of the mean response, notification or restoration times.

### 3 Key Performance Indicators

- (a) Except where affected by a Force Majeure event, the DNB 5G Access Network is designed to meet the quality of service targets in the following table:

KPI	Target
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Data Session Setup Success Rate	> 99.0%
Data Session Abnormal Release	< 1.0%
Mean User Downlink Throughput	100 Mbps
Mean User Uplink Throughput	3 Mbps (NSA) 5 Mbps (SA)
Latency	< 10ms from the RAN to the POI <15ms from the UE to the POI
Packet Loss Rate	< 0.25%

(b) Explanatory notes for the table above:

1. performance against KPI targets are calculated using counters generated by the DNB 5G Access Network, except for those targets where measurement is conducted from the UE;
2. **'Data Session Setup Success Rate'** is the ratio of successful registrations to the number of registration attempts measured 90% of the Time;
3. **'Data Session Abnormal Release'** is the percentage of user sessions that are dropped abnormally measured 90% of the Time;
4. **'Mean User Downlink Throughput'** is the average End User Customer downlink throughput measured 90% of the Time from the POI to the UE;
5. **'Mean User Uplink Throughput'** is the average End User Customer uplink throughput measured 90% of the Time from the UE to the POI;
6. **'Latency'** is the round-trip time measured 90% of the Time from the UE or RAN to a POI in the same region as the serving RAN site noting that:
  - (A) measurements of RAN to the POI will be calculated using TWAMP; and
  - (B) measurements of UE to POI will be calculated using OSS statistics or compatible drive test;
7. **'Packet Loss Rate'** is the proportion of lost packets measured 90% of the Time across the DNB 5G Access Network from the RAN to the POI;

8. **'90% of the Time'** in respect of each quality of service target, means that 90% of measurements taken within a 24 hour period using OSS statistics meet or exceed the target.

Notwithstanding the above, the parties acknowledge and agree that the Commission may from time to time revise the period over which, and the drive test tool to be used, to measure whether the relevant quality of service target meets or exceeds the target;

9. for each performance indicator, the monthly performance will be calculated as the mean performance of all measurements conducted in the DNB 5G Access Network across all sites in the DNB 5G Access Network.

### Dispute Resolution Procedures

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#### 1 Definitions

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In the Dispute Resolution Procedures set out in this Schedule 4:

- (a) **"Billing Dispute"** means the dispute of an Invoice issued by one party to the other party, which is made in good faith;
- (b) **"Billing Dispute Notice"** means the written notification made by one party to the other party in relation to a Billing Dispute in accordance with section 7(d) of this Schedule 4;
- (c) **"Billing Dispute Notification Period"** means the period after the date of receipt of an Invoice during which a Billing Dispute may be raised in relation to that Invoice, as specified in section 7(b) of this Schedule 4;
- (d) **"Billing Representative"** means a representative of the party appointed in accordance with the billing procedures set out in section 7(o) of this Schedule 4;
- (e) **"Billing System"** means a system to issue Invoices relating to charges payable by each party under an Access Agreement;
- (f) **"Notice"** means the notice issued of intention to escalate the issue to the Interconnect Steering Group, as specified in section 5(a) of this Schedule 4; and
- (g) **"Technical Expert"** has the meaning given to it in section 6(c) of this Schedule 4.

#### 2 Introduction

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- (a) Subject to section 2(b) of this Schedule 4, DNB and the Access Seeker shall adopt and comply with these Dispute Resolution Procedures in relation to any dispute which may arise between the Access Seeker and DNB in relation to or in connection with the supply of the Services (**Dispute**).
- (b) The following dispute resolution mechanisms are discussed in this section:
  - 1. inter-party working groups;
  - 2. interconnect steering group; and
  - 3. subject to specific resolution of disputes, being:
    - (A) technical disputes (which must follow the procedure set out in section 6 of this Schedule 4 if they cannot be resolved through the application of the general dispute resolution provisions in sections 3, 4 and 5 of this Schedule 4);
    - (B) Billing Disputes (as defined in section 1 of this Schedule 4), which must follow the procedures set out in section 7 of this Schedule 4; or

- (C) any other types of disputes, which, if cannot be resolved through the application of the general dispute resolution provisions in sections 3, 4 and 5 of this Schedule 4, must be referred to the Commission for resolution.
- (c) A Dispute shall first be attempted to be resolved by negotiation between the parties. If the parties to the Dispute cannot or otherwise fail to reach an agreement, the parties shall always be entitled to seek resolution of the Dispute by the Commission in accordance with section 151 of the Act, and the Commission will decide the dispute if it is satisfied that:
  - 1. the parties will not reach agreement, or will not reach agreement in a reasonable time;
  - 2. the notification of the Dispute is not trivial, frivolous or vexatious; and
  - 3. the resolution of the Dispute would promote the objects in the Act.
 DNB shall not prevent the Access Seeker from notifying a Dispute to the Commission in accordance with the Act.
- (d) For clarification, unless stated otherwise, all references to sections in this Schedule 4 are references to sections of this Schedule 4.

### 3 General

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- (a) A party may not commence court proceedings relating to a Dispute which is the subject of these Dispute Resolution Procedures until it has complied with each applicable process in these Dispute Resolution Procedures, other than an application for urgent interlocutory relief. Nothing in this section shall be construed as ousting the jurisdiction of any court.
- (b) Both parties to a Dispute shall ensure that their representatives acting in relation to a Dispute are of sufficient seniority and have authority to settle a Dispute on their behalf. At the commencement of the Dispute Resolution Procedures, each party must notify the other party of the scope of the authority of each of their representatives. If, in the course of the Dispute Resolution Procedures, it is identified that the matters to be resolved are outside the initial term of reference for which authority was given to the representative, a party may require that those matters be referred to more senior officers of that party who have authority to settle those matters.
- (c) During a Dispute and any dispute resolution process invoked in accordance with this Schedule 4, DNB and the Access Seeker must continue to fulfil their obligations under the Access Agreement.
- (d) Subject to section 3(e) of this Schedule 4, the parties to a Dispute shall exchange information of a type described in this RAO during the course of, and to facilitate, resolution of the Dispute.
- (e) Confidential Information of a party which is disclosed, and any other oral or written submissions made by a party or a party's representatives during the course of any dispute resolution process will be subject to the confidentiality restrictions in relevant confidentiality provisions contained in the Confidentiality Agreement.
- (f) A party must not use information obtained under section 3(d) of this Schedule 4 or described in section 3(e) above for any purpose other than to resolve the Dispute.

- (g) Subject to Chapter 7 of Part V of the Act (as applicable), an arbitrator of a Dispute (including a Technical Expert or the Commission, in accordance with this Schedule 4) 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.
- (h) The costs of the arbitration are to be shared equally between the parties, unless the arbitrator of the Dispute has decided not to determine the Dispute in accordance with section 3(g) above. If an arbitrator decides not to determine the Dispute, the party that initiated the Dispute must pay the other party's costs.

## 4 Inter-party working group

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- (a) In the first instance the Access Seeker and DNB should attempt to resolve the Dispute between themselves.
- (b) DNB and the Access Seeker shall establish a working group, or working groups, to fulfil the requirements of section 4(a) above. The working group shall comprise of representatives of the parties, and be headed by a person who holds a position that is at least equivalent to the head of DNB's wholesale or interconnection group.
- (c) DNB shall provide for:
  1. subject areas to be dealt with by each working group;
  2. equal representation by the Access Seeker and DNB;
  3. chairmanship and administrative functions of the working group to be shared equally; and
  4. formal notification procedures to the working group.
- (d) DNB and the Access Seeker shall use reasonable endeavours to attempt to settle the Dispute in the working group for a period of no longer than 30 Business Days unless otherwise agreed by the parties, subject always to a party's right to seek urgent interlocutory relief.

## 5 Interconnect steering group

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- (a) In the event that the parties cannot resolve the Dispute between themselves within the time specified in section 4(d) of this Schedule 4, or after any agreed time extension has expired, either party may give 10 Business Days' written notice (**Notice**) to the other party 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, then either party may notify the other party (**ISG Receiving Party**) that it wishes to refer the issue to the Interconnect Steering Group (**ISG**).
- (b) Each party must appoint an equal number of representatives to an "**Interconnect Steering Group**" (and such other working groups as may be agreed upon) to manage the smooth and timely implementation of the terms and conditions of the Access Agreement and Dispute Resolution Procedures, to the extent applicable based on the subject matter considered by the Interconnect Steering Group or such relevant working group.

- (c) In the event that a Dispute is referred to an ISG under section 5(a) above, the parties shall promptly form a committee comprising the ISG with an equal number of appropriate representatives from each party.
- (d) The ISG to which an issue has been raised will meet within 10 Business Days of the receipt by the ISG Receiving Party of the Notice under section 5(a) of this Schedule 4. If the ISG fails to meet or has not been formed within 10 Business Days of the receipt by the ISG Receiving Party of the Notice, either Party may refer the Dispute:
  - 1. to the extent the issues in dispute are technical in nature, to a Technical Expert (in accordance with section 6 of this Schedule 4); or
  - 2. to the Commission for arbitration.
- (e) If the ISG has not resolved the Dispute within 20 Business Days after it first meets to review that Dispute under section 5(d) above, either party may refer the Dispute:
  - 1. to the extent the issues in dispute are technical in nature, to a Technical Expert (in accordance with section 6 of this Schedule 4); or
  - 2. to the Commission for final arbitration.

## 6 Use of a Technical Expert

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- (a) A Dispute will only be referred to a Technical Expert if the provisions of section 5 of this Schedule 4 have been complied with.
- (b) Once a Dispute is referred to a Technical Expert, it may not be referred back to a working group or ISG.
- (c) The person to whom a technical dispute may be referred under this section 6:
  - 1. will be an expert appointed by agreement of the parties or, if the parties cannot agree, by the Commission;
  - 2. will have the appropriate qualifications and experience to arbitrate the dispute, including knowledge of the communications industry;
  - 3. need not be a Malaysian citizen or resident; and
  - 4. will not be an officer, director, or employee of a communications company or otherwise have a potential for conflict of interest,

**(Technical Expert).**
- (d) If the parties fail to appoint a Technical Expert within 10 Business Days of the need to refer a Dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.
- (e) When relying on the services of a Technical Expert, the following dispute resolution procedures will apply to the Technical Expert:
  - 1. the parties will present written submissions to the Technical Expert and each other within 15 Business Days of the appointment of the Technical Expert; and
  - 2. each party may respond to the other party's submission in writing within 15 Business Days from the date of the other party's submission.
- (f) At the request of either party and subject to the parties agreeing, or the Technical Expert deciding within 5 Business Days of the last written submission,

that the arbitration by the Technical Expert should be by documents only, a Technical Expert hearing will be held within 15 Business Days of the last written submission.

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

## 7 Billing Dispute resolution

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- (a) As outlined in the billing provisions of this RAO at section 27, a party (**Invoicing Party**) shall provide to the other party (**Invoiced Party**) an Invoice in writing, or in such electronic form as may be agreed from time to time, for amounts due in respect of the supply of Services during such Billing Cycle.
- (b) An Invoicing Party shall allow an Invoiced Party to dispute an Invoice prepared by the Invoicing Party if the Invoiced Party notifies the Invoicing Party within thirty Business Days after the date of receipt of such Invoice, provided that, in any case specified above, the Invoiced Party's Billing Dispute Notice specifies the information in accordance with section 7(d) of this Schedule 4.
- (c) A Billing Dispute may only arise where the Invoiced Party has reasonable grounds to believe that an error has arisen from one of the following circumstances:
  - 1. the Invoicing Party's Billing System is, or has been, defective or inaccurate in respect of the recording of the usage capacity which are the subject of the Dispute;
  - 2. there is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Invoiced Party's Billing System;
  - 3. there is, or has been, a fraud perpetrated by the Invoicing Party; or
  - 4. the Invoicing Party has made some other error in respect of the recording of the usage capacity or calculation of the charges which are the subject of the Billing Dispute.
- (d) A Billing Dispute Notice given under this section 7 must specify:
  - 1. the reasons for which the Invoice is disputed;
  - 2. the amount in dispute;
  - 3. details required to identify the relevant Invoice and charges in dispute including:



- (A) the account number;
  - (B) the Invoice reference number;
  - (C) the Invoice date;
  - (D) the Invoice amount; and
  - (E) billing verification information; and
4. evidence in the form of a report, indicating the relevant traffic data which is in dispute.
- (e) The Invoiced Party may withhold payment of amounts disputed in good faith in accordance with section 27.3(d) of this RAO. If the Billing Dispute is resolved against the Invoiced Party, that Invoiced Party shall be required to pay interest at the rate specified in section 27.6 of this RAO on the amount payable.
  - (f) Where the Invoiced Party has paid an amount and subsequently notifies the Invoicing Party of a Billing Dispute in relation to that amount within the Billing Dispute Notification Period, the Invoicing Party is not obliged to refund any or all of that amount until the Billing Dispute is resolved in respect of that amount. Once the Billing Dispute is resolved, if the Invoicing Party is obliged to refund an amount to the Invoiced Party, interest will be payable on the refunded amount at the rate specified in section 27.6 of this RAO. In such circumstances, interest will be payable from the date the Invoiced Party paid the disputed amount to the date of the refund by the Invoicing Party.
  - (g) The parties agree to use their reasonable endeavours to promptly resolve any Billing Dispute notified under this section 7.
  - (h) If the parties are unable to resolve any Billing Dispute within one month (or such other period as the parties may agree) from the date on which the Billing Dispute Notice is received, either party may seek the consent of the other party to extend the period for resolution of the Billing Dispute stating the exceptional reasons for such extension. The other party is, however, under no obligation to agree to such extension.
  - (i) To the extent that a Billing Dispute notified under this section involves a Billing Dispute with an international correspondent of the Invoicing Party, the Dispute Resolution Procedures shall be suspended for a reasonable period of time pending resolution of the Billing Dispute with that international correspondent. As a general rule, the period of suspension will not exceed 4 months. However, the parties shall recognise that some Billing Disputes with international correspondents may take longer to resolve, in which case the Invoicing Party must promptly inform the Invoiced Party of the likely period required for resolution.
  - (j) Once the negotiation period under section 7(h) of this Schedule 4 (including any extension agreed) and any suspension period under section 7(i) of this Schedule 4 have expired, the Billing Dispute may be referred by the Invoiced Party to the procedure described in section 7(k) of this Schedule 4 (**Billing Dispute Escalation Procedure**).
  - (k) The Invoiced Party may refer a Billing Dispute to the Billing Dispute Escalation Procedure under this section 7(k) by notifying the Invoicing Party's Billing Representative. Both parties shall then appoint a designated representative who has authority to settle the Billing Dispute, and who is at a higher level of management than the persons with direct responsibility for administration of the Access Agreement. The designated representatives shall meet as often as they reasonably deem necessary to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute. The specific format for such

discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one party to the other party shall be honoured.

- (l) Once any Billing Dispute has been resolved to the parties' satisfaction, any sum to be paid or repaid shall be paid by the relevant party within 10 Business Days from the date of resolution of the Billing Dispute.
- (m) Although it shall be the good faith intention of the parties to use the above Billing Dispute Resolution Procedures to the fullest extent to try to solve Billing Disputes, nothing in this Schedule 4 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.
- (n) A party may request a joint investigation of Invoice discrepancies after that party has conducted a comprehensive internal investigation, including an examination of its own Billing System. Prior to commencement of the joint investigation, the parties must agree on the terms of the joint investigation, including:
  - 1. the scope of the joint investigation;
  - 2. how the joint investigation will be conducted; and
  - 3. the date by which the joint investigation must be concluded.The joint investigation may include the generation of test calls to the other party's Network.
- (o) Enquiries relating to billing, collecting and settlement arrangements or in relation to Network and operational issues may be directed to the Billing Representatives nominated by each party.
- (p) Either party may at any time nominate another Billing Representative, provided that 10 Business Days prior notification of such appointment is given.
- (q) If the Billing Dispute Escalation Procedure has been exhausted, either party may refer the Billing Dispute to the Commission for resolution under Chapter 7 of Part V of the Act.

## Schedule 5

### **Access Request Application Form**

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*To be attached separately*

## Schedule 6

### Confidentiality Agreement

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*To be attached separately*