

FIBER BITSTREAM RULES AND GUIDELINES

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TABLE OF CONTENTS

1.	INTRODUCTION.....	4
1.1.	DEFINITIONS.....	4
1.2.	SCOPE OF THE RULES AND GUIDELINES.....	5
1.3.	STRUCTURE OF THE DOCUMENT.....	5
2.	MAIN RULES.....	5
3.	TECHNICAL ASPECTS.....	6
3.1.	INTERCONNECTION LAYER.....	7
3.2.	LEVEL OF HANDOVER.....	7
3.3.	OWNERSHIP OF USER PREMISES SPECIFIC EQUIPMENT.....	8
3.4.	SERVICE PROFILES.....	8
3.5.	TECHNICAL KPIS AND SLAS.....	9
3.5.1.	FAULT RATE.....	9
3.5.2.	SPEED.....	9
3.5.3.	DELAY, JITTER AND PACKET LOSS.....	9
3.6.	OTHER RELEVANT TECHNICAL ASPECTS.....	9
4.	OPERATIONAL ASPECTS.....	10
4.1.	ORDER PROVISIONING AND SERVICE ACTIVATION.....	11
4.1.1.	ACCESS SEEKER ORDERING.....	11
4.1.2.	ACCESS PROVIDER ACCEPTANCE/REJECTION OF THE ORDER.....	11
4.1.3.	ACCESS PROVIDER ACTIVATION.....	12
4.2.	FAULT REPORTING AND PROBLEM HANDLING.....	14
4.2.1.	ACCESS SEEKER FAULT TICKET OPENING.....	15
4.2.2.	ACCESS PROVIDER CONFIRMATION.....	15
4.2.3.	ACCESS PROVIDER REPARATION.....	16
4.2.4.	ACCESS SEEKER CONFIRMATION.....	16
4.3.	CHANGES IN EXISTING SERVICES.....	16
4.4.	LINE TERMINATION.....	17
4.5.	SERVICE RELOCATION.....	17
4.6.	ONT REPLACEMENT.....	18
4.7.	SERVICE SUSPENSION.....	18
5.	COMMERCIAL ASPECTS.....	18
5.1.	INTERCONNECTION OF BSS & OSS.....	19
5.2.	ACCESS TO INFORMATION.....	19
5.2.1.	ACCESS PROVIDER INFORMATION ON COVERAGE.....	19
5.2.2.	ACCESS PROVIDER INFORMATION IN LINE STATUS.....	20
5.2.3.	ACCESS SEEKER DEMAND FORECASTS.....	20
5.3.	BILLABLE CONCEPTS.....	21
5.4.	BILLING.....	21
5.5.	PRICING METHOD.....	22

1. Introduction

The Communications and Information Technology Commission (CITC) Statutes set out the rules applying to, and the rights and obligations of, Service Providers for access to public networks.

The Interconnection Rules, in their article 7.5, provide the basis for the establishment of a Multilateral Working Group (MWG) *“for the purpose of facilitating interconnection”*. The establishment of an MWG with the consent of licensees (2019) to facilitate the agreements on fiber bitstream access across the Kingdom.

MWG sessions took place between CITC and licensees. As a result of these sessions, CITC issues this document, under the title *“Fiber Bitstream Rules and Guidelines”* (R&G).

1.1. Definitions

- (1) The terms and expressions defined the Telecommunications Act and its Bylaws shall have the same meaning in these R&G, unless specified otherwise.
- (2) The following terms and expressions shall have the meaning assigned to them hereunder:
 - a. *“Access Provider”* means a service provider that owns a fiber-based access network which is used to provide wholesale services to other service providers (Access Seeker).
 - b. *“Access Seeker”* means a service provider that provides telecommunication services over a fiber access network to end users (User) by means of wholesale agreements with other service providers.
 - c. *“User”* means a person that is the final recipient of the telecommunication services, and includes both residential users and business users, but not Service Providers making use of another Service Provider's wholesale services.
 - d. *“Activation”* means the process carried out when a User requests a new line. This process involves the installation of the necessary network equipment in the User's premises as well as the network procedures required to start the provision of the service to the User.
 - e. *“Passive Optical Network”* or PON means a fiber-based access network shared between different Users which does not involve any active network elements between the Optical Line Termination (OLT) and the Optical Network Termination (ONT).
 - f. *“Fiber Wholesale Bitstream Access Service”* means a service where an Access Seeker leases a high-speed data link based on PON to the User's premises from an Access Provider. The service is considered to be end-to-end between the Network-to-Network-Interface (NNI) connecting the Access Provider and the Access Seeker

networks at a given handover point and the ONT located in the premises of the User. The NNI aggregates the traffic from a number of Users.

- g. “Fiber Wholesale Bitstream Access Agreement” or “Agreement” means any agreement signed between the Access Provider and the Access Seeker which governs the provision of a Fiber Wholesale Bitstream Access Service.
- h. “Service Level Agreement” (SLA), mean an agreement between an Access Provider and an Access Seeker covering, in particular, matters related to the quality and availability of the service provided by the Access Provider, and the respective responsibilities of the two parties.

1.2. Scope of the Rules and Guidelines

- (1) The objective of this document is to provide guidance and define rules that should be met by Fiber Wholesale Bitstream Access Agreements.
- (2) The rules defined in this document are compulsory and represent the minimum requirements that should be accepted by all Access Providers and Access Seekers, if requested by the other party of the agreement. Unless explicitly stated, these rules should not prevent Access Seekers and Access Providers to agree different terms if both are willing to accept them.

1.3. Structure of the document

- (1) The remaining sections of this document are related to various topics involved in the definition of wholesale agreements for the provision of bitstream services. The sections are as follows:
 - a. Main rules
 - b. Technical aspects
 - c. Operational aspects
 - d. Commercial aspects

2. Main rules

- (1) Fiber Wholesale Bitstream Access Agreements should be negotiated between Access Seeker and Access Provider in good faith. In the case that an agreement is not reached within 30 calendar days as of the date of the publication of these R&G or immediately after 60 calendar days as of the date on which Access Seeker and Access Provider have started negotiations about the Agreement, the parties must refer the matter to the CITC for the dispute resolution process defined in Chapter 6 of the Bylaw.
- (2) No Fiber Wholesale Bitstream Access Agreement may include permanent or temporary

exclusivity for certain areas covered by the Access Provider. The prohibition of such exclusivities is mandatory and not subject to other agreements between service providers.

- (3) The Access Provider should give equivalent treatment to Access Seeker's Users in the context of the Fiber Wholesale Bitstream Access Agreement, to the one provided to Access Provider's own Users.
- (4) The Access Seeker may request that the Fiber Wholesale Bitstream Access Agreement provides access to every area covered with PON technology by the Access Provider in the KSA, unless both parties agree to define separate agreements for different areas.
- (5) The Annex provides a template for a Fiber Wholesale Bitstream Access Agreement as a guideline for the discussions between Access Seeker and Access Provider. The use of the template is not compulsory.
- (6) Agreements shall be valid for at least 3 years and will be renewed tacitly at the end of such period unless either party requests that the Fiber Wholesale Bitstream Access Agreement should not be renewed, by written notice of at least 6 months prior to the expiration of the Agreement.
- (7) The agreements shall include provisions to ensure continuity of service in order to meet any relevant requirements of applicable Commission Statute, even after the expiration of a Fiber Wholesale Bitstream Access Agreement.
- (8) Agreements may not include any commitment on the minimum number of lines or activations to be purchased by the Access Seeker.
- (9) Agreements should not include any limitation, or restriction on the terms to be included in the contract between the Access Seeker and the User, other than an obligation of the Access Seeker to ensure compliance of any such contract with applicable laws, and an obligation of the Access Seeker to indemnify and hold harmless the Access Provider against any penalties, actions, claims or other liability arising from an infringement of the Access Seeker's or the User's obligations under applicable laws.
- (10) The Agreements should be notified by the Access Provider and the Access Seeker to the CITC within 10 business days after the signature. The notification should include:
 - a. Copy of the signed Agreement.
 - b. A list of terms agreed which differ from the minimum requirements set in this R&G, signed by the Access Seeker and the Access Provider.

3. Technical aspects

- (1) The Fiber Wholesale Bitstream Access Agreement should include a description of the technical solution and main technical characteristics of the Fiber Wholesale Bitstream Access Service.
- (2) Among the technical aspects that may be included in a Fiber Wholesale Bitstream Access Agreement, these R&G define the minimum requirements that should be included in the Agreements, namely:
 - a. Interconnection layer
 - b. Level of handover
 - c. Ownership of User premises specific equipment
 - d. Service Profiles
 - e. Technical KPIs and SLAs
- (3) Access Seekers and Access Providers shall be free to agree on any other technical aspects in their Agreements.

3.1. Interconnection layer

- (1) The Fiber Wholesale Bitstream Access Agreement should clearly define the layer or layers at which the interconnection of bitstream traffic is implemented, as well as any technological standard or standards to be used.
- (2) The interconnection of the Access Seeker's and the Access Provider's networks for the handover of Fiber Wholesale Bitstream Access services traffic should be implemented at OSI¹ Level 2, unless both parties agree to implement it at a different level.

3.2. Level of handover

- (1) The Fiber Wholesale Bitstream Access Agreement should clearly define the locations of handover of the Fiber Wholesale Bitstream Access traffic between Access Seeker and Access Provider.
- (2) Unless a different solution is agreed between Access Seeker and Access Provider, the Access Seeker can demand that the traffic handover takes place at one or both of the following levels:
 - a. Local Level: Handover of the traffic associated with customers connected to an OLT takes place in the location of the same OLT, which represents a Virtual Unbundling of the Local Access (VULA).

¹ The Open Systems Interconnection model (OSI model) partitions communication systems into seven abstraction layers: Application, presentation, session, transport, network, data link and physical.

- b. **Regional Level:** The traffic handover takes place in a number of regional handover points. Each handover point should allow the handover of traffic associated to customers located in the coverage region of such handover point. The combination of all handover points should allow the handover of traffic of any customer located in the KSA, taking into consideration that, as a rule, the current networks of Service Providers have 3 or 4 regional handover points.

3.3. Ownership of User premises specific equipment

(1) Fiber Wholesale Bitstream Access Agreements should clearly define the ownership of the User premises specific equipment, namely:

- a. **Customer drop:** Drop cables and related infrastructure that connect from the nearest FTTH distribution point to the premises of the User. This includes the net termination point (NTP) placed inside the premises of the User.
- b. **Optical Network Terminal (ONT):** Electronic device that takes care of the optical connectivity with the OLT and provides connectivity to other equipment in the customer's premise (e.g. through ethernet connections). The wiring between ONT and NTP should be considered part of the ONT for the purposes of these R&G.
- c. **Home Gateway (HGW):** Electronic device that is connected to the ONT and provides the services (e.g. broadband, telephony, television) to the User.

(2) Unless a different approach is agreed between Access Seeker and Access Provider, the ONT should act as a demarcation point between Access Seeker and Access Provider. Therefore, customer-specific equipment ownership should be allocated as follows:

- a. The Access Provider should own, manage and maintain both the customer drop and the ONT.
- b. The Access Seeker, in the context of the relation with the Access Provider, should own, manage and maintain the HGW.

3.4. Service Profiles

(1) The Fiber Wholesale Bitstream Access Agreements should clearly define the service profiles (in terms of upload/download speed, quality of service assured parameters if any, etc.) available.

(2) The service profiles should include at least those offered by the Access Provider to its Users.

(3) A mechanism should be included in the Agreement to review, add and/or remove service profiles.

3.5. Technical KPIs and SLAs

(1) The Agreements should clearly define the applicable technical KPIs and SLAs, including at least:

- a. Fault rate
- b. Speed
- c. Delay, jitter and packet loss

(2) These topics are further described in following sections.

3.5.1. Fault rate

(1) The Fiber Wholesale Bitstream Access Agreements should include SLAs regarding fault rate. The fault rate should be defined as “the number of faults per quarter divided by the average number of active lines in the quarter”. A fault should be considered if the service is not available.

(2) Wrongful Repair Requests (as defined in section 4.2.3) should not be counted as part of the fault rate.

(3) Fault rate should be agreed between parties and should not exceed 2.5%.

(4) The parties may agree on different SLAs for business Users.

(5) Penalties for each fault above SLA should be agreed between parties and should be clearly defined in the Agreement.

3.5.2. Speed

(1) Any retail regulation regarding speed commitments should be transposed back-to-back to the Fiber Wholesale Bitstream Access Service.

(2) Penalties for not meeting associated SLAs should be clearly defined in the Agreements.

3.5.3. Delay, jitter and packet loss

(1) SLAs regarding delay, jitter and packet loss as well as applicable penalties can be defined by agreement between parties.

3.6. Other relevant technical aspects

(1) In addition to any aspects outlined earlier in this section, Fiber Wholesale Bitstream Access Agreements may include other technical aspects, including, but not limited to:

- a. Network architecture
- b. Number of VLANs and VLAN tagging techniques
- c. Prioritization Mechanisms
- d. Traffic Management
- e. Downstream and Upstream Traffic control mechanisms
- f. Physical interfaces

(2) Consideration of these aspects in the agreements shall be subject to the Service Providers' agreement.

4. Operational aspects

(1) The Fiber Wholesale Bitstream Access Agreement should include a description of the processes related to the provision of the Fiber Wholesale Bitstream Access Service.

(2) Among the relevant processes that could be included in a Fiber Wholesale Bitstream Access Agreement, these R&G define minimum requirements about the following:

- a. Order provisioning and service activation
- b. Fault reporting and problem handling
- c. Changes in existing services
- d. Line termination
- e. Service relocation
- f. ONT replacement
- g. Service suspension

The following sections outline these aspects in detail.

(3) Access Seekers and Access Providers are free to include any other relevant processes in their Agreements.

(4) This section 4 also includes the SLAs that should be defined for each process as well as minimum requirements. The parties can agree on exceptions under commonly recognized force majeure situations such as war, severe storms, natural disasters, etc.

(5) The Access Seeker should be able to access to information on the process status at any stage

of the process in question. Such information should be updated on near-real time (at least every hour) following BSS & OSS interconnection.

4.1. Order provisioning and service activation

- (1) The Fiber Wholesale Bitstream Access Agreement should clearly define the process to be followed in the provisioning and activation of new lines in the Fiber Wholesale Bitstream Access Service.
- (2) In order to complete this process, the following minimum activities must be carried out by the parties to the agreement:
 - a. Access Seeker ordering
 - b. Access Provider acceptance/rejection of the order
 - c. Access Provider Activation
- (3) The above list of activities is without prejudice to any additional steps or activities agreed between parties and included in the Wholesale Bitstream Access Agreement.
- (4) The following subsections present these activities along with the Service Level Agreements that are involved in each one. These Service Level Agreements can be exempted in the case of force majeure.

4.1.1. Access Seeker ordering

- (1) This activity entails a request from the Access Seeker to the Access Provider for the provisioning of a new line for a User in the Fiber Wholesale Bitstream Access Service.
- (2) This activity begins upon the User's request to the Access Seeker and is concluded upon the Access Seeker's submission to the Access Provider of the request for the new line (the "order").
- (3) The information to be included in the order must be agreed between parties in the Fiber Wholesale Bitstream Access Agreement.
- (4) No minimum order size may be defined in the Fiber Wholesale Bitstream Access Agreements, unless agreed otherwise by the service providers concerned. This means that an order of one line should be accepted.
- (5) This order shall be the Access Seeker's responsibility and no SLAs will be required.

4.1.2. Access Provider acceptance/rejection of the order

- (1) This activity involves the review, by the Access Provider, of the order and the included information. Following this review, the Access Provider must accept or reject the order.

- (2) The Access Provider must accept the order unless it is incomplete or contains erroneous or mismatching information. If the order is rejected by the Access Provider, he must justify the reasons for this rejection. The Access Provider should accept/reject the order within an agreed period of time (specified in the SLA). This period of time should be 1 calendar day for at least 90% of the orders, unless a different duration and frequency is agreed between the parties.
- (3) The Access Seeker should have the opportunity to complete and/or amend the information provided to the Access Provider. In the case of repetitive rejections or lack of answers from the Access Seeker, the Access Provider may cancel the order, as follows:
 - a. If the Access Seeker does not provide new/corrected information after a specified reasonable time following the justified rejection, the Access Provider may unilaterally cancel the order. An SLA with the minimum time the Access Provider is required to wait before cancelling an order should be included in the Agreement. Unless a different duration is agreed between the parties, this SLA should be 1 calendar day.
 - b. In the case of repetitive submissions of incomplete or incorrect information, the Access Provider may unilaterally cancel the order. The maximum number of interactions (i.e. resubmissions of information, without counting the initial order) should be included in the SLAs of the Agreement. Unless a different figure is agreed between parties, the maximum number of interactions should not be less than 2.

4.1.3. Access Provider Activation

- (1) This activity involves the activation of the Fiber Wholesale Bitstream Access Service and the installation of any required elements and equipment, ensuring that the wholesale service is activated from the point of handover defined in section 3.2 to the demarcation point in the User's premises defined in section 3.3.
- (2) Once the activation is completed by the Access Provider, the Access Provider should submit an Activation Confirmation to the Access Seeker, including evidence that the service is active and working in line with the agreed parameters (for instance, a report informing about the throughput reached in the connection between the NNI and ONT). The applicable parameters, evidence and measurement mechanisms should be agreed between the parties and included in the Agreement.
- (3) If there is a need for an on-site visit to activate the line, there are two possible options to carry out this activity:
 - a. Self-coordinated Access Provider activities: Under this option, the Access Provider coordinates the visit with the User to install any required elements up to the demarcation point. In this case, the Access Seeker should provide the required

information to organize the visit which should include, at least: the location of the visit (User address) and the contact details (telephone number and name) of the person that is going to be present in the User premise during the visit (who may be the User or a person the User appoints, such as a relative or representative). The Access Provider should inform the Access Seeker about the agreed appointment, who can then decide to send a representative to perform any additional tasks required from the Access Seeker's side (e.g. installation of the home gateway).

If this option is selected, the Agreement should include a clear SLA about the maximum time that can pass between the Order Acceptance and the Activation Confirmation. Unless a different SLA is agreed, this should be no more than 3 calendar days for at least 90% of the activations.

- b. Access Provider activities coordinated by Access Seeker: Under this option, the Access Provider should put in place a mechanism that allows the Access Seeker to select an appointment from available slots. The Access Seeker can decide if the Access Provider goes to the visit alone (in which case the same information with the one required under the previous option should be provided) or if a joint visit is to take place (in which case only information about the location – such as the Optical Distribution Box (“ODB”) – and contact details of Access Seeker's representative are required).

If this option is selected, the Agreement should include a clear SLA about the availability of slots. Unless a different SLA is agreed, the Access Provider should ensure that at least 5 slots are available within the 5 calendar days after the Order Acceptance for at least 90% of the orders.

Under this option, the Agreement should clearly describe the mechanisms to cancel or modify appointments. The Agreement should clearly describe a point in time after which any modification or cancellation should be subject to compensation to the other party and the amount of that compensation. Unless a different point in time is agreed, this should be 24 hours (considering only business days) before the appointment time. If the Access Provider is the party modifying or cancelling the appointment, the SLAs should apply and new slots should be provided within the timeframe defined above. In case the cancellation of the appointment is due to the User or the Access Seeker, the extra time to fulfil the order should not be taken into account in Access Provider's SLAs.

- (4) The service providers shall agree on a particular option or options for the installation process. The Access Seeker cannot be prevented from selecting one or both of the options described above.
- (5) The service providers may agree on alternative mechanisms (e.g. with the Access Seeker or the Access Provider taking care of the activation end-to-end), but no party should be forced to select any option that is not included in paragraph 3.3(1), above.

- (6) A compensation from the Access Provider to the Access Seeker should be defined if the agreed SLAs are not met. Unless a different scheme is agreed, the compensation should be based on the amount of orders for which the SLAs have not been met and the delays incurred for those orders.
- (7) Any delay due to the Access Seeker or User (e.g. where a User is not answering or is not present for the agreed appointment) shall not be considered under the SLAs.
- (8) Different SLAs may be defined for business Users, by agreement of the parties.
- (9) The Agreement should clearly describe the mechanisms allowed for the cancelation of an Accepted Order and any applicable compensation. Unless different conditions are agreed, the following should be considered:
 - a. The Access Provider may cancel an Accepted Order if a visit is not possible for reasons outside the Access Provider's control (e.g. absence of the User or wrong information that cannot be verified before the Order Acceptance), and the Access Seeker does not provide a solution (e.g. new appointment, corrected information) within 2 business days. In this case, the Access Seeker should compensate the Access Provider for the costs incurred for any visits made.
 - b. The Access Seeker should be allowed to cancel an Accepted Order without compensation if this happens before any visit by the Access Provider (without prejudice to any compensation due under paragraph (3)b above). After that point, any cancelation before the Activation Confirmation should include a compensation for the activities already executed by the Access Provider. After the Activation Confirmation, no cancelation is allowed.

4.2. Fault reporting and problem handling

- (1) The Fiber Wholesale Bitstream Access Agreement should clearly define the process to be followed when reporting faults and handling problems in the Fiber Wholesale Bitstream Access Service.
- (2) In order to complete this process, at least the following activities must be carried out:
 - Access Seeker fault ticket opening
 - Access Provider confirmation
 - Access Provider reparation
 - Access Seeker confirmation
- (3) The following subsections present these activities along with the Service Level Agreements

that are involved in each one.

- (4) This section also includes the SLAs that should be defined for each process as well as minimum requirements.
- (5) The Access Seeker should be able to access information about the ticket status throughout the process.

4.2.1. Access Seeker fault ticket opening

- (1) This activity involves the notification, by the Access Seeker to the Access Provider, that there is a fault in the Fiber Wholesale Bitstream Access Service.
- (2) The Access Seeker is responsible to perform any required verifications to identify if the incidence is within the Access Seeker's elements, before opening a ticket.
- (3) The Access Provider shall enable mechanisms for the Access Seeker to access the ONT information to verify if the Fiber Wholesale Bitstream Access Service is working in line with the agreed parameters. The specific information to be made accessible must be agreed by the parties.
- (4) This activity falls under the Access Seeker's responsibility and no SLAs are required.

4.2.2. Access Provider confirmation

- (1) This activity involves the verification, by the Access Provider (through any remote means available), that there is a fault in the Fiber Wholesale Bitstream Access Service, and the Access Provider's confirmation/rejection of the ticket with the fault.
- (2) The ticket shall be accepted unless the Access Provider provides justification and evidence that the incident is not due to the Fiber Wholesale Bitstream Access Service (e.g. there is connectivity between the ONT and the NNI).
- (3) The Agreement should include clear SLAs for this activity. Unless different SLAs are agreed, the Access Provider should confirm or reject the ticket within 4 hours for at least 90% of the tickets.
- (4) In the case that a ticket is rejected, the Access Seeker has 24 hours (or any other agreed timeframe) to provide additional information or evidence showing that the incidence is due to the Access Provider's service. If no more information is provided by the Access Seeker within the above deadline, the Access Provider may cancel the ticket.
- (5) Different SLAs may be defined for business Users, by agreement of the parties.
- (6) If the Access Seeker insists that the fault is due to Access Provider service and provides

further information within the agreed timeframe, but the Access Provider still considers that it is not in his side, the Access Provider may cancel the ticket. The Access Seeker may escalate the issue and/or follow the Dispute Resolution procedure defined in the Bylaw.

- (7) The Access Provider should be compensated for any rejected tickets. The amount of compensation and other details should be agreed between parties and be clearly described in the Agreement.

4.2.3. Access Provider reparation

- (1) After the Ticket Confirmation, the Access Provider shall investigate the source of the fault and proceed with repairing it as may be appropriate.
- (2) Once the Access Provider repairs the fault, he should send a confirmation to the Access Seeker.
- (3) The Agreement should clearly describe the applicable SLAs for this activity. Unless different SLAs are agreed between the parties, Access Provider Reparation Confirmation should be completed within 18 hours after ticket acceptance for at least 90% of the tickets. If agreed between Access Seeker and Access Provider, different levels of criticality can be defined.
- (4) Different SLAs may be defined for business Users, by agreement of the parties.
- (5) If the Access Provider demonstrates that the fault was due to the Access Seeker or the User, this should be thereafter considered as a Wrongful Repair Request and be subject to compensation to the Access Provider. The amount of the compensation should be agreed by the parties and clearly included in the Agreement.

4.2.4. Access Seeker confirmation

- (1) This activity involves the Access Seeker's confirmation with the Access Provider that the fault has been repaired and that the ticket can be closed.
- (2) The Access Provider shall be allowed to close the ticket if the Access Seeker confirmation is not provided within 24 hours unless another time period is agreed between the parties.

4.3. Changes in existing services

- (1) The Fiber Wholesale Bitstream Access Agreement must clearly define the process to perform changes in existing services in a Fiber Wholesale Bitstream Access Service (e.g. change of the service used by a User from one available profile to another available profile).
- (2) This process shall include, when applicable, the following set of activities:
 - a. Access Provider feasibility confirmation: During this activity, the Access Provider

should verify that the change required is feasible with the existing equipment. A response (positive or negative, the latter with justification) should be provided. An SLA deadline for the provision of a response should be defined in the Agreement, unless the activity is automated. Unless a different agreement is reached between the parties, this deadline should be 1 business day for at least the 90% of the requests.

The parties may mutually agree on procedures and associated fees for any tasks required to allow the change when the response is negative.

- b. Access Provider implementation of the change: After a positive response, the Access Provider should implement the change required. An SLA deadline for the implementation of the change should be defined in the Agreement, unless the activity is automated. Unless a different agreement is reached between parties, this deadline should be 1 business day for at least 90% of the requests.

- (3) The parties may mutually agree on different SLAs for business Users.

4.4. Line termination

- (1) The Fiber Wholesale Bitstream Access Agreement should clearly define the process for the termination of the Fiber Wholesale Bitstream Access Service provided to an individual User.
- (2) The agreements should clearly define the SLA deadlines for rendering effective a line termination. Unless different SLA deadlines are defined between the parties, 1 business day should be allowed after a Line termination request for the Access Provider to render effective, and confirm, the termination.
- (3) The confirmation of the termination should be considered as the event that stops payments related to the terminated line.
- (4) Upon line termination the Access Provider will be the sole party responsible for the ONT. The Access Provider may decide whether to decommission the ONT or leave the ONT inactive in the premises of the User. In the latter case, in subsequent re-activations of the service in the case, the Access Provider shall ensure that the ONT is working adequately. If that is not the case the ONT must be replaced at the expense of the Access Provider.

4.5. Service relocation

- (1) The Fiber Wholesale Bitstream Access Agreement should clearly define the process for the relocation of a User's Fiber Wholesale Bitstream Access Service. Two types of relocation should be considered:
 - a. Service relocation within the same premise (i.e. relocation of the ONT): The activities and related SLAs should be equivalent to those of a new activation.

- b. Service relocation to a different premise: The activities and related SLAs should be equivalent to those of a line termination and a new activation.

The process for service relocation to a different premise shall be applicable only when the initial location and final location are covered by the same Access Provider. If the two locations are covered by different Access Providers, independent termination and service activation processes shall be requested by the Access Seeker concerned to the corresponding Access Providers.

4.6. ONT replacement

- (1) The Fiber Wholesale Bitstream Access Agreement should clearly define a process to replace an ONT, for instance in case of damage due to the Access Seeker's or the User's action or in order to allow a change in the service that requires a replacement of the ONT (e.g. profile upgrade).
- (2) In terms of activities and SLAs, this process should be equivalent to a new Activation.
- (3) If the ONT is not working and the fault is not due to the Access Seeker or the User's fault, it should be solved as part of the fault resolution process.

4.7. Service suspension

- (1) The Fiber Wholesale Bitstream Access Agreement should clearly define a process to temporarily suspend the Fiber Wholesale Bitstream Access Service upon request of a given User.
- (2) A service suspension can only be requested to the Access Provider if a User requests a suspension of services to the Access Seeker, within the context of any applicable retail regulations.
- (3) The Agreement should clearly define the SLAs and charges associated with this process. If any monthly recurrent cost associated to a suspended line is charged, it should be always less than the monthly recurrent cost of an active line (billable concept defined in 5.3(1)). Unless other SLAs are agreed between the parties, the services suspension should be made effective within 1 business day.
- (4) The Agreement should clearly define maximum suspension times. Unless other terms are agreed between the parties, a line may not be suspended for more than 6 months.

5. Commercial aspects

- (1) The Fiber Wholesale Bitstream Access Agreement should include a clear description of the commercial aspects of the Fiber Wholesale Bitstream Access Service.

(2) Among the commercial aspects that could be included in a Fiber Wholesale Bitstream Access Agreement, these R&G define minimum requirements for the following topics:

- Interconnection of BSS & OSS
- Access to information
- Billable concepts
- Billing
- Pricing method

The following sections outline these aspects in detail.

(3) Access Seekers and Access Providers are free to include any other commercial aspects in their Agreements.

5.1. Interconnection of BSS & OSS

- (1) The Fiber Wholesale Bitstream Access Agreement should support the interconnection of the Business Support Systems (BSS) and Operational Support Systems (OSS) of the service providers involved.
- (2) The interconnection of the BSS & OSS of different service providers must be functional to provide information related to the Fiber Wholesale Bitstream Access Service, allowing an acceptable usage by the Access Seeker and the Access Provider as well as the launch of any agreed process (e.g. service activation, tickets).
- (3) The technical solution to be used in the interconnection of BSS & OSS systems shall be determined by the parties involved.
- (4) If agreed between the parties, temporary solutions may be deployed until a final solution to interconnect the systems is deployed.

5.2. Access to information

- (1) Wholesale agreements require that some commercial information is shared between the parties. The Fiber Wholesale Bitstream Access Agreement should outline how the following sets of information will be shared between the parties:
 - Access Provider information on coverage
 - Access Provider information in line status
 - Access Seeker demand forecasts

These aspects are described in the following sections.

5.2.1. Access Provider information on coverage

- (1) The Fiber Wholesale Bitstream Access Agreement should outline how information on coverage from the Access Provider must be shared with the Access Seeker.
- (2) Information regarding coverage from the Access Provider shall include:
 - a. Information on the location of the buildings covered, for which Fiber Wholesale Bitstream Access Service can be provided.
 - b. Information on the amount of used and available ports in each ODB, building(s) covered by each ODB and such buildings location.
- (3) No client-specific information (i.e. client name, telephone number, etc.) shall be provided for coverage requirements.
- (4) The update time of the covered buildings and the available ports shall be on near-real time following BSS & OSS interconnection.

5.2.2. Access Provider information in line status

- (1) The Fiber Wholesale Bitstream Access Agreement should outline how the Access Provider must share with the Access Seeker information on the status of the lines provided over the Fiber Wholesale Bitstream Access Service.
- (2) This information shall include overall indications of the status of the lines and detailed progress information for any of the processes defined in section 4.
- (3) The update time of this information shall be on near-real time following BSS & OSS interconnection.

5.2.3. Access Seeker demand forecasts

- (1) The Fiber Wholesale Bitstream Access Agreement should require that demand forecasts for the Fiber Wholesale Bitstream Access from the Access Seeker should be reported to the Access Provider.
- (2) In particular, the following items must be included in the forecasts reported:
 - a. Demand forecast for new subscribers. The regional disaggregation level must be agreed between parties and be clearly defined in the Agreement. The number of regions should be the minimum possible allowing the Access Provider to organize its resources.

b. Demand forecasts for capacity required in each handover point.

- (3) Forecasts should be reported on a quarterly basis for a rolling period of one year, unless agreed otherwise by both parties. In each forecast report, forecasts must be agreed between the Access Providers and the Seekers to ensure its reasonability.
- (4) If the figures achieved (in terms of new subscribers or required capacity) by the Access Seeker for a given period are below the agreed forecasted amounts by a given threshold (e.g. based on a percentage of the forecast accounts), the Agreements may consider penalties imposed over the Access Seeker. The service providers shall be free to define the terms of this matter in the Fiber Wholesale Bitstream Access Agreement.
- (5) If the figures achieved (in terms of new subscribers or required capacity) by the Access Seeker for a given period are above the forecasted amounts by a given threshold, the Fiber Wholesale Bitstream Access Agreement may consider adjustments to the SLAs of the processes defined in section 4.

5.3. Billable concepts

- (1) The Fiber Wholesale Bitstream Access Agreement should include a fixed monthly recurring cost (MRC) that considers the provision of the Fiber Wholesale Bitstream Service from the ONT to the point of handover. This MRC shall be different depending on the speed profile of the service. The MRC should start as soon as Access Provider's submits the Activation Confirmation (see 4.1.3(2)).
- (2) Besides the MRC, the Fiber Wholesale Bitstream Access Agreement may consider a Non-Recurring Cost (NRC) based on the costs associated to the activation of the User. This NRC shall comprise the costs from the activation from the ODB to the ONT and should be charged upon Access Provider's Activation Confirmation (see 4.1.3(2)).
- (3) The parties can agree schemes with commitment times per line up to 12 months, but the Access Seeker should have the right to select a scheme without commitment time. In the case that case that commitment times are agreed between parties, the related conditions should be detailed in the Agreement including aspects such as potential fees for termination before the committed time.

5.4. Billing

- (1) The Billing Systems of the Access Seeker and the Access Provider should be interconnected. The specificities of such interconnection should be agreed upon between the parties and described in the Agreement.
- (2) The Fiber Wholesale Bitstream Access Agreement should provide that invoices for the Fiber Wholesale Bitstream Access Service must be issued monthly by the Access Provider, unless a

different term is agreed between Access Provider and Access Seeker. Payment times should be agreed among Parties and clearly indicated in the Agreement.

- (3) After the invoice is issued, the Access Seeker shall have 15 calendar days to present any objections to the invoice, unless a different term is agreed between Access Provider and Access Seeker.
- (4) The Access Seeker shall pay the undisputed amount of the invoice within a given time period from the invoice's issuance. This time period shall be determined by service providers in the Fiber Wholesale Bitstream Access Agreement.
- (5) If the disputed amount is below 3% of the total amount of the invoice, it must be paid in full. The Access Seeker will, however, be able to request clarifications on the amount under dispute, regardless of its value.
- (6) After any objections to the invoice have been presented, every Fiber Wholesale Bitstream Access Agreement must include a given time period, to be defined between the service providers, for the settlement of the dispute.

5.5. Pricing method

- (1) Without prejudice to any obligations defined in any other regulations, the service providers are free to agree the prices of the Fiber Wholesale Bitstream Service billable concepts.
- (2) Prices should be clearly defined in the Agreements.
- (3) The overall price scheme must allow Access Seekers to replicate, in general terms, the retail tariffs offered by the Access Provider to the Users (if any). This does not mean that replicability should be measured for every user, on an individual basis.
- (4) Wholesale prices must be reviewed if significant changes in the Access Provider's retail tariffs can hinder the replicability of these tariffs.

Annex (A) – Fiber Wholesale Bitstream Access Service Agreement Template

Note: This agreement template is provided in the context of the Fiber bitstream Rules and Guidelines to ease operators' agreements. This document is illustrative and not mandatory. Operators may use any other template of agreement they deem appropriate or modify this template as agreed between parties.

Fiber Wholesale Bitstream Access Service

Agreement

Between

[ACCESS PROVIDER NAME]

and

[ACCESS SEEKER NAME]

[DATE]

TABLE OF CONTENTS

1. Definitions and Interpretation.....	27
2. Grant of the services.....	28
3. Term of the Agreement.....	29
4. Implementation of handover links.....	29
5. Charges and fees	29
6. Invoicing and payment	30
7. Conditions of the Fiber Wholesale Bitstream Access Services	30
8. Technical aspects.....	31
9. Indemnification.....	31
10. Intellectual property rights and infringements	32
11. Default.....	32
12. Governing law and jurisdiction	33
13. Variation of agreement.....	34
14. Assignment of rights	34
15. Dispute resolution.....	34
16. Notice.....	34
17. Relationship of the parties.....	35
18. Confidentiality	35
19. Warranty/limitation of liability	36
20. Authority approval.....	37
21. Waiver.....	37
22. Severability.....	37
23. Force majeure.....	38
24. Entire agreement.....	38
25. Warranties and representations.....	39
26. Counterparts/execution of agreement.....	39
SCHEDULE 1: TECHNICAL CHARACTERISTICS OF THE SOLUTION.....	40
SCHEDULE 2: PROCESSES.....	41
SCHEDULE 3: SERVICE LEVEL AGREEMENTS	42
SCHEDULE 4: INTERCONNECTION OF OSS AND BSS AND PROVISION OF INFORMATION	43
SCHEDULE 5: BILLABLE CONCEPTS AND PRICES.....	44

This Fiber Wholesale Bitstream Service Agreement (the "Agreement") is made and entered into effect as of the [DATE] (the "Effective Date") by and between:

[ACCESS PROVIDER NAME], a company incorporated and existing under the laws of the Kingdom of Saudi Arabia, under commercial registration number [NUMBER], having its principal office at [ADDRESS], and holding the following telecommunications licenses: ([LIST OF LICENSES]) as represented by [REPRESENTATIVE NAME AND POSITION], hereinafter referred to as ("Access Provider")

and

[ACCESS SEEKER NAME], a company incorporated and existing under the laws of the Kingdom of Saudi Arabia, under commercial registration number [NUMBER], having its principal office at [ADDRESS], and holding the following telecommunications licenses: ([LIST OF LICENSES]) as represented by [REPRESENTATIVE NAME AND POSITION], hereinafter referred to as ("Access Seeker").

Both parties are jointly referred to herein as the "Parties" and each individually as a "Party".

2. Definitions and Interpretation

- (1) The terms and expressions defined the Telecommunications Act, its Bylaws and the Fiber Bitstream Rules and Guidelines (hereinafter "the R&G") shall have the same meaning in this Agreement, unless specified otherwise.
- (2) The following terms and expressions shall have the meaning assigned to them hereunder:
 - a. [INCLUDE ANY ADDITIONAL TERMS TO BE DEFINED]
- (3) Any Exhibits Annexes and/or Appendices to this Agreement shall be incorporated into and deemed to be an integral part of this Agreement. All references to this Agreement shall include the Exhibits, Schedules, Annexes and Appendices to this Agreement. A reference to a Clause, Annex, Exhibit or Appendix is a reference to a Clause, Annex, Exhibit or Appendix of this Agreement.
- (4) A reference to a law, or other legal or regulatory text, also includes any new version, consolidation, amendments, re-enactment, replacement or update (as the case may be) of that law, or other legal or regulatory text.
- (5) A reference to a person or Party includes the person's executors, administrators, successors, substitutes (including persons taking by novation), and permitted assigns.
- (6) A reference to a Party includes that Party's employees or duly authorized agents or partners acting in a capacity connected to the subject matter of this Agreement.

- (7) All monetary amounts are expressed in Saudi Arabian Riyal "SAR".
- (8) Any reference to a "day" means a calendar day unless a Business Day is specified.
- (9) If the day on which the payment of money falls due is not a Business Day, the due date shall be deemed to be the next Business Day.
- (10) Clause headings are inserted for convenience only and shall not affect the interpretation of this Agreement.

3. Grant of the services

- (1) The Access Provider hereby grants to the Access Seeker, and Access Seeker hereby acquires from Access Provider, the Fiber Wholesale Bitstream Access Service (in line with the scope and definition of the R&G, hereinafter referred as "Bitstream Service") for the purpose of offering fiber services to its Users in accordance with the Service Level Agreements and the methodology set out in this Agreement and its attached schedules.
- (2) Access Provider shall provide Access Seeker with Bitstream Service between the Handover Point and the User's Optical Network Termination (ONT) as required. This Agreement covers all ready-for-service ports in Optical Distribution Boxes (ODB) across the Kingdom of Saudi Arabia where Access Provider has Fiber coverage.
- (3) Access Provider will also provide Access Seeker with Backhaul Connections to Handover Points if it is required by the Access Seeker. The Access Seeker is also allowed to reach the Handover Point by its own means.
- (4) Access Seeker will be able to offer Fiber Services to its Users using the Bitstream Service at the User's premises.
- (5) The Access Provider responsibilities include, in particular:
 - a. The provision of Bitstream Service termination at port within ODB and then its extension to the ONT in the User's premises that is defined as the Services demarcation point.
 - b. The installation and management of ONT and internal wiring from ODB to ONT.
 - c. The provision of the requested Backhaul links to interconnect the Access Seeker network to the Handover Points, if requested so.
 - d. Periodically informing the Access Seeker about new buildings and/or districts covered.
 - e. Performing the Operation & Maintenance of the fiber access network.

- f. Provision of the necessary resources to Access Seeker to register trouble tickets in case of any problem at the Access Provider's end.
- g. Addressing trouble tickets within the agreed SLA.

(6) The Access Seeker's responsibilities include, in particular:

- a. The installation and management of a home gateway that is connected to an ONT port at the User's premises.
- b. Provisioning services to the User.
- c. First level Customer support, for example, to resolve any problem with home gateway or core network of Access Seeker.
- d. If problem is found not to be in network elements managed by the Access Seeker, raise trouble ticket for the Access Provider to resolve the fault.

4. Term of the Agreement

- (1) This Agreement shall be effective from the Effective Date and shall continue to be in force for [INITIAL DURATION] years (the "Initial Term"). It shall be automatically renewed for [RENEWAL DURATION] years (the "Renewal Term") unless either Party notifies the other Party, with no less than six (6) months notice period, that it wishes to terminate the Agreement.
- (2) This Agreement shall also be terminated pursuant to Clause 12 (Default) or Clause 24 (Force Majeure).

5. Implementation of handover links

- (1) Implementation of handover links shall be made by [ACCESS PROVIDER/SEEKER] according to the agreed topology and the technical design set in Schedule 1.

6. Charges and fees

- (1) Access Seeker shall pay Access Provider the following fees as defined in Schedule 5:
 - a. Customer activation one-off fee
 - b. Customer line monthly fee (depending on the nominal speed)
 - c. ONT Replacement
 - d. Reparation of drop cables
 - e. ONT repositioning within User's premise

f. [ADD ANY OTHER BILLABLE CONCEPTS AGREED]

(2) All charges and fees defined in this Agreement include all applicable taxes and regulatory fees.

7. Invoicing and payment

(1) Access Provider shall issue invoices associated to this Agreement on a monthly basis.

(2) All invoices transmitted by Access Provider shall be deemed to have been accepted by Access Seeker unless Access Seeker presents a written reason for objection within fifteen (15) calendar days of receipt of the relevant invoice. If the disputed value amounts to less than 3% of the total invoice, the Access Seeker must pay the invoice in full.

(3) All invoices should be paid within thirty (30) days from the receipt of the invoice. If a written reason for objection to an invoice is presented by Access Seeker, the Parties shall make all reasonable efforts to settle promptly the dispute concerning the invoice in question within [TIME FRAME FOR SETTLEMENT] days from the notification of the objection. If the Parties fail to reach a settlement within fifteen (15) days from notification of a dispute, the matter shall be escalated to their senior management respectively.

8. Conditions of the Fiber Wholesale Bitstream Access Services

(1) The Access Seeker may make use of the Fiber Wholesale Bitstream Access Services provided by Access Seeker under this Agreement under the following conditions:

a. Access Seeker shall ensure that it uses the services in such a way as not to interfere with or impair the service to any other users, impair privacy of communications, cause damage or create hazards to the employees of Access Provider, any third party, or to the public.

b. Access Provider shall obtain and comply with all licenses, consents and approvals which govern the provision of the services to Access Provider to Access Seeker and undertakes not to provide the services in contravention of any law or regulatory requirement.

c. Access Seeker shall obtain and comply with all licenses, consents and approvals which govern the use of the services and undertakes not to use the services in contravention of this Agreement, any law or regulatory requirement.

d. Access Seeker shall be liable to Access Provider, for any damage or impairment caused by any breach in the obligations of Access Seeker which are not caused by Access Provider, its subsidiaries, associates, employees or sub-contractors.

e. Access Seeker shall only use the Access Provider's network, systems and capacities as

identified in this Agreement in accordance with the Laws of the Kingdom of Saudi Arabia and, in particular, the Telecommunications Act and the Commission Statutes and shall not use the services for any improper or unlawful purpose. Access Seeker shall indemnify Access Provider in respect of any breach of this clause.

9. Technical aspects

- (1) The technical, operational and procedural aspects related to this Agreement are documented in the Schedules to this agreement.
- (2) The Parties shall set up and maintain a bilateral "Joint Technical Committee" (JTC) to manage all technical, operational related issues of the Services provided under this Agreement, holding meetings as required, until the delivery of the first patch of orders. The JTC shall also meet for any major O&M issues during the first year of this Agreement.
- (3) Furthermore, the Parties agree that the JTC is mandated to conduct workshops following the signing of this Agreement to discuss all details of the agreed technical configuration. In case of any disagreement relating to such technical details, the JTC shall escalate such disagreement to the management of both Parties to resolve such issues.

10. Indemnification

- (1) Subject to the provisions of this Clause, either Party hereby agrees to indemnify, defend, protect and hold harmless the other Party and its employees, officers and directors, from and against, and assumes liability for: (i) any injury, loss or damage to any Person, tangible property or facilities of any Person (including reasonable attorney fees and costs) to the extent arising out of or resulting from the negligence or willful misconduct of the other Party, its officers, employees, affiliates, agents, contractors, licensees, invitees and vendors arising out of or in connection with the performance by either Party of its obligations under this Agreement; and (ii) any claims, liabilities or damages arising out of any violation by either Party of any regulation, rule, statute or court order of any Governmental Authority in connection with the performance by either Party of its obligations under this Agreement.
- (2) The Parties agree to promptly provide each other with notice of any claim which may result in an indemnification obligation hereunder. The indemnifying Party may defend such claim with counsel of its own choosing provided that no settlement or compromise of any such claim shall occur without the consent of the indemnified Party, which consent shall not be unreasonably withheld, delayed, or denied.
- (3) Each Party expressly recognizes and agrees that its obligation to indemnify, defend, protect and save the other Party harmless is not a material obligation to the continuing performance of its other obligations, if any, hereunder. In the event that a Party shall fail for any reason to so indemnify, defend, protect and save the other harmless, the injured Party hereby expressly

recognizes that its sole remedy shall be the right to bring legal proceedings against the other Party for its damages as a result of the other Party's said failure to indemnify, defend, protect and save harmless. These obligations shall survive the expiration or termination of this Agreement.

11. Intellectual property rights and infringements

(1) Both Parties shall not use any name, trademarks or any other intellectual property rights of each other in promoting business or supplying services to their Customers or in any manner whatsoever unless expressly authorized in writing by both to one another. In addition, Neither Party shall:

- a. Use the other Party's Intellectual Property Right (IPR) in promoting its business or supplying services to its Customers or in any manner whatsoever unless expressly authorized in writing by the Party; or
- b. Allow any third party, to use any of the other Party's IPR unless expressly authorized in writing by such Party.

(2) It is acknowledged and agreed that:

- a. The Access Provider name, Trademarks and IPR are the exclusive property of Access Provider or related corporation; similarly, the Access Seeker Name, Trademarks and IPR are the exclusive property of the Access Seeker. Nothing in this Agreement shall be construed as conferring neither Party any proprietary or other intellectual property rights to any of the other Party's names, trademarks and logos.
- b. All existing goodwill in a Party's name, Trademarks and IPR is vested in, and all future goodwill in such Party's name, Trademarks and IPR will vest in, and will remain the exclusive property of such Party (or their designees), as the case may be.

12. Default

(1) If Access Seeker fails to make payment of any undisputed invoice required by this Agreement on the date when the payment is due, or otherwise is in breach of this Agreement, the Access Seeker shall be deemed to be in default of this Agreement and such default shall be dealt with as follows:

- a. Access Provider shall provide Access Seeker with [PERIOD] calendar day notice to remedy the alleged default. Access Provider shall have the right to suspend its performance under this Agreement until such time as the payment has been resolved, provided that a further [PERIOD] calendar day notice has been given to Access Seeker notifying the latter of Access Provider's intention to suspend its performance. Within this further time period and before Access Provider is entitled to suspend any service

hereunder, the Parties shall use good faith efforts to first find a solution on a working level the failing of which shall mean escalation within each company for possible resolution.

- b. With regard to any default relating to the payment of the Charges, Access Provider may, at any time following such default, suspend the services to Access Seeker under this Agreement and/or terminate this Agreement in accordance with Clauses below.
- c. Access Provider may suspend the services under this Agreement and terminate this Agreement pursuant to the following procedure:

- 1. If full payment has not been made or such breach has not been remedied at the end of such [PERIOD] calendar days notification period, Access Provider may suspend the service relevant to the default of payment by giving Access Seeker a written notice of such effect. Also, Access Provider will notify in writing Access Seeker of its intent to terminate this Agreement, if full payment is not made or such breach is not remedied within an additional [PERIOD] calendar day notice.
- 2. If full payment has not been made or such breach has not been remedied at the end of such additional [PERIOD] calendar days notification period, Access Provider may terminate this Agreement by giving Access Seeker a written notice of such effect.

(2) A Party may terminate this Agreement by [PERIOD] calendar days written notice to the other Party (the "Breaching Party") if:

- a. The Breaching Party commits any material breach of any obligation under this Agreement and fails to remedy the breach within [PERIOD] days of the other Party giving written notice and details of the breach, and requiring the Breaching Party to remedy such breach; and
- b. The Breaching Party goes into liquidation, either compulsorily or voluntarily or administration or a receiver, administrative receiver or similar officer is appointed in respect of the whole or any part of the assets, or it makes an assignment for the benefit of, or composition or arrangement with, its creditors.

(3) Suspension of a service pursuant to clauses above shall not relieve Access Seeker from any obligations and/or liabilities under this Agreement, while the suspension continues. Access Provider shall be relieved of any liability to Access Seeker arising out of such suspension of the Links.

(4) In the event of termination of this Agreement, this Agreement shall be deemed to cease as of

the date of the notification period duly given. Termination of this Agreement pursuant to the above clauses shall not relieve Access Seeker from its obligations to make full payment, pursuant to this Agreement, of all amounts relating to any amounts invoiced up to and including the day this Agreement is terminated, and any such payments shall become immediately due on the date of termination.

13. Governing law and jurisdiction

(1) This Agreement shall be governed by and construed in accordance with the Laws of the Kingdom of Saudi Arabia.

14. Variation of agreement

(1) This Agreement and any of its provisions including pricing may only be amended, varied or added in writing and signed by the duly authorized representatives of Access Provider and Access Seeker.

15. Assignment of rights

- (1) Neither Party shall sell, assign, transfer or dispose of its rights, obligations or interests under this Agreement except to its legal successor or to a telecommunications entity being its subsidiary or a corporation which owns such Party, in which case an advance written notice shall be given in a timely manner by the assigning Party to the other Party.
- (2) No other sale, assignment, transfer or disposal of rights, obligations or interests other than those stated above is permitted without the express written permission of the other Party.

16. Dispute resolution

- (1) Should any dispute, controversy or claim arise out of or relating to this Agreement or the breach, termination or validity hereof arise between Access Seeker and Access Provider, the Parties shall first endeavor in good faith to reach an amicable settlement within a period of [PERIOD] days from the date on which one Party notifies the other, in writing of the existence of a dispute.
- (2) In the case that an amicable settlement within above period is not reached, the Parties may bring the issue to the CITC for dispute resolution pursuant to Chapter 6 of the Telecoms Bylaw.

17. Notice

- (1) Any notice given under this Agreement shall be in writing and signed by or on behalf of the Party giving it and shall be served by delivering it personally or sending it by pre-paid recorded delivery or registered post or fax to the address and for the attention of the relevant Party set out below or as otherwise notified by that Party hereunder. Any such notice shall be deemed to have been received:

- a. If delivered personally, at the time of delivery;
 - b. In the case of fax, at the time of transmission.
- (2) Provided that if deemed receipt occurs before 8 AM on a Business Day the notice shall be deemed to have been received at 9 AM on that day, and if deemed receipt occurs after 5 PM on a Business Day, or on a day which is not a Business Day, the notice shall be deemed to have been received at 9 AM on the next Business Day. For the purpose of this Clause, "Business Day" means any day which is not a Friday, Saturday or a public holiday in the place at or to which the notice is left or sent, provided the fax transmission proof is generated.
- (3) The addresses and fax numbers of the Parties for the purposes of this clause are:
- a. Access Provider: [REPRESENTATIVE AND CONTACT DETAILS]
 - b. Access Seeker: [REPRESENTATIVE AND CONTACT DETAILS]
 - c. Or such other address or facsimile number as may be notified in writing from time to time by the relevant Party to the other Party.
- (4) In proving such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant Party set out above or as otherwise notified by that Party hereunder and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery, registered post or air mail letter, or that the notice was transmitted by fax to the fax number of the relevant Party set out above (or as otherwise notified by that Party hereunder).
- (5) For the avoidance of doubt, notice given under this Agreement shall not be validly served if sent by e-mail.

18. Relationship of the parties

- (1) The relationship between Access Seeker and Access Provider hereto shall not be that of partners and nothing in this Agreement shall be deemed to constitute a partnership between them, and the common enterprise of the Parties hereto shall be limited to the expressed provisions of this Agreement.
- (2) Access Provider shall have no authority to enter into any obligation on behalf of Access Seeker or to bind Access Seeker in any way.

19. Confidentiality

- (1) Each Party shall assume the following obligation of confidentiality:
 - a. Both Parties, together with their affiliates, parent entities, partners, assigned

personnel, executives, officers, agents, employees, contractors, and any other person associated with the performance of this Agreement, are aware and acknowledge that this Agreement and all information and/or documents exchanged hereunder or that comes into any Party's possession/control during or on this occasion of this Agreement, whether existing or produced as a result of this Agreement, whether written or oral, or labelled as confidential or not, irrespective of the form/format of such information, are confidential (the "Confidential Information").

- b. Both Parties undertake not to, under any circumstances and at any time during or after the Term of this Agreement, disclose in any form to any party or permit any third party to have access to, examine and/or make copy of or use any such Confidential Information for any purpose, without the prior written approval of the other Party. It is acknowledged and agreed that both Parties may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available under law.
- c. All data and information acquired or received by either Party (the "the Receiving Party") in connection with or in anticipation of or under this Agreement shall be held confidential and shall not be divulged in any way to any third party, without the prior approval of the other Party (the "the Disclosing Party").
- d. Notwithstanding the above clauses, the Receiving Party may, without such approval but with written notice to the Disclosing Party, disclose such data and information, provided that a reasonable prior written notice is given to the Disclosing Party to enable it to limit the extent of such disclosure:
 - 1. To the extent required by any applicable law; or
 - 2. To any court of competent jurisdiction acting in pursuance of its powers.

(2) The Receiving Party shall remain bound by the provisions of this clause during the period of this Agreement and for a further period of [PERIOD] years following termination or expiry of this Agreement.

20. Warranty/limitation of liability

- (1) Access Provider shall provide the services using reasonable care and skill in accordance with industry standards. Except as expressly provided in the Agreement and to the fullest extent permitted by law, Access Provider shall have no other obligation, duty or liability whatsoever in contract, tort or otherwise to Access Seeker.
- (2) Neither Party shall be liable to the other Party in contract, tort or otherwise including, without limitation, any liability for negligence or for breach of statutory duty for:

- a. Any loss of revenue, business, contracts, anticipated savings, or profits (whether direct or indirect); or
- b. Any indirect, incidental, special or consequential damages or loss of goodwill, howsoever arising even if such loss was reasonably foreseeable.

(3) No exclusion or limitation under this Agreement shall apply in the case of:

- a. Fraud or fraudulent concealment; and
- b. Death or personal injury resulting from the negligence of either Party or any of its employees, agents or sub-contractors.

(4) Neither Party shall be liable to the other under the Agreement for any indirect or consequential loss or damage.

(5) Notwithstanding any Clause to the contrary hereof, the cap of either Party's liability for infringements of its obligations under this Agreement shall not exceed the amount of [AMOUNT] SAR.

(6) This Clause shall survive termination of this Agreement for whatever reason.

21. Authority approval

(1) The performance of this Agreement by the Parties is conditional upon the obtaining and continuance of such approvals, consents, authorizations, licenses and permits by the relevant authorities in the Kingdom of Saudi Arabia as may be required or be deemed necessary by the relevant Authorities.

22. Waiver

(1) No delay, neglect, or forbearance on the part of one Party in enforcing any terms or conditions of this Agreement to the other Party shall be deemed to be a waiver or in any way prejudice the rights of such Party under this Agreement, unless and until such enforcement has been waived in full in writing by Party. Any waiver in writing shall not be construed as a waiver of any subsequent breach or default of similar nature, or as a waiver of any such provisions, rights, or privilege hereunder, unless such waiver expressly so provides. Each and every right granted to a Party hereunder or allowed by law or in equity, shall be cumulative and may be exercised in part or in whole from time to time.

23. Severability

(1) If any of the provisions of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the

entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that some clauses of this Agreement are held to be invalid, the Parties shall meet to agree on a substitute clause(s) to regulate the Parties' rights and obligations.

24. Force majeure

- (1) If any Party of this Agreement cannot fulfil its obligations in this Agreement due to an event of Force Majeure, which shall include war, hostilities, acts of public enemy or belligerents, sabotage, blockade, revolution, insurrection, riot or disorder, expropriation, requisition, confiscation, interference by or restrictions or onerous regulations imposed by civil or military authorities whether legal or de facto, whether purporting to act under some constitution, decree, law or otherwise, acts of God, fire, flood, earthquake, storm, lightening, tide, tidal waves, floods or perils of the sea, unworkable weather, accidents of navigation or breakdown, whether or not by formal requisition, epidemic, quarantine, strikes or combination of workmen lockouts or other labor disturbance, explosions which are beyond the control of the affected, it shall not be liable to the other Party of this Agreement for such delay in performance or failure to perform provided that:
 - a. It shall give notice to the other Party, as soon as reasonably practicable after the event has occurred, of the nature and the likely duration of its impact on the other Party;
 - b. The Party giving notice takes all reasonable steps to mitigate the impact of the force majeure and perform all those obligations not affected by the event of force majeure;
 - c. The Party giving notice resumes performance of all affected obligations as soon as reasonably practicable of the force majeure event and notifies the other Party of such resumption.
- (2) In all cases, no event or circumstance shall be considered to be an event of Force Majeure to the extent such event or circumstance is due to the act, neglect or breach of this Agreement or of statutory duty by the Party claiming it or by any of its partners, employees, or other business dealers or service providers.
- (3) If the force majeure event continues for a period of [PERIOD] days, then either Party may by written notice terminate this Agreement with immediate effect. Upon termination of the Agreement under the terms of this clause, Access Seeker is legally entitled to a refund of the balance of the remaining life of facility pro-rated from the first day of occurrence of the persisting Force Majeure event until the expiry of the Term of this Agreement.

25. Entire agreement

- (1) This Agreement is composed of the following parts:

- a. Main Body
- b. Schedule 1: Technical Characteristics of the solution
- c. Schedule 2: Processes
- d. Schedule 3: Service Level Agreements
- e. Schedule 4: Interconnection of OSS and BSS and provision of information
- f. Schedule 5: Billable concepts and prices

26. Warranties and representations

(1) Each Party hereto warrants to the other Party hereto that it has the capacity, and that its representative signatory hereto has the authority, to enter into this Agreement, and that the provisions of this Agreement shall be binding on it and its successors and permitted assigns. Access Provider warrants to Access Seeker that it has the necessary rights to provide the Usage Rights.

27. Counterparts/execution of agreement

(1) This Agreement shall be executed in two (2) counterparts in the Arabic or in the English language by the duly authorized representative of Access Provider and Access Seeker. Each counterpart when so executed and delivered shall be original and such counterparts shall together (as well as separately) constitute one and the same instrument.

(2) IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed by their duly authorized representatives.

For and on behalf of

Access Provider

Signature:

Name:

Title: Title:

For and behalf of

Access Seeker

Signature:

Name:

SCHEDULE 1: TECHNICAL CHARACTERISTICS OF THE SOLUTION

[This schedule shall include the technical characteristics agreed between the parties. This schedule should include at least the following elements:

- Network architecture and explanatory diagrams
- Ownership and responsibility of customer-specific equipment and any other network elements
- Potential handover demarcation points
- Service handover and interconnection standards used
- Traffic management mechanisms (if any)
- Available speeds and QoS (if any)
- Packet / frame tagging conventions
- Technical KPIs and SLAs if apply (e.g. max jitter, delay, contention ration, packet loss ratio)]

SCHEDULE 2: PROCESSES

[This schedule shall include the processes agreed between the parties. This schedule should include at least the following elements:

- Order provisioning and service activation
- Fault reporting and problem handling
- Changes in existing services
- Line termination
- Service relocation
- ONT replacement
- Service suspension]

SCHEDULE 3: SERVICE LEVEL AGREEMENTS

[This schedule shall include the SLAs agreed between the parties. This schedule should include at least the SLAs associated to following elements:

- SLAs associated to processes:
 - Order provisioning and service activation
 - Fault reporting and problem handling
 - Changes in existing services
 - Line termination
- SLAs associated technical KPIs:
 - Fault Rate
 - Actual speed over nominal figures]

SCHEDULE 4: INTERCONNECTION OF OSS AND BSS AND PROVISION OF INFORMATION

[This schedule can include elements such as:

- Interconnection of Operative Support Systems and Business Support Systems, mechanisms and technical details.
- Information to be shared and how.]

SCHEDULE 5: BILLABLE CONCEPTS AND PRICES

[This schedule should include a complete list of billable concepts together with units of measurement and prices]



هيئة الاتصالات وتقنية المعلومات
Communications & Information
Technology Commission