



REFERENCE ACCESS OFFER (RAO)

Issued pursuant to the Malaysian Communications and Multimedia Commission Determination on Access List, (Determination No. 2 of 2015) and the Malaysian Communications and Multimedia Commission Determination on Mandatory Standard On Access, (Determination No. 3 of 2016).

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(With effect from 1st January 2020)

Reference Access Offer

CHAPTER 1 – INTRODUCTION, BACKGROUND AND SCOPE

1.1 Introduction

1.1.1 This Reference Access Offer is made by Pancar Bakti Sdn. Bhd. (Registration No: 201601001906 (1172832-M)), a company incorporated under the Laws of Malaysia and having its business address at C-7-1 Jalan Serai Wangi H 16/H, Persiaran Selangor Seksyen 16, 40200 Shah Alam, Selangor.

1.1.2 This Reference Access Offer is hereby referred to as Pancar Bakti's RAO.

1.2 Background

1.2.1 Following the issuance of the Malaysian Communications and Multimedia Commission Determination On Access List, Determination No. 2 of 2015 and the Malaysian Communications and Multimedia Commission Determination on Mandatory Standard On Access, Determination No. 3 of 2016.

1.2.2 MSA Determination Obligations

- a) The MSA Determination deals with access to network Facilities and/or Services included in the Access List and sets out the obligations that apply to Access Seekers concerning various access issues which include:
 - (i) Disclosure Obligations;
 - (ii) Negotiation Obligations;
 - (iii) Content Obligations;
 - (iv) Service Specific Obligations.
- b) Disclosure obligations are as set out in Section 5.3 of the MSA Determination.
- c) Negotiation obligations are as set out in Section 5.4 of the MSA Determination.
- d) Content obligations are as set out in Section 5.5 of the MSA Determination.

1.3 Scope of Pancar Bakti's RAO

1.3.1 Pancar Bakti is a licensed individual network facilities and services provider under the Act. Pursuant to the licence, Pancar Bakti may offer network facilities, services within Malaysia.

1.3.2 Pursuant to Section 5.3.3 of the MSA Determination, Pancar Bakti is obliged to prepare and maintain a **Reference Access Offer** in relation to network facilities on the Access List which Pancar Bakti provides to itself or third parties.

1.3.3 Pancar Bakti's RAO:

- a) Contains all the terms and conditions which are consistent with the rights and obligations set out in the MSA Determination; and

- b) Does not include terms and conditions which are inconsistent with the rights and obligations set out in the MSA Determination.
- 1.3.4 Where relevant, the rights and obligations set out in the MSA Determination shall be applicable to Pancar Bakti's RAO.
- 1.3.5 Pancar Bakti consider Pancar Bakti's RAO to be consistent with:
- a) The standard access obligations stipulated under Section 4.1.1 of the MSA Determination and Section 149 of the Act; and
 - b) The principals of the non-discrimination stipulated under section 4.1.5 and 4.1.6 of the MSA Determination.
- 1.3.6 This Pancar Bakti's RAO shall be deemed to be an offer to enter into a legally binding agreement. Pursuant to Section 2.2.2 MSA Determination, Pancar Bakti's RAO shall be capable of being signed as an Access Agreement or further negotiated by the Pancar Bakti and Access Seeker.
- 1.3.7 Pancar Bakti's RAO has no effect on contractual agreements for the supply of facilities by Pancar Bakti to an Access Seeker prior to the Commencement Date unless and until such contractual agreement is subsequently agreed and/or renegotiated between the Access Seekers.
- 1.3.8 Pancar Bakti's RAO includes all the terms and conditions that Pancar Bakti will require in an Access Agreement, including all the services provided by Pancar Bakti pursuant to the Access List.

1.3.9 Pancar Bakti shall not refuse to enter into an Access Agreement with any Access Seeker on the terms of Pancar Bakti's RAO.

1.3.10 Subject to Section 4.6.1 of this RAO, Pancar Bakti shall be entitled to refuse to enter into an Access Agreement if:

- (a) the Access Seeker is deemed not to be agreeable with Pancar Bakti's RAO; or
- (b) make unreasonable request or terms pursuant to Section 4.1.2, 4.1.3 and 4.1.4 of the MSA.

1.4 Amendments to Pancar Bakti's RAO

1.4.1 If Pancar Bakti wishes to amend any term of the RAO, Pancar Bakti must, no less than twenty (20) Business Days provide a copy of the amended RAO showing the proposed changes to the existing RAO, to:

- a) the Access Seeker who is being provided with access to network facilities listed on the Access List under Pancar Bakti's RAO; and
- b) The Access Seeker who has requested Pancar Bakti's RAO within the period of 3 months prior to the making of such amendments, unless the Access Seeker has already indicated that it does not wish to proceed with an Access Request.

1.4.2 When RAO is being amended, Pancar Bakti shall upon expiry of the twenty (20) Business Days in subsection 1.4.1 (or such longer period as Pancar Bakti determines is necessary to finalize the amendments to its RAO), Pancar Bakti will:

- i. make available the amended RAO on the Pancar Bakti's publicly accessible website without delay (including updating its date and version number, both on the cover and on each page of the document); and
- ii. provide the updated RAO to the Commission within (10) Business Days after being available under paragraph 1.4.2(i).

For clarification:

- i. nothing in subsection 1.4.1 of this Pancar Bakti's RAO prevents an Access Seeker from initiating a dispute in relation to an amendment to a RAO made by Pancar Bakti under this subsection;
- ii. where the terms and conditions of an Access Agreement are not identical to those in the existing RAO, an amendment to the RAO will not alter the terms of that Access Agreement except as agreed between Pancar Bakti and Access Seeker; and
- iii. without prejudice to an Access Seeker's right to dispute a change to a RAO, where the terms and conditions of an Access Agreement are identical to those in the existing RAO, an amendment to the RAO will be deemed to alter the relevant terms and conditions of that Access Agreement. However, if the Access Seeker disputes the change to the existing RAO, no amendments to the Access Agreement will be deemed to occur unless and until such dispute is resolved in favour of Pancar Bakti.

1.5 Notice of Withdrawal, Replacement and Variation of Pancar Bakti's RAO

- 1.5.1 If the Commission withdraws, replaces or varies the Access List Determination relating to the network facilities in accordance to the Access List under Section 56 of the Act, Pancar Bakti may, by giving written notice of its intention to terminate or vary to all Access Seekers to whom it is supplying network facilities under Pancar Bakti's RAO. The notice period must be no shorter than:
- i. the period of time between the time of giving notice and the time at which the Pancar Bakti is proposing to no longer provide the network facilities; or
 - ii. twelve (12) months.

1.6 Availability

- 1.6.1 Pancar Bakti's RAO shall be made available to an Access Seeker:
- a) on written request, at Pancar Bakti's principle place of business; and
 - b) on a publicly accessible website at www.pancarbakti.com.my
 - c) Prior to the provision of Pancar Bakti's RAO to the Access Seekers, the Access Seekers shall be required to enter into a Confidentiality Agreement which shall be made separately.

CHAPTER 2 – DEFINITION AND INTERPRETATION

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

"Act" means the Communications and Multimedia Act 1998

"Access Agreement" means an agreement which is commercially negotiated between the Access Seekers, whereby Pancar Bakti provides requested Facilities listed in the Access List Determination to the Access Seeker in accordance with the terms therein contained and registered with the Commission in accordance with Section 150 of the Act.

"Access List" means the list of Facilities determined by the Commission under Section 146 of the Act.

"Access List Determination" means the Commission Determination on Access List, Determination No.2 of 2015 which came into force on 1st September 2015.

“Access Request” means a request for access to Facilities on the Access List Determination made by the Access seeker to Pancar Bakti and containing the information in Section 4.1.3.

“Access Seeker” means an Access Seeker who;

- a) is a network facilities provider, network service provider, application service provider or content application service provider and who is a licensee as defined in the Act; and
- b) makes a written request for access to the Facilities listed in the Access List Determination.

“Access Service” in relation to the network facilities means a service as specified in the Pancar Bakti's RAO that are provided by Pancar Bakti to the Access Seeker to an Access Request.

“Pancar Bakti” means Pancar Bakti Sdn Bhd and in Pancar Bakti's RAO, is Pancar Bakti unless otherwise stated.

“Associated tower sites” is the space surrounding the tower where the Access Seeker may place its cabin or outdoor support equipment including space required for cable gantry connecting to the tower and generator-set and including necessary right of way and permission to dig.

“Bank Guarantee” means the guarantee executed and to be granted to Pancar Bakti on behalf of the Access Seeker by a bank.

“Billing Dispute” means the dispute of an invoice prepared by an Access Seeker to the Other Access Seeker which is made in good faith.

“Billing Period” means the period over which the supply of access to Facilities or Service is measured for the purpose of billing as contemplated in Chapter 6, which shall be no more than thirty one (31) days and in accordance with the relevant calendar month, unless otherwise agreed between the Access Seekers.

“Business Day” means a day on which banks are open for general banking business in Kelantan, other than a Friday and Saturday or a public holiday.

“Charges” means the sums payable by the Access Seeker to Pancar Bakti for the provision of Facilities listed in the Access List Determination.

“Commencement Date” means the date on which the Access Seekers enter into the Access Agreement or such other dates as agreed between the Access Seekers.

“Commission” means the Malaysian Communications and Multimedia Commission established under the Malaysian Communications and Multimedia Commission Act 1998

“Communication” means any communication, whether between persons and persons, things and things, or person or things in the form of sound, data text, visual images, signals or any other form or any combination of those forms and, where the

context permits, includes a Communication Attempt. For the purpose of clarification, this includes Message Communications.

“Confidentiality Agreement” means a confidential agreement entered into between the Access Seekers in accordance with Section 5.3.8 of the MSA Determination.

“Creditworthiness Information” means the information required by Pancar Bakti to assess the creditworthiness of the Access Seeker which is more particularly described in Section 4.2 of Pancar Bakti’s RAO and such other information as may be required from time to time.

“Determination” means any lawful determination made by the Commission and/or the Minister, pursuant to the Act.

“Direction” means any lawful direction made by the Commission pursuant to Chapter 1 of Part V of the Act.

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

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

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

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

“Handover Date” means the date on which access to be the Infrastructure as endorsed by a Certificate of Acceptance hereunder is given to the Access Seeker for installation of Equipment at that Site. **“Handover”** shall be construed accordingly

“Infrastructure sharing” shall have the meaning as defined in **Part I of Schedule A**

“Insurance Information” means the insurance information required by Pancar Bakti pursuant to **Section 4.4**

“Invoice” means the invoice for amounts due in respect of the supply of requested Facilities listed in the Access List Determination during a Billing Period

“License” means an individual license granted by the Minister pursuant to the Act for Communication Services

“License Fee” means the monthly fee payable by an Access Seeker

“Manuals” means the Technical and Implementation Manual, the Access Seekers and Maintenance Manual and Other Manuals which the Access Seekers establish pursuant to the Access Agreement

“Minimum Value” for the purpose of calculating the Security Sum means the total estimated value of access to the requested Facilities provided (based on the most recent amounts invoice for those requested Facilities) or to be provided by Pancar Bakti to the Access Seeker for a ninety (90) days period.

“Minister” means the Minister of Communications and Multimedia or, if different, the Minister administering the Act

“Operator” means Pancar Bakti or Access Seeker as the context requires

“Regulatory Event” means:

- (a) the declaration, modification, variation or revocation of the MSA Determination;
- (b) the giving of the lawful direction to Pancar Bakti by the Commission relating to Pancar Bakti's RAO; or
- (c) the giving of lawful direction to Pancar Bakti by the Minister relating to Pancar Bakti's RAO

“Review” means a review of the MSA Determination pursuant to Section 7.5 of the MSA Determination

“RM” means Ringgit Malaysia which shall be the monetary currency used by Pancar Bakti's RAO unless otherwise provided

“R.O.W” means right of way

“**Security Sum**” means the security, either in the form of a Bank Guarantee or cash, deposited with Pancar Bakti for the supply of Facilities listed on the Access List Determination which is more particularly described in **Section 4.3**; and which amount is equivalent to the Minimum Value

“**Services**” means network services and/or other services which facilitate the provision of network services or application services

“**Standard Access Obligations**” has the meaning prescribed in section 149 of the Act

2.2 In Pancar Bakti’s RAO except where the contrary intention appears;

- a) the singular includes the plural and vice versa; and
- b) a document includes all amendments or supplements to that document, or replacements or novation of it; and
- c) a reference to statute, ordinance, regulations, code or other law and other instruments under it, shall include any statute, ordinance, regulation, code and other law consolidating, amending, re-enacting or replacing of any of them from time to time relating thereto or in connection therewith; and
- d) a reference to a person includes a firm, body corporate, unincorporated association or an authority; and
- e) a reference to a person includes the person’s executors, administrators, successors, substitutes (including, without limitation, persons taking by novation), and assigns; and
- f) if the day on which the payment of money falls due is not a Business Day, the due date shall be deemed to be the Next Business Day and any reference to Act

that have to be done or to be done by or on before a particular day or Business Day means by or on before a particular day or Business Day means by or on before the close of business at 5.00pm on that particular day or Business Day; and

- g) a reference to a related body corporate of an Access Seeker has the same meaning as in the Companies Act 1965; and
- h) a reference to a third person is a reference to a person who is not a party to this RAO; and
- i) headings are included for convenience and do not affect the interpretation of Pancar Bakti's RAO

CHAPTER 3 – PRINCIPLES OF ACCESS

3.1 Services

- 3.1.1 Pancar Bakti's RAO applies only to Facilities listed on the Access List Determination
- 3.1.2 The service description for each of the Facilities is set out in Schedule A
- 3.1.3 Access Seekers Planning Information are set out in Schedule B
- 3.1.4 Charging Principle are set out in Schedule C

3.2 Eligibility for Access to Service

- 3.2.1 For the purposes of clarification, consistent with Government policy and Determinations by the Commission (and by its predecessors) an Access seeker may only request for access to any or all the of the Facilities listed in the Access List

Determination which are set out in Pancar Bakti's RAO where the Access Seeker has been granted in the following:

For individual license:

- (i) a network facilities provider;
- (ii) a network service provider;
- (iii) content applications service provider;

For class license:

- (i) a network facilities provider;
- (ii) a network service provider;
- (iii) content applications service provider; or
- (iv) applications service provider.

and such individual licenses are not limited or restricted from those detailed in the *Communications and Multimedia (Licensing Regulations 2000*, as amended in any way):

- a) by the reference to the type of network facilities, network services and/or content applications services that can be provided; and
- b) by geographical limitations to only a specific area and/or area in Malaysia to which the Access Seeker can provide such network facilities, network services and or content applications services

Consistent with Government policy and Determinations by the Commission (and its predecessors), where Pancar Bakti provides the Access Seeker with access to the Facilities listed in the Access List Determination, the charges for the requested Facilities shall be negotiated between the Access Seekers.

3.3 Principles of Access

3.3.1 Pancar Bakti shall subject to Section 3.2, if requested to do so by an Access Seeker through an Access Request, supply a Facility listed in the Access List Determination to the Access Seeker on reasonable terms and conditions to be entered separately between the parties

3.3.2 In supplying a Facility listed in the Access List Determination, Pancar Bakti must treat an Access Seeker on the non-discriminatory basis as required by the Standard Access Obligations in relation to the Supply of a Service

3.3.3 Principles of non-discrimination

As required by subsection 149(2) of the Act, Pancar Bakti must provide access to those Facilities and/or Services specified in the Access List Determination, and such access must be:

- a) of at least the same or more favorable technical standard and quality as the technical standard and quality provided for itself on Pancar Bakti Facilities and/or Services; and
- b) provided on an equitable and a non-discriminatory basis.

3.3.4 No exclusivity and no restriction on resale

(a) Pancar Bakti 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 acquiring the same or any other Facility and/or Service from another Operator.

- (b) Pancar Bakti 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.

3.3.5 Customer Principles

- a) Pancar Bakti shall observe and comply with the customer relationship principles set out in Section 4.3 of the MSA Determination.

CHAPTER 4 – ACCESS REQUEST PROCEDURES

4.1 Application for Access to Services

4.1.1 An Access Seeker shall request Pancar Bakti to supply Facilities listed in the Access List Determination to it by serving an Access Request to Pancar Bakti.

4.1.2 The purpose of such Access Request is to provide Pancar Bakti with sufficient information to assess the Access Seeker's request for the supply of Facilities listed in the Access List Determination under Pancar Bakti's RAO.

4.1.3 The Access Request must:

- a) contain the name and contact details of the Access Seeker;

- b) specify the Facilities listed in the Access List Determination in respect of which access is sought;
- c) indicate whether the Access Seeker wishes to accept Pancar Bakti's RAO or negotiate an Access Agreement;
- d) contain the information (if any) as set out in Section 5.3.7 of the MSA Determination that the Access Seeker reasonably requires Pancar Bakti to provide for the purposes of the access negotiations;
- e) contain two (2) copies of Confidentiality Agreement properly executed by the Access Seeker in the form prescribed by Pancar Bakti in Annexure 1;
- f) provide the relevant information relating to the Access Seeker's Network and the functionality of its services, to the extent that the Access Seeker is aware that such information may affect Pancar Bakti's Network;
- g) specify the type of communications licenses held by the Access Seeker and a copy of the license where a copy had not been previously provided;
- h) contain Creditworthiness Information as set out in Section 4.2;
- i) be accompanied by a Security Sum as set out in Section 4.3, if required;
- j) contain Insurance Information as set out in Section 4.4;
- k) contain relevant technical information relating to the interface standards of the Access Seeker;
- l) contain preliminary information regarding the scale and scope of Facilities and/or Services that the Access Seeker expects to acquire from the Pancar Bakti pursuant to the Access Request; and
- m) contain such other information that Pancar Bakti may reasonably request for the sole purpose of providing access to the requested Facilities and/or Services.

4.2 Credit Worthiness Information

4.2.1 The Creditworthiness Information that is required to accompany an Access Request includes but shall not be limited to:

- a) a letter, signed by the executive director of the Access Seeker, stating the Access Seeker is not insolvent and is not under any external administration or under similar form of administration under any laws applicable to it in any jurisdiction;
- b) a copy of the Access Seeker's most recently published audited balance sheet and audited profit and loss statement; and
- c) such other information as may be reasonably requested by Pancar Bakti provided that such information is information which are publicly available.

4.2.2 The Creditworthiness Information shall commensurate with an estimate of the value of the access to the Facilities to be provided by Pancar Bakti to the Access Seeker over a ninety (90) day period.

4.3 Security Sum

4.3.1 Pancar Bakti may request a Security Sum from the Access Seeker in the event that the Access Seeker is deemed to present a credit risk. The Security that may be given by the Access Seeker may be in term of either:

- a) Bank Guarantee; or
- b) Cash Sum.

4.3.2 Pancar Bakti is not obliged to consider entering into an Access Agreement with the Access Seeker pursuant to Pancar Bakti's RAO until the Access Seeker has amongst other things, provided (at the Access Seeker's costs) to Pancar Bakti such Security Sum on terms and conditions reasonably acceptable to Pancar Bakti.

4.4 Insurance Information

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

- a) Worker's Compensation and/or Social Security Insurance and/or Employer's Liability Insurance and/or other insurance with statutory limits as required by the laws of Malaysia to provide for payment to its employees employed or in connection with the work covered by the Access Agreement that may be entered into and/or their dependents; and
- b) Comprehensive General Liability Insurance of an amount which is not in excess of Ringgit Malaysia Twenty Million (RM20,000,000.00) for any one claim or series of claims arising out of an accident or occurrence in connection with the Access Agreement that may be entered into resulting in bodily injury and/or personal including death and property damage of an Access Seeker which may arise out of or in consequence of any acts or omissions of the Other Access Seeker. Such policy shall include contractual liability

4.4.2 For the purpose of clarification, the insurance provided by the Access Seeker pursuant to Section 4.4.1 shall commensurate with the reasonable sum which is to be agreed by Pancar Bakti as specified under section 4.4.1 of this RAO and subsection 5.3.10 of the MSA.

4.5 Processing of Access Request

4.5.1 Acknowledgement of Receipt of access request Pancar Bakti shall, within ten (10) Business Days of receipt of the Access Request, inform the Access Seeker in writing that it has received the Access Request and:

- a) subject to section 4.5.3, request additional information from the Access Seeker where there is a need for further information, prior to considering the Access Request;
- b) indicate whether it is willing to provide access to Facilities listed in the Access List Determination in accordance with Pancar Bakti's RAO; or
- c) states that Pancar Bakti is willing to proceed to negotiate an Access Agreement.

Subject to the additional information being received by Pancar Bakti within ten (10) Business Days from the date of request, Pancar Bakti shall reconsider the Access Request in accordance with this Section 4.5.1 upon receipt of such additional information. Pancar Bakti shall also provide a copy of its response and its willingness to the Access Seeker and the Commission simultaneously.

4.5.2 Request for information

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

4.6 Assessment of Access Request

4.6.1 Reasons for Refusal.

Without limiting any other grounds that may be relied upon under the Act, Pancar Bakti may refuse to accept an Access Request for the supply of a Facility listed on the Access List Determination and accordingly may refuse to supply that Facility to the Access Seeker for any of the following reasons:

- a) in Pancar Bakti's reasonable opinion, the Access Seeker's Access Request was not made in good faith;
- b) in Pancar Bakti's reasonable opinion, the Access Request does not contain the information reasonably required by Pancar Bakti's RAO provided that Pancar Bakti has sought the information from the Access Seeker under Section 4.5.1 of Pancar Bakti's RAO and has not received that information within twenty (20) Business Days of making such a request;
- c) Pancar Bakti does not currently supply or provide access to the requested Facilities listed in the Access List Determination to itself or to any third parties, except where the access Seeker compensates Pancar Bakti for the supply of access to such Facilities;
- d) It is not technically feasible to provide access to the requested Facilities listed in the Access List determination;
- e) Pancar Bakti has insufficient capacity to provide the requested Facilities listed in the Access List Determination;
- f) There are reasonable grounds in Pancar Bakti's opinion to believe that the Access Seeker would fail to make timely payment for the supply

of the relevant Facility listed in the Access List Determination and such concern cannot be addressed through a security requirement in accordance with the MSA;

- g) There are reasonable grounds in Pancar Bakti's opinion to believe that the Access Seeker would fail, to a material extent, to comply with the terms and conditions applicable to the supply of the Facilities listed in the Access List Determination; or
- h) There are reasonable grounds for Pancar Bakti to refuse access in the national interest.

4.6.2 Determination of technical infeasibility.

For the purpose of determining technical infeasibility in section 4.6.1(d), the Access Seekers shall comply with Section 5.4.17 of the MSA Determination.

4.6.3 Determination of capacity constraints.

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

4.6.4 Assessment of the Access Seeker's ability to pay for supply of relevant Facilities listed in the Access List Determination.

Examples of reasonable grounds for Pancar Bakti's belief as mentioned in **Section 4.6.1(f)** mentioned above include evidence that the Access Seeker is not in the reasonable opinion of Pancar Bakti creditworthy and such concern cannot be addressed through a security requirement in accordance with the MSA.

4.6.5 Assessment of the Access Seeker's ability to comply with terms and conditions applicable to the supply of relevant Facilities listed in the Access List Determination.

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

4.6.6 Assessment of Creditworthiness.

a) in determining the creditworthiness of the Access Seeker, Pancar Bakti may have regard to the matters referred to in **Section 4.2:**

- i. if Pancar Bakti reasonably believes that the Access Seeker may not be able to meet any liabilities that may arise under an Access Agreement with the Access Seeker;
- ii. If the creditworthiness information sought is limited to information which is publicly available (on this basis, Pancar Bakti may request the Access Seeker to warrant that such information is accurate); and
- iii. to the extent commensurate with a commercially reasonable estimate of the charges that will be incurred by the Access Seeker over the minimum period of access to Facilities and/or Services in an Access Agreement.

b) in determining the creditworthiness of the Access Seeker, Pancar Bakti shall not take into account amounts outstanding for Facilities previously provided by Pancar Bakti to the Access Seeker where, in accordance with the terms and conditions governing the provision of such Facility or Service, the Access Seeker is not required to pay such amounts to Pancar Bakti to the extent that there is a bona fide dispute in relation to the amounts outstanding by the Access Seeker to Pancar Bakti and the Access Seeker

is relying on such terms and conditions as basis for its non- payment.

4.7 Notification of Rejection to the Access Seeker

4.7.1 Where Pancar Bakti rejects the Access Request, Pancar Bakti shall:

- a) notify the Access Seeker in writing within ten (10) Business Days from receipt of the Access Request or additional information requested pursuant to Section 4.5.1, as the case may be;
- b) provide reasons for rejection under Section 4.6 to the Access Seeker;
- c) provide the basis for Pancar Bakti's rejection of the Access Request; and
- d) indicate a date and time, not later seven (7) Business Days from the date of the notice of rejection, at which representatives of Pancar Bakti will be available to meet with representatives of the Access Seeker to discuss the rejection of the Access Request. At this meeting, the Access Seeker may request Pancar Bakti to substantiate its reasons for refusal, and if access has been refused on the basis of the grounds in section 4.6.1 (b), (e) and (f);
 - i. Pancar Bakti must identify when additional capacity is likely to be available.
 - ii. Pancar Bakti must reassess the Access Seeker's original Access Request considering any supplementary information provided by the Access Seeker;

- iii. Pancar Bakti 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 Facilities and/or Services, its reasons for the security requirement and why it considers such concern cannot be addressed through a security requirement in accordance with the MSA.

4.7.2 Where the Access Seekers are unable to resolve their differences following the meeting held pursuant to Section 4.7.1(d), either Access Seeker may request resolution of the dispute in accordance with Annexure A of the MSA Determination as stated in Annexure 2 of this RAO.

4.8 Acceptance of Access Request

4.8.1 Where Pancar Bakti agrees to provide access to Facilities listed in the Access List Determination to the Access Seeker in accordance with Pancar Bakti's RAO, Pancar Bakti shall within ten (10) Business days of such response under **Section 4.5.1(b)**, provide, the Access Seeker with two copies of the executed Access Agreement, for execution by the Access Seeker and one (1) copy of the executed confidentiality agreement which has been duly executed by the Access Seeker.

4.8.2 Where the Access Seeker wish to negotiate an Access Agreement, the Access Seekers shall comply with the requirement: -

- a) of Good Faith in Sections 5.4.2 of the MSA, where an Operator shall co-operate, in good faith and in commercially reasonable manner, in negotiating and implementing the terms of its Access Agreements. This includes:

- i. acting promptly, honestly and not perversely, capriciously or irrationally;
 - ii. avoiding the imposition of unreasonable restrictions or limitations on the provision of access to Facilities and/or Services (such as refusing to provide particular form that Pancar Bakti provides to itself); and
 - iii. avoiding unnecessary disputes and resolving disputes promptly and fairly;

- b) of Intellectual Property in Section 5.4.4 of the MSA, an Operator shall use such Intellectual Property and information provided by another Operator for the purposes of providing or acquiring access to requested Facilities and/or Services. An Operator must not use such Intellectual Property or information for the development or marketing of other communications services or Equipment by that Operator, its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest, or third parties;

- c) of Negotiation Response in Section 5.4.9 of the MSA, if Pancar Bakti is willing to proceed with negotiation of Access Request (as described in Section 5.4.7 (b) of the MSA), Pancar Bakti must set out in its response to the Access Seeker:
 - i. a place, date and time, not later than fifteen (15) Business Days from the date of Pancar Bakti's response, when Pancar Bakti's representative that is authorised to negotiate on Access Agreement, will be available for an initial meeting with the Access Seeker's representative that is authorised to negotiate on the Access Agreement; and

- ii. one (1) copy of the executed confidentiality agreement returned by the Access Seeker (in accordance with Section 5.4.6 (e) of the MSA) that has also been properly executed by Pancar Bakti; and

- (d) other additional matters as in Section 5.4.15 of the MSA where Pancar Bakti shall not do, or threaten to do, anything that has the effect or likely effect of, any of the following:
 - i. 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;
 - ii. refuse to negotiate access to the Facilities and/or Services because the Access Seeker has not agreed to acquire access to other Facilities and/or Services or because the Access Seeker has not agreed to acquire a particular configuration, option or feature of a requested Facilities and/or Services;
 - iii. require an Access Seeker to enter into a confidentiality agreement the terms of which would preclude the disclosure information requested by the Commission or required to be disclosed for the purposes of dispute resolution;
 - iv. require an Access Seeker to warrant that an Access Agreement complies with all applicable laws;
 - v. 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);
 - vi. make any negotiation condition on the Access Seeker first obtaining any regulatory approval or consent;

- vii. 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;
- viii. intentionally obstruct or delay negotiations or any dispute resolution process;
- ix. fail to nominate representatives who have sufficient authority and with sufficient availability to progress negotiations in a timely and efficient manner;
- x. fail to provide information that is necessary to conclude an Access Agreement including, without limitation;
 - a. information about Pancar Bakti s Network that Access Seeker reasonably requires in identifying the network elements or network components to which it requires access; and
 - b. information about the basis of the determination of rates, charges or fees.

4.8.3 Pancar Bakti will not be taken to have agreed to acquire the requested Facility listed in the Access List Determination until:

- a) if a security sum is deemed to be required from an Access Seeker, the security sum has been provided in accordance with Section 4.1 and 4.3; and
- b) an Access Agreement has been executed between the Access Seekers and the Access Agreement is registered with the Commission in accordance with Section 150 of the Act.

CHAPTER 5 – PROVISION OF INFORMATION

5.1 The obligations of each Operator to provide information to the Other Operator are subject to the MSA Determination and the requirements of confidentiality imposed in Pancar Bakti's RAO.

- 5.2 To the extent permitted by Malaysian law and any relevant guidelines or customer service standards in force pursuant to the Operator's respective License conditions, the Operators will exchange information and otherwise cooperate in relation to the prevention and investigation of fraudulent use or misuse of the Operator's respective Communications Services and the theft of the Operator's provided terminal equipment.
- 5.3 Information provided under Pancar Bakti's RAO may only be used for the purpose for which it was given, Personal Information about a Customer's credit worthiness, credit standing, and history or credit capacity may only be used for the purposes permitted by, and in compliance with Malaysian Law.
- 5.4 If the information is used by an Operator for any purpose other than the purpose for which it was given, the providing Operator may deny the recipient Operator further access to the information for the period during which the non-observance or non-conforming use continues on notice specifying the non-observance or non-conforming use continues. The Operator will cooperate to resolve the providing Operator's reasonable concerns so that information exchange can be resumed as soon as possible.
- 5.5 Subject to the Act and any subordinate legislation, nothing in the Access Agreement may be construed as requiring an Operator at any time to disclose to the Operator information which is at the date when the Access Agreement comes into force, the subject of a confidentiality obligation owed to a third person unless the third person consents to such disclosure. Where the consent of a third person is required, the Operator holding the information must use its reasonable endeavors to obtain the consent of that third person.

- 5.6 After the Access Agreement comes into force an Operator must use its best endeavors not to enter into any contract which would prevent it from making information available to the Operator unless the contract includes a term which permits the contracting Access Seeker to make the information available if the directed to do so by the Commission.

CHAPTER 6 – BILLING AND SETTLEMENT

- 6.1 Where relevant, the billing and settlement obligations set out in Section 5.11 of the MSA Determination shall be applicable.
- 6.2 The Access Seekers shall, from time to time, inform each other of the mailing address and the department to which the Invoice should be sent to and also their respective bank account details for the purposes of enabling the other Access Seeker to make payment. All Invoices shall be delivered by hand or post (either registered mail or courier).
- 6.3 The Access Seekers shall bear and pay all taxes as required by Malaysian law that result from the implementation of the Access Agreement.
- 6.4 The Access Seeker must pay any amount due and owing to the Pancar Bakti on the Due Date unless otherwise agreed in writing by Operators.
- 6.5 All payments must:
- a) be paid by electronic transfer to Pancar Bakti or exceptionally, by cheque to the nominated account(s) of Pancar Bakti if agreed by Pancar Bakti;

- b) be accompanied by such information as is reasonably required Pancar Bakti to properly allocate payments received, failing which Pancar Bakti shall have the absolute discretion to allocate payments received to any amounts due and payable; and
 - c) be paid on the Due Date unless otherwise agreed in writing by Operators.
- 6.6 All invoices shall be stated in ringgit Malaysia and payment must be made in Ringgit Malaysia (RM).
- 6.7 Notwithstanding anything to the contrary, Pancar Bakti shall be entitled to deduct or withhold such taxes, duties, levies or such other sums imposed by such governmental authorities (“said taxes”) from any sum or sums due to the Access Seeker in the event Pancar Bakti is required by law to pay the said taxes for and on behalf of the Access Seeker.
- 6.8 For the purpose of clarification, the Security Sum (if payable) does not relieve the Access Seeker from its obligations to pay amounts to Pancar Bakti as they become due and payable, nor does it constitute a waiver of Pancar Bakti right to suspend, disconnect, or terminate the relevant network services due to non-payment of any sums due or payable to Pancar Bakti.
- a) Pancar Bakti shall be entitled to revise the Security Sum (if payable) and any security requirements a maximum of once in twelve (12) month period, if there is a material increase in the credit risk to the Access Seeker due to changes in either or both of the circumstances under paragraphs 5.3.9(b)(i) and 5.3.9(b)(ii) of the MSA and if Pancar Bakti determines, acting

- reasonably, that the variation will materially reduce or remove the increased credit risk;
- b) Where the Security Sum is revised pursuant to Section 6.8 (a) above, the Access Seeker shall within five (5) Business Days from the written request of Pancar Bakti, deposit the new Security Sum with Pancar Bakti in the manner specified in Section 4.3 of Pancar Bakti's RAO; and
 - c) Where the Access Seeker deposit monies in lieu of a Bank Guarantee, such monies shall be deposited in a separate interest bearing account ("the said accounts") and any interest accrued thereon is held by Pancar Bakti in addition to the Security Sum, Pancar Bakti shall forward to the Access Seeker a statement of the said accounts annually.
- 6.9
- a) The Security Sum deposited by the Access Seeker with Pancar Bakti and any interest thereon shall only be used for the purposes set out in Section 6.8. Pancar Bakti may at its discretion call upon or deduct the Security Sum at any time after the Due Date or upon breach of any of the Access Seeker's obligation. Such utilization or deduction of the Security Sum shall not be construed as set-off or counterclaim.
 - b) Upon termination of the Access Agreement the Security Sum deposited with Pancar Bakti or parts thereof together with the interest thereon, (if any) shall be returned and/or refunded to the Access Seeker within sixty (60) days from the date of termination.

6.10 Billing Dispute Procedures

- a) Where there is a Billing Dispute, the Access Seekers shall comply with the dispute resolution procedures in **Annexure A of the MSA Determination** as stated in Annexure 2 of this RAO.

CHAPTER 7 - TERMINATION

7.1 Termination Obligations

This Access Agreement may be terminated or part thereof if any of the following circumstances apply and Pancar Bakti has notified the Access Seeker of its intention to terminate the Access Agreement: -

- a) The Access Seeker has materially breached the Access Agreement such breach shall have persisted for a period of thirty (30) days without correction and shall have caused Pancar Bakti inability to operate; or in the reasonable opinion of the non-breaching Party, the economic objective of the non-breaching Party shall have suffered or the non-breaching Party shall have sustained material risks or losses due to such breach;
- b) The Access Seeker is subject to winding up order; or
- c) A Force Majeure event have persisted for ninety (90) days;

Pancar Bakti shall forward to the Commission a copy of the notice of termination to the Access Seeker.

7.2 Approval

Prior to terminating or seeking to materially vary an Access Agreement or access to any Access Service(s) provided under it, Pancar Bakti must inform the Commission in writing of the action it proposes to take and the reasons why such action is appropriate. Pancar Bakti shall not terminate, suspend, or seek to materially vary the Access Agreement or access to any Access Service(s) until such time and on such conditions, as the Commission may warrant.

7.3 Suspension

Subject to section 7.4, Pancar Bakti may only suspend access to any Facilities and/or Services in the following circumstance:

- a) the Access Seekers' facilities and/or services materially and adversely affect the normal operation of Pancar Bakti's Network, or are a material threat to any person's safety;
- b) the Access Seeker's facilities and/or services or the supply of services pose an imminent threat to life or property of Pancar Bakti, its employees or contractors;
- c) the Access Seeker's facilities and/or services cause material, physical or technical harm to any other person;
- d) where the Access Seeker has failed to pay invoices in accordance with Chapter 6 of this RAO (and subject to any right that the Access Seeker has under subsection 5.11 of the MSA to dispute any amount in an Invoice);
- e) where the Access Seeker has failed to provide the new security amount as required under 6.8(a) of this RAO;
- f) where Force majeure applies; or

- g) the Access Seeker breaches any laws, regulations, rule or standards which has a material and adverse effect on Pancar Bakti of Facilities and/or Services.

7.4 Notice

Prior to terminating, suspending, or seeking to materially vary an Access Agreement or access to any Facilities and/or Services provided under it, Pancar Bakti must notify the Commission in writing of the action Pancar Bakti proposes to take and the reasons why it considers such action is appropriate. The Commission may invite any affected Access Seeker to make submissions to the Commission regarding the propose termination or material variation. Pancar Bakti:

- a) shall only give effect to the proposed termination, suspension or material variation with the Commission's written consent and subject to any time delay or conditions which the Commission may specify (if any). The Commission will endeavor to respond to Pancar Bakti's notice within ten (10) Business Days or such period that the Commission considers as reasonable;
- b) must not give effect to the proposed termination, suspension or material variation unless Pancar Bakti has received written consent from the Commission to such termination, suspension or material variation; and
- c) shall take all steps practicable to minimise disruptions and inconvenience to the Customers of the Access Seeker, including providing the Access Seeker with a reasonable period to make alternative arrangements prior to the suspension or

termination of the Access Agreement, or access to Facilities and/or Services provided under it.

SCHEDULE A

SERVICE DESCRIPTION

PART I – INFRASTRUCTURE SHARING

1. General

1.1 Part I of schedule A sets out the terms and conditions which are applicable to Infrastructure Sharing. Infrastructure Sharing is a Facility and/or Service which comprises the following;

- a) Provision of physical access, which refers to the provision of space at specified network facilities to enable an Access Seeker to install and maintain its own equipment or provision of access to in-building Common Antenna Systems and physical access to central equipment room.
- b) Specified network facilities include towers and Associated Tower Sites.
- c) Physical access includes power, environmental services (such as heat, light, ventilation and air-conditioning), security, site maintenance and access for the personnel of the Access Seeker.
- d) provision of space at Associated Tower Sites included space where the Access Seeker may place its cabin or outdoor equipment and space required for cable gantry connecting to the tower and generator set.

2. Pre-Requisites for Applying for Infrastructure Sharing

2.1 Pancar Bakti shall not be obliged to provide to Access Seeker Infrastructure Sharing for the Designated and associated Tower Sites unless:

- a) Pancar Bakti is the legal owner of the tower
- b) The Access Seeker has the appropriate licences from the relevant authorities to operate the service for the purpose for the equipment is to be installed; and
- c) There is no space constraint

3. Infrastructure Sharing

3.1 Pancar Bakti agrees to provide Infrastructure Sharing at the designated tower to the requesting Access Seekers in accordance with the terms of **Access Agreement** initially entered into between Pancar Bakti and another Access Seeker. The terms and conditions for **technical matters** are also spelled out in the said **Access Agreement**.

3.2 Duration of Infrastructure Sharing

3.2.1 Infrastructure Sharing at a designated Tower or agreed between Pancar Bakti and the Access Seekers, shall be for an Initial Period of ten (10) years with an option to renew for one (1) successive term of five (5) years (“Renewal Term”).

3.4 The term of the Infrastructure Sharing shall commence on the date (“**Handover date**”)

- a) The Access Seeker agrees to commence Infrastructure Sharing
- b) The Access Seeker takes physical possession of the shared space (“Shared Space”) at the Designated Tower or Associated Tower Site, after informing Pancar Bakti the exact location of the equipment/antenna.

4. Access Seeker's Obligations

4.1 The Access Seeker shall be responsible for and bear the cost of all electricity utilized by the Access Seeker at the Shared Space. Pancar Bakti shall provide the access for power supply at Access Seeker own cost and assist the Access Seekers for its own individual meter.

4.2 Installation of Equipment

4.2.1 The Access Seeker shall only be permitted to install its equipment, system and/or devices on the Shared Space and shall not be permitted to install any other party's equipment, system and/or devices on the Shared Space without the prior written approval of Pancar Bakti.

4.3 Safety and health and Security Procedures

4.3.1 Both Parties shall comply with the provisions and requirements of the occupational safety and Health Act 1994 ("OSHA"). These provisions include the usage of personal protective equipment such as safety helmet, safety boots, safety goggles and other safety gadgets as prescribed by OSHA.

4.3.2 The Access Seeker shall exercise due care in the execution of their work so as to prevent accidents and are required to report any incidents including but not limited to accidents as a result of their works to Pancar Bakti within twenty-four (24) hours from the time of the occurrence.

4.3.3 Both Parties shall comply and cause its employees, agents and contractors to comply with all guidelines, rules and regulations issued by the Commission from time to time on site access and security procedures with respect to access to and use of the Shared Space. Further the Access Seeker shall ensure the security of its Shared Space is such that no unauthorized person shall enter the Shared Space.

4.4 Sub-letting and Assignment

The Access Seeker shall not at any time sub-let, assign or lease the Shared Space to the others, unless consent has been granted by Pancar Bakti.

5. Forecast

5.1 Pancar Bakti shall only request Forecasts where:

- a) the maximum period of time covered by Forecasts regarding Infrastructure Sharing is one (1) year;
- b) the minimum intervals or units of time to be used in Forecasts regarding Infrastructure Sharing is one (1) year; and
- c) The maximum frequency to update or to make further Forecasts regarding Infrastructure Sharing is once a year.

6 Processing of Order for Infrastructure Sharing

6.1 Pancar Bakti shall acknowledge receipt of each Order for Infrastructure Sharing within two (2) Business Days.

- 6.2 Pancar Bakti must notify an Access Seeker that an Order for Infrastructure Sharing is accepted or rejected within ten (10) Business Days after:
- a) issuing the Notice of Receipt in respect of the Order, where Pancar Bakti did not undertake any post-Order Service Qualification for that Order under subsection 5.7.8 of the MSA; or
 - b) providing the Access Seeker with the result of post-Order Service Qualification where Pancar Bakti has undertaken post-Order Service Qualification Order under subsection 5.7.8 of the MSA.

7 Indicative Delivery Timeframe

- 7.1 Indicative Delivery Timeframe shall be for a term of forty (40) business days and shall commence from the Notice of Acceptance or confirmation of the Order under subsection 5.7.14 of the MSA.

8 Billing Cycle

- 8.1 The Billing Cycle for Infrastructure Sharing will be one (1) year in advanced for the first year and quarterly in advanced for subsequent years.

9 Physical Access

- 9.1 Pancar Bakti shall allow an Access Seeker, its nominated employees and/or contractors to physically access Pancar Bakti's network facilities and the Access Seeker's Equipment, and to have physical control over the Access Seeker's Equipment located at such network facilities, at equivalent times and in accordance with equivalent processes and procedures as are applicable to itself where:

- a) Pancar Bakti is required to fulfil an Order for Infrastructure Sharing; or
- b) for the Access Seeker to perform operations or maintenance activities

10 Escorts

10.1 Pancar Bakti is only permitted to require an escort to be present when nominated employees and/or contractors of the Access Seeker wish to enter into Pancar Bakti's property if Pancar Bakti requires an escort for its own employees or contractors in the same circumstances. If Pancar Bakti determines that it is necessary to have an escort present when the nominated employees and/or contractors of the Access Seeker wish to enter into the Pancar Bakti's property, Pancar Bakti shall:

- a) bear the costs of such escort service;
- b) provide immediate 24-hours a day, 7 days a week physical access to the Access Seeker for emergency maintenance requests subject to landowner's consent;
- c) subject to paragraph 6.8.9(d) of the MSA, provide physical access at the time requested by an Access Seeker for planned maintenance requests on the shorter of:
 - i. two (2) Business Days' notice for manned sites and five (5) Business Days' notice for unmanned sites; and
 - ii. the period of notice which it requires from itself when providing itself with physical access for planned maintenance;

- d) for both planned and emergency maintenance requests at unmanned sites only, have its escort arrive within the shorter of:
 - i. thirty (30) minutes of time required by the Access Seeker pursuant to paragraph 6.8.9(b) or 6.8.9(c) of the MSA (as applicable) plus a reasonable window to allow for travel time (which must be estimated in an operations and maintenance manual given to the Access Seeker, or estimated at the time of responding to the Access Seeker's physical access request); and
 - ii. the period of time it requires for its escorts to arrive for planned and emergency maintenance at unmanned sites.

11 Utilities and Ancillary Services

11.1 Pancar Bakti must, where the relevant utilities and ancillary services are within Pancar Bakti s control, ensure that all necessary utilities and ancillary services are provided to enable the Access Seeker to benefit from such access to the same extent that Pancar Bakti provides to itself, including but not limited to;

- a) Access to roads;
- b) Access to land;
- c) Power, including the provision of back-up power;
- d) Environmental services (including but not limited to heat, light, ventilation and air conditioning, fire, protection);

- e) Security, taking care to ensure that its agents, representatives or sub-contractors do not damage any Equipment, and keeping the location secure and protected from vandalism or theft; and
- f) Site maintenance

12 Cost

- 12.1 The utility and ancillary costs in respect of the network facilities as contemplated in Section 11.1 of this Schedule shall be apportioned (in accordance with fair and equitable principles) between Pancar Bakti and all Access Seekers at the relevant location.

SCHEDULE B

CHARGES

ACCESS SEEKERS PLANNING INFORMATION

SITE NAME	
TOWER HEIGHT	
TYPE OF TOWER	
DATE	

COORDINATE	
LONGITUDE	LATTITUDE

BTS INFO

ACCESS SEEKERS	BTS TYPE	BTS DIMENSION	CABIN / CABINET SIZE	PLINTH SIZE	NUMBER OF BTS
Access Seekers 1					
Access Seekers 2					

Access Seekers 3					
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RF ANTENNA INFO

ACCESS SEEKERS	ANTENNA QUANTIT Y	ANTENNA ORIENTATIO N	ANTENNA DIMENSIO N (MM)	ANTENN A HEIGHT	CABLE TYPE	CABLE LENGT H
Access Seekers 1						
Access Seekers 2						
Access Seekers 3						

MICROWAVE ANTENNA INFO

ACCESS SEEKERS	ANTENNA QUANTITY	ANTENNA AZIMUTH	ANTENNA SIZE	ANTENNA HEIGHT	CABLE TYPE	CABLE LENGTH
Access Seekers 1						
Access Seekers 2						
Access Seekers 3						

SCHEDULE C

TECHNICAL AND OPERATIONAL MATTERS

PART I – OPERATIONS AND MAINTENANCE

1. General

- 1.1 Where relevant, the operations and maintenance obligations set out in Section 5.12 of the MSA Determination shall be applicable.

2. Operations and Maintenance Standard

- 2.1 Each Access Seeker shall be responsible for the operations and maintenance of its own Network Facilities or Network Services.

3. Maintenance Procedures and Practices

- 3.1 Each Access Seeker shall on its own establish the recommended maintenance procedures for maintaining and servicing its own Network Facilities or Network Services.

4. Fault Management

- 4.1 The Access Seeker will manage their own Networks to minimize disruption to services and, in the event of interruption or failure of any service, will restore those services as soon as is reasonably practical.
- 4.2 In the event of failure of electric supply, Pancar Bakti shall provide alternative power supply as agreed in the **Access Agreement**.

5. Network Monitoring

5.1 Each Access Seeker is responsible for monitoring of alarms belonging to its own Network.

6. Contact Point or Mechanism

6.1 Pancar Bakti shall designate and notify an Access Seeker of one or more of the following:

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

7. Use of Ordering Information

7.1 Ordering information provided by the Access Seeker shall be treated by Pancar Bakti as Confidential Information of the Access Seeker and shall be used by those persons within the Pancar Bakti whose role is within:

- a) the Pancar Bakti's wholesale or interconnection group; and

- b) that part of network engineering group of Pancar Bakti responsible for interconnection or access, for the purpose of responding to and provisioning for the Order.

8. Notice of Receipt

8.1 Pancar Bakti must include in its Notice of Receipt the following information:

- a) the time and date of receipt of the Order;
- b) a list of any additional information reasonably required by Pancar Bakti from the Access Seeker to provision the Order;
- c) if the relevant Facilities and/or Services available to Pancar Bakti are below the capacity required to provide the relevant Facilities and/or Services to the Access Seeker, Pancar Bakti shall inform the Access Seeker of the available capacity and timeframe for the fulfilment of the Order at the available capacity and (if relevant) with such augmentation as may be required to fulfil the Order as submitted; and
- d) the position of the Order in the Pancar Bakti's queue.

9. Further Information

9.1 Pancar Bakti shall allow the Access Seeker a period of up to ten (10) Business Days after a request for additional information under section 8.1(b) to provide Pancar Bakti with such information.

10. Withdrawal of Order Following Service Qualifications

- 10.1 Pancar Bakti shall permit an Access Seeker to withdraw its Order without penalty (irrespective of whether Pancar Bakti has accepted the Order or not) before the earlier of:
- a) ten (10) Business Days after the Access Seeker receives the result of a Service Qualification; and
 - b) one (1) Business Day before Pancar Bakti commences civil works to provision the Order (where the civil works are required to provision the Facility and/or Service within the delivery timeframe specified in the Notice of Acceptance), and any civil works to be conducted must be subject to the issuance of a notice in writing by Pancar Bakti, which may be in the form of Notice of Acceptance if civil works is to occur after Pancar Bakti has accepted the Order.

11. Acceptance Obligation

- 11.1 Pancar Bakti shall use its reasonable efforts to accept and fulfil Orders from the Access Seeker for Facilities and/or Services which comply with a Forecast accepted by Pancar Bakti.

12. Notice of Acceptance

- 12.1 Pancar Bakti's Notice of Acceptance to the Access Seeker must contain the following information:
- a) the delivery date or activation date (as applicable), which must be the date that is requested by the Access Seeker, or, if that date cannot be met by Pancar Bakti, then no later than:

- i. the indicative delivery timeframe is forty (40) Business Days for the purpose of this section; or
- ii. the period of time taken by Pancar Bakti to deliver, or activate, such Facilities and/or Services for itself, whichever is shorter;
- b) the date when civil works (if any) are intended to commence;
- c) the charges applicable to fulfil the Order;
- d) such information as is reasonably necessary for the Access Seeker to benefit from access to the Facilities and/or Services; and
- e) the validity period, which shall be a period that is not shorter than three (3) months commencing from the date of the Notice of Acceptance ("Validity Period").

13. Commencement of Delivery Timeframes:

13.1 The applicable delivery timeframe for an Order shall commence from:

- a) where the Access Seeker's confirmation of an Order is required under subsection 5.7.15 of the MSA, the date the Access Seeker confirms the Order in accordance with that subsection; and
- b) in any other case, from the start of the Validity Period.

14. Access Seeker's confirmation:

14.1 The Access Seeker's confirmation of an Order is not required if Pancar Bakti accepts the Order without change. A change may include circumstances where delivery dates are delayed, estimated charges are exceeded, or any other matter that require further confirmation from the Access Seeker before Pancar Bakti can proceed with the Order.

14.2 Where the Access Seeker's confirmation is required for Pancar Bakti to proceed with the fulfilling an Order for under Section 14.1 above, Pancar Bakti shall permit the Access Seeker to provide its confirmation within the Validity Period and shall not provision the Order until the confirmation is received. Upon receipt of such confirmation, Pancar Bakti shall fulfil the Order in accordance with the Notice of Acceptance.

15. Estimated Charges

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

- a) The Access Provider shall not exceed the estimate without providing the Access Seeker with a written notice prior to exceeding the estimate that:
 - i. the estimate will likely be exceeded;
 - ii. an explanation of the reasons for exceeding the estimate; and
 - iii. a further estimate of the charges for the work necessary to fulfil the Order.

15.2 *Deleted.*

15.3 Where the actual cost incurred by Pancar Bakti exceeds an estimate or revised estimate for a specific scope of work provided by Pancar Bakti due to:

- a) information or facts provided by the Access Seeker which are inaccurate or erroneous or not disclosed by the Access Seeker; or
- b) a change in the scope of work by the Access Seeker;

the Access Seeker shall be obliged to pay Pancar Bakti for the actual cost incurred (but in no other circumstances); and

15.4 Pancar Bakti shall commence work after the Access Seeker confirms that it is agreeable to the estimate or revised estimate, whereby such confirmation is to be provided by the Access Seeker within the timeframe set out in section 12.1(e) or section 14.2 above, as applicable.

16. Reasons for Rejection

16.1 Pancar Bakti may only reject an Order from an Access Seeker where:

- a) it is not technically feasible to provide access to the Facilities and/or Services requested by the Access Seeker;
- b) Pancar Bakti has insufficient capacity to provide the requested Facilities and/or Services;
- c) the Order is in excess of the agreed Forecast levels;
- d) the Order or variation request duplicates an Order awaiting fulfilment;
- e) the Access Seeker has not obtained the necessary related agreements from Pancar Bakti;
- f) there are reasonable grounds to believe that the Access Seeker would fail to a material extent, to comply with the terms and conditions of the Access Agreement and such concern cannot be addressed to Pancar Bakti's satisfaction, acting reasonably; or

g) there are reasonable grounds to believe that the Access Seeker would fail, in connection with the supply of the Facilities and/or Services to protect the integrity of a Network, or the safety of individuals working on, or using services supplied by means of a Network or Equipment and such concern cannot be addressed to Pancar Bakti's satisfaction, acting reasonably (e.g. through the application of reasonable security or escorted access requirements).

17. Notice of Rejection

17.1 Pancar Bakti's notice of rejection of an Order to the Access Seeker must;

- a) set out the grounds on which Pancar Bakti rejects the Order, at a sufficient level of detail to enable the Access Seeker to understand the basis of the rejection and to undertake its own re-assessment of the Order; and
- b) offer to meet, and meet if the offer is accepted by the Access Seeker, within five (5) business Days of the notice of rejection of the Order to discuss the reasons for rejection and alternative methods of compliance.

18. Delivery dates

18.1 Pancar Bakti shall deliver the Order for the Facilities and/or Services by the delivery date or activation date (as applicable) as specified in the Notice of Acceptance or extended delivery date (if any) as determined in accordance with Section 19.

19. Early Delivery Dates

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

20. Delayed Delivery Dates

20.1 Where there is a delay in the delivery of an Order, and the delay is caused by Pancar Bakti;

- i. Pancar Bakti shall notify the Access Seeker of the delay to the delivery date, together with the reasons for the delay, as soon as practicable after Pancar Bakti becomes aware of the possible delay;
- ii. Pancar Bakti shall permit the Access Seeker to cancel the Order without penalty if the delay is longer than the equivalent time period for delivery of the Facility and/or Service; and
- iii. The delivery shall be extended for a further period as reasonably necessary, and Pancar Bakti shall promptly notify the Access Seeker of the revised delivery date;

21. Cancellation and Variation of Orders

21.1 Pancar Bakti shall allow an Access Seeker to cancel or vary an Order at any time subject to Section 21.

22. Cancellation or Variation Penalty

22.1 Pancar Bakti may impose a charge for the cancellation or variation of the Order and the charge which the Access Seeker is required to pay shall not exceed the lesser of the following amounts:

- a) the sum of costs necessarily incurred by Pancar Bakti which is directly attributable to the cancellation or variation; or
- b) an amount equal to the sum of charges that would have been payable by the Access Seeker in the six (6) months immediately following the cancellation or variation had the Order not been cancelled or varied and reduced to the extent that those costs have been mitigated or would have been mitigated had Pancar Bakti used its best endeavors to do so.

23. Late Delivery

23.1 If Pancar Bakti fails to meet the delivery date or any extended delivery date notified to the Access Seeker in accordance with section 19.1(a)(ii) of this schedule, except where such failure has been caused solely by the Access Seeker's delay or a lack of authorisation by a third party, Pancar Bakti shall, without limitation to any other rights the Access Seeker may have under subsection 5.7 of the MSA or law, provide a rebate to the affected Access Seeker. The rebate shall be calculated on the daily basis which shall be based on the rental fees payable by the Access Seeker subject to a maximum amount of fifteen (15) days of the rental fees. If Pancar Bakti alleges that a failure has been caused solely by the by the Access Seeker's delay or a lack of authorisation by a third party, Pancar Bakti shall have the burden of demonstrating:

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

24. Queuing policy

24.1 Pancar Bakti shall establish and maintain a queuing policy for each Facility and/or Service, which:

- a) shall be non-discriminatory;
- b) shall be applied to Orders and Service Qualifications of all Access Seeker and Orders and Service Qualifications for itself for the same or similar Facilities and/or Services, and shall treat the Orders and Service Qualifications of Access Seekers on an equivalent basis to that which Pancar Bakti treats Orders and Service Qualifications for itself for the same or similar Facilities and/or Services; and
- c) shall seek to maximize the efficiency of its ordering and provisioning process.

25. Acceptance on queue

- 25.1 Pancar Bakti shall promptly notify an Access Seeker at the time of providing an acknowledgement of receipt of the Order as specified in the Notice of Receipt under Section 8.1 of this Schedule, of their acceptance of and position in, Pancar Bakti's queue.

26. Constrained Capacity

- 26.1 If Pancar Bakti reasonably believes that the capacity in any Facilities and/or Services required by:

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

Would, in aggregate, exceed the capacity which Pancar Bakti will be in a position to be able to provide, Pancar Bakti must;

- a) Notify all Access Seekers to whom relevant capacity is supplied; and
- b) Allocate the available capacity between itself, the Access Seeker and other Access

Seekers in accordance with Pancar Bakti's Capacity Allocation Policy.

27. Capacity Allocation Policy

27.1 If Pancar Bakti claims or is likely to claim that it has insufficient capacity to meet an Access Seeker's Forecasts or Orders, Pancar Bakti shall maintain a Capacity Allocation Policy, which:

- a) Shall be disclosed, free of charge, to each Access Seeker upon entry into an Access Agreement, the Commission upon the Effective Date, to both Access Seekers with whom Pancar Bakti has an Access Agreement and the Commission each time it is amended, and any other Operator on request;
- b) Shall set out the principles in accordance with which Pancar Bakti shall determine how to allocate capacity between its own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest and other Operator, in circumstances where the amount of capacity available is less than the aggregate of capacity required by Pancar Bakti's own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest, and the other Operator;
- c) Shall:
 - i. be fair and reasonable;
 - ii. be consistent, so far as practicable, with Pancar Bakti's general duty of non-discrimination in accordance with subsection 149(2) of the Act;
 - iii. treat the requirements of all Access Seekers on an equivalent basis to the requirements of Pancar Bakti's own divisions, subsidiaries, partners or other entities in which it has a direct or indirect equity, contractual or other interest; and
 - iv. allocate the available capacity in the relevant Facilities and/or Services in proportion to each Operator's Forecast and/or Order requirements;

and

- d) Shall set out Pancar Bakti's plans to expand their capacity over time (if any), where such information must be provided to Access Seekers on a non-discriminatory basis in terms of its content and frequency of updates.

PART II – CHARGING PRINCIPLE

- a. The following rates shall be utilized as indicative rates for access to telecommunication structures below 30 meters (ranging from 15 meters to 30 meters) to be granted to an Access Seeker to install its Equipment thereat:

Structure Type	Rate for 1st to 7th Year			Rate for 8 th to 15 th Year		
	1W	2W	3W	1W	2W	3W
Streetlights/ Floodlights	RM5,500	RM3,967	RM3,173	RM4,125	RM2,975	RM2,380
Mosque Minarets	RM8,500	RM5,500	RM4,670	RM6,375	RM4,675	RM3,970
Other Aesthetic Structures	RM8,500	RM5,500	RM4,670	RM6,375	RM4,675	RM3,970

- i. Additional charge of RM1,500 monthly on the R.O.W of the fiber optic facility installation to Pancar Bakti structures in the event the fiber optic facility deployed or provided by Access Seeker or any other third-party provider appointed by Access Seeker.
- ii. However, in the event that the fiber deployed/provided by Pancar Bakti and paid through a leasing or other commercial arrangement with Access Seeker, there will be no additional charge on the R.O.W of the fiber optic installation.

- iii. The rates stated above and all rates stated in this RAO are exclusive of any taxes levied by the Government which shall be payable by the Access Seeker to Pancar Bakti over and above the Access Charges.
- iv. In the event the land rental for the Site as imposed by its landowner exceed the amount of RM2,500.00, the Access Seeker shall bear the sum in excess of the said land rental.
- v. Subject always to the availability of space in the Associated Tower Site and the loading of the Tower, an Access Seeker may upon agreement by Pancar Bakti be allowed to install its Equipment at any one of the unoccupied Tier(s) or Platform(s) (“Original Tier/Platform”) only as per below Standard Allowable Equipment Configuration. “Tier/Platform” shall be defined as the allocated platform or ring on the structure, dedicated for one particular Access Seeker at any one time, on which the licensee is allowed to install their equipment, such as antenna, RRU and microwave.

a)	RF Antenna	:	3 nos of RF Antenna
b)	MW	:	1 nos. of 0.6m MW
c)	RRU	:	1 set of 3 nos. RRU on the Structure
d)	Cabin/Cabinet/Plinth		

- vi. The Access Seeker is entitled to install Additional Equipment at Additional Tier/Platform with Additional Licence Fee as per below subject to the capacity of the telecommunication structure/tower.

First Additional Tier	2W Rate
Second Additional Tier	3W Rate

- vii. In the event that the Access Seeker wishes to install more than the maximum number of dishes and/or antennas at any Tower or dishes not more than 0.6 meters (where applicable) in diameter, subject to the consent by Pancar Bakti and also subject to the available land space and Tower loading, the Access Seeker shall pay the following additional Access Charges:-
- a) RM500.00 per month for each additional dish measuring 0.6 meters in diameter or below;
 - b) RM1,000.00 per month for each additional dish measuring more than 0.6 meters and up to 1.8 meters in diameter; and
 - c) RM500 per month for each additional RF antenna.
 - d) RM500 per month for each additional 1 set of RRU (3 Nos. per set) at pole
- viii. The yearly permit fees with reference to Telecommunication Structure/Tower for any new local council permit submission, including any renewals shall be limited to RM3,000.00 only per annum for each Associated Tower Site. If the yearly permit fees exceeds this sum and subject to Pancar Bakti having produced to the Access Seeker documentary proof of such excess, the difference shall be paid by Pancar Bakti and other operators (if any) equally. Any excess sum payable by Access Seeker shall not be part of the Licence Fee.
- ix. In the event there is Additional Infrastructure under a Variation Order already existing at the Tower, the additional Access Charges payable for the site per RM1,000.00 of the cost of the Additional Infrastructure under the Variation Order (for example generator set, cabin etc) are as follows: -

Cost for User	Additional Access Charges (per month per User) for every RM1,000.00
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Cost per User (1 way)	RM21.65
Cost per User (2 Sharing Parties)	RM13.53
Cost per User (3 Sharing Parties)	RM10.83

- x. The Access Charges that will be payable by the Access Seeker will be dependent on the number of telecommunication companies (Access Seeker and other licensees (if any) (“User(s)”) using any particular Tower.
 - xi. If in the event the number of Users per Tower increases, the Access Charges payable by the Users will be revised downwards as per the payment structure above. There shall be no further reduction for the Access Charges if the Users for any Tower exceed three (3).
- b. The following rates shall be utilized as indicative rates for access to heavy duty telecommunication towers of T2 specifications to be granted to an Access Seeker to install its Equipment thereat: -

Tower Height	Type	2 Way	3 Way	4 Way	5 Way	6 Way
150 feet	Heavy Duty	RM6,426	RM4,017	RM3,213	RM2,812	RM2,571
200 feet	Heavy Duty	RM8,883	RM5,552	RM4,442	RM3,887	RM3,554
250 feet	Heavy Duty	RM9,450	RM5,907	RM4,725	RM4,135	RM3,780

300 feet	Heavy Duty	RM12,075	RM7,547	RM6,038	RM5,283	RM4,830
350 feet	Heavy Duty	RM15,225	RM9,516	RM7,613	RM6,661	RM6,090
400 feet	Heavy Duty	RM17,325	RM10,82 9	RM8,663	RM7,580	RM6,930

- i. Additional charge of RM1,500 monthly on the R.O.W of the fiber optic facility installation to Pancar Bakti structures in the event the fiber optic facility deployed or provided by Access Seeker or any other third-party provider appointed by Access Seeker. However, in the event that the fiber deployed/provided by Pancar Bakti and paid through a leasing or other commercial arrangement with Access Seeker, there will be no additional charge on the R.O.W of the fiber optic installation.
- ii. The rates stated above and all rates stated in this RAO are exclusive of any taxes levied by the Government which shall be payable by the Access Seeker to Pancar Bakti over and above the Access Charges.
- iii. The rates above are for the license term of minimum Three (3) years but if the Access Seeker intends to take a license of a site for a longer period than 3 years, a lesser rate may be agreed by Pancar Bakti.
- iv. Pancar Bakti may subject to agreement of parties, upon an Access Seeker taking a long-term license of a site, grant discount on the Access Charges post the 7th year of the license.
- v. Subject always to the availability of space in the Associated Tower Site and the loading of the Tower, an Access Seeker may upon agreement by Pancar Bakti be allowed to install its Equipment at any one of the unoccupied Tier(s) or Platform(s) ("Original Tier/Platform") only as per below Standard Allowable Equipment Configuration.

“Tier/Platform” shall be defined as the allocated platform or ring on the structure, dedicated for one particular Access Seeker at any one time, on which the licensee is allowed to install their equipment, such as antenna, RRU and microwave.

a)	RF Antenna	:	3 nos of RF Antenna
b)	MW	:	1 nos. of 0.6m MW
c)	RRU	:	1 set of 3 nos. RRU on the Structure
d)	Cabin/Cabinet/Plinth		

- vi. The Access Seeker is entitled to install Additional Equipment at Additional Tier/Platform with Additional Licence Fee as per below subject to the capacity of the telecommunication structure/tower.

First Additional Tier	2W Rate
Second Additional Tier	3W Rate

- vii. In the event that the Access Seeker wishes to install more than the maximum number of dishes and/or antennas at any Tower or dishes in excess of 1.2 meters or 0.6 meters (where applicable) in diameter, subject to the consent by Pancar Bakti and also subject to the available land space and Tower loading, the Access Seeker shall pay the following additional Access Charges:-

- a) RM500.00 per month for each additional dish measuring 0.6 meters in diameter or below;
- b) RM1,000.00 per month for each additional dish measuring more than 0.6 meters and up to 1.8 meters in diameter; and
- c) RM500 per month for each additional RF antenna.
- d) RM500 per month for each additional 1 set of RRU (3 Nos. per set) at Tower

viii. The yearly permit fees with reference to Telecommunication Structure/Tower for any new local council permit submission, including any renewals shall be limited to RM3,000.00 only per annum for each Associated Tower Site. If the yearly permit fees exceeds this sum and subject to Pancar Bakti having produced to the Access Seeker documentary proof of such excess, the difference shall be paid by Pancar Bakti and other operators (if any) equally. Any excess sum payable by Access Seeker shall not be part of the Licence Fee.

c. In the event there is Additional Infrastructure under a Variation Order already existing at the Tower, the additional Access Charges payable for the site per RM1,000.00 of the cost of the Additional Infrastructure under the Variation Order (for example generator set, cabin etc) are as follows: -

Cost for User	Additional Access Charges (per month per User) for every RM1,000.00
Cost per User (2 Sharing Parties)	17.32
Cost per User (3 Sharing Parties)	10.83
Cost per User (4 Sharing Parties)	8.66
Cost per User (5 Sharing Parties)	7.58
Cost per User (6 Sharing Parties)	6.93

d. The Access Charges that will be payable by the Access Seeker will be dependent on the number of telecommunication companies (Access Seeker and other licensees (if any) ("User(s)")) using any particular Tower.

- e. If in the event the number of Users per Tower increases, the Access Charges payable by the Users will be revised downwards as per the payment structure above. There shall be no further reduction for the Access Charges if the Users for any Tower exceed six (6).
- f. If in the event the number of Users per Tower reduces, the following shall happen: -
 - i. in cases where the exiting User had taken a rental/license for a maximum period of Three (3) years only, the remaining Users will be subject to an upward revision of the Access Charges, back to the tier higher than the current Access Charges paid by them; and
 - ii. in cases where the exiting User had taken a license for a minimum period of Ten (10) years only and the following happens: -
 - 1. when the land rental for the Site as imposed by its landowner exceed the amount of RM2,500.00 and the Access Seeker wishes not to continue to contribute towards the land rental equally with the other Users at the Site and exits the Site upon agreement of Pancar Bakti; or
 - 2. when a User other than the Access Seeker exits a Tower upon the completion of its rental/license period with Pancar Bakti pursuant to any agreement between them and does not renew or extend the said period; then the remaining Users will be subject to an upward revision of the Access Charges, back to the tier higher than the current Access Charges paid by them; and
 - 3. in other cases, than stated above, the remaining Users will not be subject to an upward revision of the Access Charges and will continue paying the current Access Charges.

- g. In any case, the Access Charges payable by the Access Seeker to Pancar Bakti to gain access at any Tower shall be at the rate the other current User is paying Pancar Bakti, with discounts to be agreed upon other Users utilizing the same site and subject always to paragraph (a) above.
- h. Nevertheless, in the event that an Access Seeker is interested to appoint Pancar Bakti to undertake the Project, subject to the relevant agreement(s) is/are entered into between the parties upon terms and conditions agreed upon which shall include amongst others that the Access Term to be for a minimum period of at least ten (10) years, Pancar Bakti may offer the following rates for the Access Charges to the Access Seeker for heavy duty telecommunication towers of T2 specifications:

Tower Height	Type	Single	2 Sharing	3 Sharing	4 Sharing	5 Sharing	6 Sharing
150 feet	Heavy Duty	RM6,426	RM4,017	RM3,213	RM2,812	RM2,571	RM2,410
200 feet	Heavy Duty	RM8,883	RM5,552	RM4,442	RM3,887	RM3,554	RM3,331
250 feet	Heavy Duty	RM9,450	RM5,907	RM4,725	RM4,135	RM3,780	RM3,544
300 feet	Heavy Duty	RM12,075	RM7,547	RM6,038	RM5,283	RM4,830	RM4,830
350 feet	Heavy Duty	RM15,225	RM9,516	RM7,613	RM6,661	RM6,090	RM5,710
400 feet	Heavy Duty	RM17,325	RM10,829	RM8,663	RM7,580	RM6,930	RM6,497

(Paragraphs (c) till (f) above are applicable for Projects as well.)

- i. Additional charge of RM1,500 monthly on the R.O.W of the fiber optic facility installation to Pancar Bakti structures in the event the fiber optic facility deployed or provided by

Access Seeker or any other third-party provider appointed by Access Seeker.

- ii. However, in the event that the fiber deployed/provided by Pancar Bakti and paid through a leasing or other commercial arrangement with Access Seeker, there will be no additional charge on the R.O.W of the fiber optic installation.
- iii. The rates stated above and all rates stated in this RAO are exclusive of any tax levied by the Government which shall be payable by the Access Seeker to Pancar Bakti over and above the Access Charges.
- iv. Subject always to the availability of space in the Associated Tower Site and the loading of the Tower, an Access Seeker may upon agreement by Pancar Bakti be allowed to install its Equipment at any one of the unoccupied Tier(s) or Platform(s) (“**Original Tier/Platform**”) only as per below Standard Allowable Equipment Configuration. “**Tier/Platform**” shall be defined as the allocated platform or ring on the structure, dedicated for one particular Access Seeker at any one time, on which the licensee is allowed to install their equipment, such as antenna, RRU and microwave.

a)	RF Antenna	:	3 nos of RF Antenna
b)	MW	:	1 nos. of 0.6m MW
c)	RRU	:	1 set of 3 nos. RRU on the Structure
d)	Cabin/Cabinet/Plinth		

- v. The Access Seeker is entitled to install Additional Equipment at Additional Tier/Platform with Additional Licence Fee as per below subject to the capacity of the telecommunication structure/tower.

First Additional Tier	2W Rate
Second Additional Tier	3W Rate

- vi. In the event that the Access Seeker wishes to install more than the maximum number of

dishes and/or antennas at any Tower or dishes in excess of 1.2 meters or 0.6 meters (where applicable) in diameter, subject to the consent by Pancar Bakti and also subject to the available land space and Tower loading, the Access Seeker shall pay the following additional Access Charges: -

- a) RM500.00 per month for each additional dish measuring 0.6 meters in diameter or below;
- b) RM1,000.00 per month for each additional dish measuring more than 0.6 meters and up to 1.8 meters in diameter; and
- c) RM500 per month for each additional RF antenna.
- d) RM500 per month for each additional 1 set of RRU (3 Nos. per set) at Tower

vii. The yearly permit fees with reference to Telecommunication Structure/Tower for any new local council permit submission, including any renewals shall be limited to RM3,000.00 only per annum for each Associated Tower Site. If the yearly permit fees exceed this sum and subject to Pancar Bakti having produced to the Access Seeker documentary proof of such excess, the difference shall be paid by Pancar Bakti and other operators (if any) equally. Any excess sum payable by Access Seeker shall not be part of the Licence Fee.

i. The rates in Ringgit Malaysia (RM) per RM1,000.00 of the cost of the Additional Infrastructure for the Project under the Variation Order (for example generator set, cabin etc) are as follows: -

Cost for User	Additional rate for 1st to 10th year (per month per User) for every RM1,000.00
Cost per Single User	17.32

Cost per User (2 Sharing Parties)	10.83
Cost per User (3 Sharing Parties)	8.66
Cost per User (4 Sharing Parties)	7.58
Cost per User (5 Sharing Parties)	6.93
Cost per User (6 Sharing Parties)	6.50

- j. However, for any telecommunication structure to be constructed on sites situated on islands (land area surrounded by water whether salt or fresh water) or for sites situated at highlands (gradient exceeding 15%), all of the abovesaid rates for the Additional Access Charges shall be added thereon an amount equivalent to 15% each or any other amount decided by Pancar Bakti.
- k. If in the event the land rental charged on Pancar Bakti for the Associated Tower Site shall exceed RM2,500.00, the excess thereof (as applicable) shall be equally shared by the Users of a Tower and its Associated Tower Site.

ANNEXURE 1

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on

BETWEEN

PANCAR BAKTI SDN. BHD. (Registration No: 201601001906 (1172832-M)), a company incorporated in Malaysia with its business address at C-7-1 Jalan Serai Wangi H 16/H, Persiaran Selangor Seksyen 16, 40200 Shah Alam, Selangor (hereinafter referred to as "the Access Provider") of the one part;

AND

(hereinafter referred to as "Access Seeker") of the other part.

WHEREAS: -

- A. The Access Provider is a licensed individual network facilities provider under the Communications and Multimedia Act 1998.
- B. The parties are discussing certain matters thereby necessitating the exchange of information for the purpose of determining their respective interests in establishing a business relationship between them.
- C. The parties wish to defend their rights with respect to the said information and to protect the confidentiality thereof and proprietary features contained therein.

NOW THIS AGREEMENT WITNESSETH as follows: -

1. Definition

"Confidential Information" means all oral or written information of any kind, whether in printed or electronic format, including but not limited to technical information, data or know-how which relates to research, product plans, product, services, customers, markets, software,

developments, inventions, process, designs, drawings, engineering, hardware and software configuration information, marketing or finance or any form of business plans whether or not labelled as "Confidential" and submitted by one party to the other party during the discussions and/or meetings, which Confidential Information is designated in writing to be confidential or proprietary or if given orally, is confirmed promptly in writing as having been disclose as confidential or proprietary.

"Disclosing Party" means the party from whom the Confidential Information originates and is disclosed to the Recipient.

"Recipient" means the party to whom the Confidential Information is given or disclosed.

2. Non-Disclosure of Confidential Information

a. The Recipient agrees not to use any Confidential Information disclosed to it by the Disclosing Party for its own use or for any purpose except to carry out discussions concerning and the undertaking of any business relationship between the two.

b. The Recipient will not disclose any Confidential Information of the Disclosing Party to third parties or to employees or agents of the Recipient except employees and/or agents who are required to have the information in order to carry out the discussion of the contemplated business.

c. The Recipient agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the Disclosing Party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized hereunder to have any such information, which measures shall include the highest degree of care that the Recipient utilize to protect its own Confidential Information of a similar nature.

d. The Recipient agrees to notify the Disclosing Party in writing of any misuse or misappropriation of Confidential Information of the Disclosing Party which may come to the Recipient attention.

3. Information excluded from Confidentiality

The obligation imposed upon either party herein shall not apply to information which:

i. is in the possession of the Recipient at the time of disclosure as shown by the Recipient's files and records immediately prior to the time of disclosure; or

ii. prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the Recipient; or

i. is approved in writing by the Disclosing Party for release; or

ii. is independently developed by the Recipient; or

iii. is disclosed to a third party pursuant to written authorisation from the Disclosing Party; or

iv. is received from a third party without similar restrictions as against the Receiving Party; or

v. is disclosed pursuant to a requirement or request of a Government agency, but only to the extent so ordered.

4. No Commitment

Nothing in this Agreement imposes on either party an obligation to enter into any agreement or transaction.

5. Return of Materials

Any materials or documents which have been furnished by the Disclosing Party to the Recipient will be promptly returned, accompanied by all copies of such documentation, after the business possibility has been rejected or concluded.

6. Patent or Copyright Infringement

Nothing in this Agreement is intended to grant any rights to the Recipient under any patent or copyright nor shall this Agreement grant the Recipient any rights in or to the Disclosing Party's Confidential Information which was given solely for the purpose of determining whether to enter into the proposed business relationship with the Disclosing Party.

7. Term

The foregoing commitments of the Recipient shall survive any termination of discussions between the parties and shall continue for a period of two (2) years following the date of this Agreement.

8. Miscellaneous

This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that Confidential Information of the Disclosing Party may not be assigned without the prior written consent of the Disclosing Party. Failure to enforce any provision of this Agreement shall constitute a waiver of any term hereof.

9. Governing Law

This Agreement shall be governed by and construed and enforced in accordance with the laws of Malaysia and shall be binding upon the parties hereto in Malaysia and worldwide. The courts of

Malaysia shall have exclusive jurisdiction to hear and determine all actions and proceedings arising out of this Agreement and the Recipient hereby submits to the jurisdiction of the courts of Malaysia for the purpose of any such actions and proceedings.

10. Remedies

The Recipient agrees that the obligations of the Recipient provided herein are necessary and reasonable in order to protect the Disclosing Party and its business and the Recipient expressly agrees that monetary damages would be inadequate to compensate the Disclosing Party for any breach by the Recipient of its covenants and agreement set forth herein. Accordingly, the Recipient agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the Disclosing Party and that in addition to any other remedies that may be available, in law, in equity or otherwise, the Disclosing Party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the Recipient without the necessity of providing actual damages.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands the day and year first abovewritten.

SIGNED by _____)

for and on behalf of)

the Access Provider) in

the presence of _____)

SIGNED by _____)

for and on behalf of)

the Access Seeker) in

the presence of: - _____)

ANNEXURE 2

DISPUTE RESOLUTION PROCEDURES

1. Definitions

1.1 In the Dispute resolution Procedures set out in this Annexure 2:

- 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 subsection 7.4 of this Annexure;
- 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 subsection 7.2 of the of this Annexure;
- d) **“Billing Representative”** means a representative of the party appointed in accordance with the billing procedures set out in subsection 7.15 of this Annexure;
- e) **“Billing System”** means a system to issue Invoices relating to charges payable by each party under an Access Agreement;
- f) **“Dispute”** has the meaning given to it in subsection 2.1 of this Annexure;
- g) **“Notice”** means the notice issued of intention to escalate the issue to the Interconnect Steering Group, as specified in subsection 5.1 of this Annexure; and
- h) **“Technical Expert”** has the meaning given to it in subsection 6.3 of this Annexure.

2. Introduction

2.1 Subject to subsection 2.2(c) of this Annexure, Pancar Bakti and Access Seeker shall adopt and comply with these Dispute Resolution Procedures in relation to any dispute which may arise between an Access Seeker and Pancar Bakti in relation to or in connection with the supply of Facilities and/or Services to which the MSA applies (“Dispute”).

2.2 The following dispute resolution mechanisms are discussed in this section:

- a) inter-party working groups;
- b) interconnect steering group; and
- c) subject to specific resolution of disputes, being:
 - i. technical disputes (which must follow the procedure set out in section 6 of this Annexure if they cannot be resolved through the application of the general dispute resolution provisions in section 3, 4, and 5 of this Annexure;
 - ii. Billing Disputes (as defined in subsection 1.1 of this Annexure), which must follow the procedures set out in section 7 of this Annexure; or
 - iii. any other types of disputes, which, if cannot be resolved through the application of the general dispute resolution provisions in section 3, 4, and 5 of this Annexure, must be referred to the Commission for resolution.

2.3 A Dispute shall first be attempted to be resolved by negotiation between the Parties. If the Parties to the Dispute Resolutions cannot 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:

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

Pancar Bakti shall not prevent the Access Seeker from notifying a Dispute to the Commission in accordance with the Act.

2.4 For clarification, unless stated otherwise, all references to sections, subsections and paragraphs in this Annexure are references to sections, subsections and paragraphs of this Annexure.

3. General

3.1 An Operator may not commence court proceedings relating to a Dispute which is 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 subsection shall be construed as ousting the jurisdiction of any court.

3.2 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.

- 3.3 During a Dispute and any dispute resolution process invoked in accordance with this Annexure, Pancar Bakti and Access Seeker must continue to fulfil their obligations under the Access Agreement between them.
- 3.4 Subject to subsection 3.5 of this Annexure, the parties to a Dispute shall exchange information of a type described in the MSA during the course of, and to facilitate, resolution of the Dispute.
- 3.5 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 Confidentiality Agreement prepared in accordance with subsection 5.3.8 of the MSA.
- 3.6 A party must not use information obtained under subsection 3.4 of this Annexure or described in subsection 3.5 above for any purpose other than to resolve the Dispute.
- 3.7 Subject to Chapter 7 of part V of the Act, an arbitrator of a Dispute (including a Technical Expert or the Commission, in accordance with this Annexure) 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.
- 3.8 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 subsection 3.7 above. If an arbitrator decides not to determine the Dispute, the party that initiated the Dispute must pay the other party's cost.

4. Inter-party working group

4.1 In the first instance the Access Seeker and Pancar Bakti should attempt to resolve the Dispute between themselves.

4.2 Pancar Bakti and the Access Seeker shall establish a working group, or working groups, to fulfil the requirements of subsection 4.1 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 Pancar Bakti's Wholesale or Interconnection Group.

4.3 Pancar Bakti shall provide for:

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

4.4 Pancar Bakti and the Access Seeker shall use reasonable endeavors to attempt to settle the Dispute in the working group for a period of no longer than thirty (30) Business Days unless otherwise agreed by the Parties, subject always to a party's right to seek urgent interlocutory relief.

5. Use of a Technical Expert

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

(“Technical Expert”)

- 5.4 If the Parties fail to appoint a Technical Expert within ten (10) Business Days of the need to refer a Dispute to a Technical Expert, a Technical Expert will be appointed by the Commission.
- 5.5 When relying on the services of a Technical Expert, the following dispute resolution procedures will apply to the Technical Expert:

- a) the Parties will present written submissions to the Technical Expert and each other within fifteen (15) Business Days of the appointment of the Technical Expert; and
 - b) each party may respond to the other party's submission in writing within fifteen (15) Business Days from the date of the other party's submission.
- 5.6 At the request of either party and subject to the parties agreeing, or the Technical Expert deciding within five (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 fifteen (15) Business days of the last written submission.
- 5.7 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.
- 5.8 The procedure for hearing technical disputes will be determined by the Technical Expert (including number and duration of oral submissions by the Party) but in any case, the Technical Expert's hearing will last no longer than three (3) Business Days.
- 5.9 The Technical Expert will not have the power to appoint any other experts.
- 5.10 The Technical Expert will deliver his or her award within fifteen (15) Business days of the hearing or of the last written submission where the arbitration is by documents only.
- 5.11 Every Dispute referred to a Technical Expert will be considered separately so that time limits for each Dispute are complied with.

5.12 The Technical Expert's decision will be binding on the Parties (in the absence of manifest error of fact or law).

6. Billing Dispute Resolution

6.1 As outlined in the billing provisions of the MSA at subsection 5.11, 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 Facilities and/or Services during such Billing Cycle.

6.2 An Invoicing Party shall allow an Invoiced Party to dispute an Invoice prepared by the Invoicing Party if:

- a) in case of any other facilities, the Invoiced Party notifies the Invoicing Party within thirty (30) Business Days after the date of receipt of such Invoice,

provided that, in any case specified above, the Invoiced Party's Billing Dispute Notifies specifies the information in accordance with subsection 7.4 of this Annexure.

6.3 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:

- a) the Invoicing Party's Billing System is, or has been, defective or inaccurate in respect of the recording of the calls which are the subject of the Dispute;
- b) there is, or has been, a discrepancy between the Invoice in dispute and the records generated by the Invoiced Party's Billing System;
- c) there is, or has been, a fraud perpetrated by the Invoicing Party; or

- d) the Invoicing Party has made some other error in respect of the recording of the calls or calculation of the charges which are the subject of the Billing Dispute.

6.4 A Billing Dispute Notice given under this section 7 must specify:

- a) the reasons for which the Invoice is disputed;
- b) the amount in dispute;
- c) details required to identify the relevant Invoice and charges in dispute including:
 - i. the account number;
 - ii. the Invoice reference number;
 - iii. the invoice date;
 - iv. the Invoice amount; and
 - v. billing verification; and

evidence in the form of a report, indicating the relevant traffic data which is in dispute.

6.5 The Invoiced Party may withhold payment of amounts disputed in good faith in accordance with subsection 5.11.11 of the MSA. If the Billing Dispute is resolved against the Invoiced Party, that Invoiced Party shall be required to pay interest at the rate specified in subsection 5.11.15 of the MSA on the amount payable.

6.6 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 the 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 subsection 5.11.15 of the MSA.

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.

- 6.7 The parties agree to use their reasonable endeavors to promptly resolve any Billing Dispute notified under this section 7.
- 6.8 If the parties are unable to resolve any Billing Dispute within one (1) 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.
- 6.9 To the extent that a Billing Dispute notified under this section involves a Billing Dispute with an international correspondent in 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 suspensions will not exceed four (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 require for resolution.
- 6.10 Once the negotiation period under subsection 7.8 of this Annexure (including any extension agreed) and any suspension period under subsection 7.9 of this Annexure have expired, the Billing Dispute may be referred by the Invoiced Party to the procedure described in subsection 7.11 of this Annexure (“Billing Dispute Escalation Procedure”)

- 6.11 The Invoiced Party may refer a Billing Dispute to the Billing Dispute Escalation Procedure under this subsection 7.11 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 MSA. 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.
- 6.12 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 ten (10) Business Days from the date of resolution of the Billing Dispute.
- 6.13 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 Annexure 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.
- 6.14 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:
- a) the scope of the joint investigation;
 - b) how the joint investigation will be conducted; and
 - c) the date by which the joint investigation must be concluded.

The joint investigation may include the generation of test calls to the other party's Network.

- 6.15 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.
- 6.16 Either party may at any time nominate another Billing Representative, provided that ten (10) Business Days prior notification of such appointment is given.
- 6.17 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.