

APPENDIX 1

REQUIRED MODIFICATIONS TO SCHEDULE 12A

SCHEDULE 12A

QP TO QP INTERCONNECTION SERVICE

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QP TO QP INTERCONNECTION SERVICE

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ANNEX 12AA – QP TO QP INTERCONNECTION REQUEST FORM

ANNEX 12AB – SERVICE LEVEL GUARANTEES

SCHEDULE 12A

QP TO QP INTERCONNECTION SERVICE

1. GENERAL

IDA Directed Modifications: IDA notes that the entities seeking the QP to QP Interconnection Service would be entities that have already submitted a Notification for Acceptance to OpenNet, namely, the Requesting Licensees (“RLs”). Accordingly, IDA requires OpenNet to modify references to the term “QP to QP Interconnection” to “RL to RL Interconnection” in Schedule 12A (RL to RL Interconnection Service) to more accurately reflect the identity of the entities seeking the service.

The industry has in the feedback to the public consultation on OpenNet’s ICO on 25 February 2009 requested for a diagram depicting the key features in OpenNet’s Network to be included in the respective ICO Schedules. Similar to the other ICO schedules, IDA agrees that there is merit in incorporating such a diagram in Schedule 12A (RL to RL Interconnection Service), as it increases clarity in understanding OpenNet’s ICO. Accordingly, IDA requires OpenNet to provide a diagram which should clearly illustrate the demarcation of responsibilities between the Parties.

1.1 This Schedule sets out the terms and conditions under which OpenNet will provide the Requesting Licensee with direct connection between its Co-Located Equipment and the Co-Located Equipment of another Qualifying Person (**QP to QP Interconnection**) who have successfully obtained Co-Location Service licence within the same Central Office (**QP to QP Interconnection Service**).

IDA Directed Modifications: IDA refers OpenNet to the Explanatory Memorandum, in particular paragraph 11 therein. Accordingly, IDA directs OpenNet to propose, for IDA’s approval, the necessary modifications to clause 1.1, to clarify that OpenNet will make available the additional option (i.e. a patch from the OpenNet FDF connected to the first RL to the OpenNet FDF connected to the second RL via a patch cable), if OpenNet is unable to allow direct connection between the RLs’ Co-Location Equipment via the RLs’ FDFs due to constraints, e.g. capacity limitation).

1.2 This Schedule 12A only applies to Requesting Licensees who:

- (a) have obtained a Co-Location Service licence in accordance with Schedule 12 of this ICO Agreement; or

- (b) are submitting or have submitted a Co-Location Request in accordance with Schedule 12 of this ICO Agreement.
- 1.3 Except as provided in this Schedule 12A, the Requesting Licensee shall, at its own cost, provide all installation materials and manpower needed for the installation of the QP to QP Interconnection. Where certain work is to be carried out by OpenNet under this Schedule, and the quantum of the Charge is not defined under Schedule 15 (Charges), the Requesting Licensee must pay all the reasonable costs incurred by OpenNet in the provisioning of the QP to QP Interconnection Service, subject to the following conditions:
- (a) the costs incurred by OpenNet will relate to the work that OpenNet needs to perform in order to provide the QP to QP Interconnection Service at a Central Office;
- (b) before incurring the costs, OpenNet will provide Requesting Licensee with prior reasonable notice that the Requesting Licensee's request requires OpenNet to undertake such work and such notice shall clearly and with sufficient detail set out the following:

IDA Directed Modifications: IDA notes a missing word in the first line of clause 1.3(b), and accordingly requires OpenNet to include the word "the" before "Requesting Licensee".

- (i) the reasonable costs which OpenNet seeks to recover from the Requesting Licensee in respect of the costs incurred by OpenNet (including a breakdown of the individual cost components and justification for incurring each cost component); and
- (ii) based on the information set out in paragraph (i), a binding quote to the Requesting Licensee in respect of the work to be undertaken by OpenNet which shall be valid for a period of five (5) Business Days from the date they are notified to the Requesting Licensee by OpenNet;

IDA Directed Modifications: In IDA's Direction on "IDA's Public Consultation on Proposed Interconnection Offer for the Provision of Services on the Next Generation National Broadband Network" dated 3 July 2009, IDA directed OpenNet to modify clause 1.2(b)(ii) of Schedule 12 (Co-Location Service) of the ICO to extend the validity period of OpenNet's binding quote to a RL in respect to the work to be undertaken by OpenNet in provisioning of the Co-Location Service from five (5) Business Days to ten

(10) Business Days, or any timeframe as is mutually agreed between OpenNet and the RL.

IDA notes that a RL may submit a request for the RL to RL Interconnection Service at the same time the RL submits a request for Co-Location Service. To ensure that the timeframes for the RL's confirmation of acceptance of OpenNet's binding quotes in respect to work undertaken by OpenNet for the Co-Location Service and the RL to RL Interconnection Service respectively are consistent and aligned, IDA directs OpenNet to modify 1.3(b)(ii) to extend the validity period to ten (10) Business Days or any timeframe as is mutually agreed between OpenNet and the RL.

- (c) OpenNet shall obtain the prior approval of the Requesting Licensee to the costs noted in the notice within the time period under paragraph (b)(ii) and if the Requesting Licensee does not provide its approval within that time period, then OpenNet may suspend OpenNet's work under this clause 1.3 until the Requesting Licensee agrees; and

IDA Directed Modifications: The industry commented that if OpenNet proceeds with OpenNet's work without the RL's approval, the RL shall not be liable to bear any costs which so arise. IDA considers that there is merit to increase the clarity of clause 1.3(c). Accordingly, IDA requires OpenNet to modify clause 1.3(c) to add the sentence "For the avoidance of doubt, the RL shall not be liable to bear any costs incurred by OpenNet under clause 1.3 unless the RL has given its prior approval under this paragraph (c)." at the end of the clause 1.3(c).

- (d) any dispute in respect of determining the reasonable costs set out in the notice shall be resolved in accordance with Schedule 17 of the ICO Agreement.

1.4 The Requesting Licensee may request for one or more QP to QP Interconnection Services provided that the QPs to be interconnected share the same Co-Location Space at the same Central Office and that all other requirements as set out in this Schedule 12A are met.

1.5 The Requesting Licensee shall obtain prior approval in writing from the proposed QP (**Proposed QP**) it is planning to have a QP to QP Interconnection with.

1.6 The Requesting Licensee and the Proposed QP shall be responsible for working out the terms of their obligations to each other relating to the QP to QP Interconnection. OpenNet shall not be required to participate in any negotiations and/or be liable for any disputes, losses and damages arising from the QP to QP

Interconnection and any interconnection agreement entered into between the Requesting Licensee and the Proposed QP.

- 1.7 OpenNet shall not be responsible for any damage to the Requesting Licensee's and the Proposed QP's Co-Location Equipment caused by fire, water leakage, air-conditioning/mechanical ventilation failure, power fluctuation/interruption, or anything beyond OpenNet's control in the Central Office other than to the extent that it is the result of a grossly negligent, wilful or reckless breach of this ICO Agreement by OpenNet.

IDA Directed Modifications: As OpenNet is the Party providing the Co-Location Service, it is fair and reasonable to expect that OpenNet must take all reasonable precautions to maintain the Co-Location Space so as to prevent any damage to the RL's Co-Location Equipment arising from events such as fire, water leakage and air-conditioning failure. In this respect, IDA does not consider it fair or reasonable for OpenNet to exclude liability arising from its own negligent act, given that OpenNet would be expected to exercise reasonable care as the Co-Location service provider.

Accordingly, IDA directs OpenNet to modify clause 1.7 to specify a more reasonable "negligent" standard for excluding liability as opposed to "grossly negligent".

- 1.8 The timeframes in this Schedule 12A relating to provisioning work for QP to QP Interconnection Service to be undertaken by OpenNet under clauses 2.4 and 2.6 (**QP to QP Interconnection Requests**), 3.1 (**Project Studies**), 4.1 (**Site Preparation Work**) may be subject to delays caused by events outside OpenNet's reasonable control, in which case such failure to meet the timeframes shall not constitute a breach of this ICO Agreement and clause 1.9(a) of this Schedule 12A shall not apply, provided that OpenNet must notify the Requesting Licensee as soon as practicable upon the occurrence of such event, stating the cause of the events and specifying a new date for completion of the relevant provisioning work which is extended for the period of such delays.
- 1.9 (a) OpenNet will provide Service Level Guarantees in respect of Project Studies and Site Preparation Work as set out in Annex 12AB. If OpenNet fails to meet any Service Level Guarantee applicable to this Schedule and the failure to meet such Service Level Guarantee is solely caused by OpenNet, OpenNet will provide a remedy to the Requesting Licensee in accordance with Annex 12AB:

IDA Directed Modifications: There was general industry feedback received that OpenNet's obligation to provide a remedy in the form of a rebate should not be limited

to failures to meet the Service Level Guarantees which are “solely caused by OpenNet”.

In considering this point, IDA is of the view that it is justified for OpenNet to be made responsible also for the actions of its contractors and/or suppliers. This is because it is reasonable to expect OpenNet to have in place separate recourse or remedies against its own contractors and/or suppliers - for example, contractually negotiated provisions in the supply agreements with its contractors and/or suppliers - in the event of any default by such contractors and/or suppliers.

Accordingly, IDA directs OpenNet to modify clause 1.9(a) to make clear that OpenNet will still be liable to pay rebates to the Requesting Licensees where the failure to meet the Service Level Guarantees is caused by any default by OpenNet’s contractors and/or suppliers.

- (b) The Requesting Licensee acknowledges that the remedy provided under clause 1.9(a) is a genuine pre-estimate of the Requesting Licensee’s loss and will be the sole and exclusive remedy available to the Requesting Licensee for such failure to meet the Service Level Guarantees for Project Studies and Site Preparation Work and shall be OpenNet’s sole and exclusive liability to the Requesting Licensee for such failure.

2. ORDERING AND PROVISIONING PROCEDURE

IDA Directed Modifications: IDA notes the industry’s comment from the public consultation on OpenNet’s ICO on 25 February 2009 that OpenNet should be required to provide information relating to OpenNet’s network rollout, its coverage in terms of premises reached, premises passed and all other relevant information that is to be provided by the OpenNet Platform. The above information must be made available to RLs through manual processes even if the OpenNet Platform is not ready.

IDA agrees with the comment and finds it to be consistent with the provisions in the Code (see Section 2.2), which require OpenNet to make available to the RLs Mandated Services Information. This will include information which RLs will need before ordering services under the ICO. IDA is of the view that such a requirement should also be put in place for this service, similar to the other ICO services.

Accordingly, IDA directs OpenNet to include a provision that it will make such information available to RLs in a manner that is easily accessible. At a minimum, such Mandated Services Information should be accessible by the RLs on OpenNet’s website during the interim period prior to implementation of the OpenNet Platform.

- 2.1 OpenNet shall process requests for QP to QP Interconnection Service (**QP to QP Interconnection Requests**) in a non-discriminatory manner on a first-come-first-serve basis.
- 2.2 The Requesting Licensee may submit QP to QP Interconnection Requests either together with its Co-Location Request or after it has obtained a Co-Location Space Service Licence in accordance with Schedule 12.
- 2.3 The Requesting Licensee shall submit its QP to QP Interconnection Request using a QP to QP Interconnection Service Request Form in the form of Annex 12AA containing but not limited to the following information:

IDA Directed Modifications: IDA notes the term used in other parts of Schedule 12A is “QP to QP Interconnection Request Form”, and requires OpenNet to remove the word “Service” from the second line of clause 2.3.

- (a) the name and contact details of the Proposed QP to which the QP to QP Interconnection Service is sought;
 - (b) the Requesting Licensee’s contact details;
 - (c) confirmation that the QP to QP Interconnection to be installed at the Co-Location Space at that Central Office is for the purpose of connecting to the Proposed QP’s Co-Location Equipment and the provision of services over the OpenNet Network; and
 - (d) a letter signed by both the Requesting Licensee and the Proposed QP confirming that the QP to QP Interconnection Request sought has been agreed upon by both parties.
- 2.4 Within one (1) Business Day of the date of receiving the QP to QP Interconnection Request (**Request Date**), OpenNet must notify the Requesting Licensee whether its application is in principle accepted or rejected for any one of the following reasons:
 - (a) the QP to QP Interconnection Request is not in the prescribed form; or
 - (b) the QP to QP Interconnection Request does not contain the required information or the information provided is inaccurate or misleading.

Where OpenNet rejects the QP to QP Interconnection Request, OpenNet must provide reasons explaining the basis for rejection.

- 2.5 The Requesting Licensee shall be liable for and shall pay OpenNet the QP to QP Interconnection Ordering Charge for the processing the QP to QP Interconnection Request as provided in Schedule 15 (Charges), irrespective of the outcome of the QP to QP Interconnection Request.

IDA Directed Modifications: IDA considers that the RL should not be liable to pay a RL to RL Interconnection Ordering Charge in the situation where OpenNet has wrongfully rejected, based on the grounds of rejection in clause 2.4, the former's RL to RL Interconnection Request. As examples of "wrongful rejection", IDA would give the following illustration:

Illustration:

Under clause 2.6(d), OpenNet has omitted to update its plans on decommissioning of COs and therefore, the RL has submitted a RL to RL Interconnection Request for Co-Location Space in a CO that is to be decommissioned within a month of said request.

Accordingly, IDA requires OpenNet to propose, for IDA's approval, modifications to clause 2.5 to implement the above-stated position.

- 2.6 If OpenNet notifies the Requesting Licensee that OpenNet has in principle accepted the QP to QP Interconnection Request, OpenNet must complete its detailed processing and inform the Requesting Licensee within three (3) Business Days of the Request Date, whether or not it is able to provide the QP to QP Interconnection taking into account the following:
- (a) whether there is sufficient space in the relevant cable tray at the relevant Co-Location Spaces at the Central Office;
 - (b) whether the provision of the QP to QP Interconnection at a Central Office will give rise to significant health, safety, technical or engineering issues;
 - (c) security and confidentiality requirements or restrictions imposed on OpenNet by Governmental Agencies; and
 - (d) whether OpenNet has plans or otherwise proposes to decommission the Central Office within six (6) months of the date of the QP to QP Interconnection Request.

IDA Directed Modifications: IDA notes that clause 2.6 already provides for a process by which the RL will be informed if OpenNet can provide the necessary RL to RL Interconnection Service. Although this procedure is sufficient in the present case where all service ordering is done manually, IDA considers this process can be improved upon the implementation of the OpenNet Platform in the future.

Specifically, IDA is of the view that information regarding clauses 2.6(a) and 2.6(d) should be made available on the OpenNet Platform to all RLs at the earliest instance.

In this respect, IDA foresees that OpenNet will have to make arrangements with its main contractor for COs and Co-Location Space (i.e. Singapore Telecommunications Limited), to ensure that information on decommissioning is provided at the earliest instance. In particular, IDA wishes to remind OpenNet that it does expect OpenNet to maintain a list of COs and Co-Location Spaces on the OpenNet Platform, and will promptly update that list when any COs or Co-Location Spaces are marked for decommissioning.

In the interim before the OpenNet Platform is operational, IDA directs OpenNet to propose for IDA's approval, modifications to the ICO which require OpenNet to provide information on decommissioning to all RLs. At a minimum, the modifications must state that OpenNet will maintain a website that lists all of OpenNet's COs and Co-Location Spaces, the availability of these facilities, and in the event any COs or Co-Location Spaces are designated for decommissioning, an update to this list should be made without undue delay. In this respect, IDA also refers OpenNet to the Explanatory Memorandum accompanying IDA's Direction to OpenNet "IDA's Public Consultation On Proposed Interconnection Offer For The Provision Of Services On The Next Generation National Broadband Network" dated 3 July 2009 regarding closure of COs and decommissioning of Co-Location Space, in particular paragraphs 51 to 54 therein.

3. PROJECT STUDY

3.1 Except where OpenNet has rejected a QP to QP Interconnection Request under clauses 2.4 and 2.6, OpenNet must complete a Project Study within fifteen (15) Business Days of the Request Date. The Requesting Licensee must pay the Project Study Fee specified in Schedule 15 (Charges).

- (a) The Project Study normally entails a joint site survey with the Requesting Licensee to determine the space and Site Preparation Works required at the Co-Location Space.

- 3.2 Following completion of the Project Study, OpenNet shall provide the Requesting Licensee with the following information ascertained as a result of the Project Study:
- (a) the estimated Charges for the Site Preparation Work (including a breakdown of the major components of the Charges) and an outline of the major elements of the Site Preparation Work to be undertaken by OpenNet; and
 - (b) the number of Business Days (which shall not exceed twenty five (25) Business Days as specified in clause 4.4) reasonably expected to complete the Site Preparation Work.
- 3.3 OpenNet shall be entitled to levy and receive the Project Study Fee provided in Schedule 15 (Charges) irrespective of whether the Requesting Licensee proceeds with the QP to QP Interconnection Request after completion of the Project Study.

4. SITE PREPARATION WORK

- 4.1 Within five (5) Business Days from the date of notification of the result of the Project Study under clause 3.2, the Requesting Licensee shall confirm in writing that it wishes to proceed with the QP to QP Interconnection and it agrees to pay the estimated Charges for Site Preparation Work.

IDA Directed Modifications: IDA refers OpenNet to the directed modifications at clause 1.3(b)(ii) above. Accordingly, IDA directs OpenNet to modify clause 4.1 to extend the validity period to ten (10) Business Days, or any timeframe as is mutually agreed between OpenNet and the RL.

IDA notes the industry's comment that OpenNet should seek the RL's approval on the estimated Charges for Site Preparation Work instead of merely requiring the RL to confirm that it wishes to proceed with the RL to RL Interconnection and that it agrees to pay the estimated Charges for Site Preparation Work. IDA agrees with the comment and directs OpenNet to modify clause 4.1 to reflect the above.

As an example, the revised clause may read as follows:

"Within five (5) Business Days from the date of notification of the result of the Project Study under clause 3.2, the Requesting Licensee shall confirm in writing ~~that~~ whether it wishes to proceed with the ~~QP to QP~~ RL to RL Interconnection and whether it agrees to pay the estimated Charges for Site Preparation Work."

- 4.2 OpenNet shall use its reasonable endeavours to complete the Site Preparation Work within the estimated charges. If OpenNet's costs increase above OpenNet's estimate set out in the notice under clause 3.2(a) (as may be varied from time to time under this clause 4.2), OpenNet must as soon as possible provide the Requesting Licensee with a revised price estimate. OpenNet must obtain the prior approval of the Requesting Licensee to the revised price estimate and if the Requesting Licensee does not provide its approval, then, OpenNet may suspend the Site Preparation Work until the Requesting Licensee agrees to the revised price estimate.
- 4.3 OpenNet shall complete the Site Preparation Work within the period advised under clause 4.4. If OpenNet is unable to complete the Site Preparation Work within the advised period, OpenNet shall promptly notify the Requesting Licensee of a revised date for completion (which, in all the circumstances, shall be within a reasonable period of time).

IDA Directed Modifications: IDA is of the view that clauses 4.3 and 4.4 are repetitive in nature. Accordingly, unless OpenNet can provide IDA with satisfactory justification as to why both clauses should be retained, IDA directs OpenNet to remove clause 4.3 from this Schedule.

- 4.4 OpenNet shall complete any Site Preparation Work within a period of twenty five (25) Business Days of the date on which the Requesting Licensee notifies OpenNet under clause 4.1 that it wishes to proceed with the QP to QP Interconnection and agrees to pay the estimated Charges. Subject to delays that may result from suspension of Site Preparation Work under clause 4.2, if OpenNet is not able to complete the Site Preparation Work within the timeframe under this clause 4.4, OpenNet shall inform the Requesting Licensee of when the Site Preparation Work will be completed.
- 4.5 Within one (1) Business Day after the completion of the Site Preparation Work, OpenNet will notify the Requesting Licensee and request the Requesting Licensee and the Proposed QP to attend the Central Office for a final site inspection of the Co-Location Space.

5. INSTALLATION AND MAINTENANCE OF QP TO QP INTERCONNECTION IN CO-LOCATION SPACE

- 5.1 The Requesting Licensee shall:

- (a) provide all installation materials and manpower needed for the installation of the QP to QP Interconnection;
- (b) be responsible for patching the cable into their respective equipment; and
- (c) be responsible for any cables that may be installed between its Co-Location Space and the Proposed QP's Co-Location Space.

5.2 The Requesting Licensee acknowledges that:

- (a) it will fully indemnify and hold OpenNet harmless at all times against all actions, claims, proceedings, costs (including legal costs), losses or damages or expenses for injuries or death to any person whomsoever, which may be brought against OpenNet by any person out of or in connection with any loss or damage to any property, including third party equipment, resulting from the actions or omissions of the Requesting Licensee's employees or contractors;
- (b) it must comply with any guidelines for accessing and working in the Central Office issued by OpenNet from time to time;
- (c) it must maintain good engineering and operational practices in its use of its equipment; and
- (d) the technical means by which OpenNet supplies the QP to QP Interconnection Service, including the power and earthing, is at OpenNet's sole discretion.

5.3 The Requesting Licensee shall, immediately on notice from OpenNet, remove from the Central Office any hardware, software or cabling component of the Requesting Licensee that OpenNet (in its discretion) considers may cause or is likely to cause a hazard, interference or obstruction to OpenNet's operation of the Central Office.

6. SUSPENSION OF LICENCE

6.1 Subject to clause 11.2 of the ICO Agreement OpenNet may suspend the QP to QP Interconnection at any time until further notice to the Requesting Licensee if the cable(s) for the QP to QP Interconnection causes or is likely to cause physical or technical harm to any telecommunications network, system or services (whether of OpenNet or any other person) including but not limited to causing damage, interfering with or causing deterioration in the operation of OpenNet's Network.

IDA Directed Modifications: IDA is of the view that the service provisioning and suspension process will become unduly cumbersome and tedious if its prior approval has to be sought for every instance of suspension of a licence for Co-Location Service. Accordingly, IDA directs OpenNet to remove the phrase “Subject to clause 11.2 of the ICO Agreement” from this clause 6.1.

6.2 Without limiting the exclusions or limitations of liability in this ICO Agreement, OpenNet shall not be liable to the Requesting Licensee for any Loss resulting from, or in connection with, suspension of access to Co-Location Space under this clause 6.

7. TERMINATION OF QP TO QP INTERCONNECTION SERVICE

7.1 The Requesting Licensee may terminate the QP to QP Interconnection Service by giving OpenNet at least one (1) month prior notice.

IDA Directed Modifications: IDA notes from the industry comment that it is unclear whether the service termination contemplated in clause 7.1 refers to the termination of a licence or a service schedule. To increase clarity of the clause, IDA directs OpenNet to modify clause 7.1 to insert the word “Licence” after the term “QP to QP Interconnection Service” (i.e. “RL to RL Interconnection Service” after renaming).

7.2 Upon expiry or termination of the Requesting Licensee’s and/or the Proposed QP’s Co-Location Service licence pursuant to Schedule 12, any corresponding QP to QP Interconnection Service shall be deemed to be simultaneously terminated.

7.3 Upon termination of the QP to QP Interconnection Service the Requesting Licensee must discontinue the use of the Co-Location Space dedicated to the QP to QP Interconnection and remove its dedicated equipment for QP to QP Interconnection from the Co-Location Space immediately.

IDA Directed Modifications: IDA is of the view that it is unrealistic and impractical to expect the RL to be able to remove its equipment “immediately” upon expiry or termination of the licence. Hence, IDA considers a more reasonable position is to require the RL to remove its equipment “without undue delay”. Accordingly, IDA directs OpenNet to modify clause 7.3 to incorporate the requirements set out above.

ANNEX 12AA

QP TO QP INTERCONNECTION REQUEST FORM

Requesting Licensee	Date of Application: _____	Application Reference Number: \
	Location of CO: _____	QP to QP Interconnection to: _____ [Company Name of the other Proposed QP]
	Co-Location Space Grid Reference _____	
	From: _____	To: _____
	Type of cable to be deployed: _____	
	Any special requirement: _____	

(Attach separate sheet, using the same format as above, as required)

Please attach a letter of authorisation from the Proposed QP

For and on Behalf of Requesting Licensee

Requesting Licensee	Sign: _____	Company Stamp: _____
	Name: _____	Company Name: _____
	Designation: _____	
	Contact Number, Fax and email address _____	

OpenNet's Respond: _____ Date: _____

OpenNet	<input type="checkbox"/> Application accepted Activation Date : _____	
	<input type="checkbox"/> Application rejected Reason for rejection: _____	
	OpenNet Name / Signature: _____	Queue Status: _____

ANNEX 12AB

SERVICE LEVEL GUARANTEES

1. REBATES FOR PROJECT STUDY TIMEFRAMES

OpenNet shall provide Service Level Guarantees in respect of the completion of Project Study within 15 Business Days from the date of the request.

Missed timeframe for completion of Project Study by:	Rebate
1-30 Calendar Days	Number of days of delay x (10% of Project Study Fee) / 30
More than 30 Calendar Days	10% of Project Study Fee

IDA Directed Modifications: IDA refers OpenNet to the Explanatory Memorandum, in particular paragraph 15 therein. Accordingly, IDA directs OpenNet to propose, for IDA’s approval, the necessary modifications to the Service Level Guarantee in clause 1 of Annex 12AB to increase the cap of the rebate to 50% of the Project Study Fee.

2. REBATES FOR SITE PREPARATION WORK

OpenNet shall provide Service Level Guarantees in respect of the completion of Site Preparation Work within 25 Business Days from the date of the Requesting Licensee’s agreement to proceed with Site Preparation Work.

Missed timeframe for completion of Site Preparation Work by:	Rebate
1-30 Calendar Days	Number of days of delay x (10% of Site Preparation Charge) / 30
More than 30 Calendar Days	10% of Site Preparation Charge

IDA Modifications: IDA refers OpenNet to the Explanatory Memorandum, in particular paragraph 15 therein. Accordingly, IDA directs OpenNet to propose, for IDA’s approval, the necessary modifications to the Service Level Guarantee in clause 2 of Annex 12AB to increase the cap of the rebate to 50% of the Site Preparation Charge.

3. CLAIM PROCEDURES

- (a) A claim by the Requesting Licensee shall be made in writing within fourteen (14) Calendar Days of the completion of the Project Study or Site Preparation Work (as applicable). The amount in respect of any claim shall be paid to the Requesting Licensee in the form of a rebate. The Requesting Licensee acknowledges that a failure to make a claim within the specified timeframe under this paragraph means that the Requesting Licensee waives any entitlement to the Service Level Guarantee payment in respect of that claim.

IDA Directed Modifications: The industry has commented that the fourteen (14) Calendar Day period for making claims is too short and should be extended to thirty (30) Calendar Days.

As IDA understands, in order for a RL to submit a claim for rebates for a failure by OpenNet to meet the Service Level Guarantees, such RL may need to refer to past information on Service Level Availability and other relevant fault details.

Moreover, given the fact that all RLs who fail to meet the specified timeframe are automatically disentitled from rebates, even where there was a clear failure in meeting the Service Level Guarantees which would otherwise entitle them to those rebates, IDA considers it reasonable to extend the fourteen (14) Calendar Day claim period to thirty (30) Calendar Days. A period of thirty (30) Calendar Days will give RLs reasonable time to make a claim and is unlikely to cause any material prejudice to OpenNet.

Accordingly, IDA directs OpenNet to modify clause 3(a) herein to allow up to thirty (30) Calendar Days for a claim to be made.

- (b) If the Requesting Licensee is entitled to a rebate pursuant to the claim made hereunder, then the amount of the rebate will be credited into the Requesting Licensee's account after it has been processed by OpenNet and will be reflected in OpenNet's bill to the Requesting Licensee.
- (c) The guarantee and rebates provided by OpenNet under this Annex 12AB are:
- (i) of an ex-gratia nature and personal to the Requesting Licensee and are non-transferable; and
 - (ii) subject to this Schedule 12A.

- (d) Despite anything to the contrary in this section, if the Requesting Licensee qualifies for any claim under this Annex 12AB, OpenNet shall honour its obligations in respect of that claim but in the event of a dispute as to whether the Requesting Licensee qualifies for a claim or as to the quantum of the claim payable to the Requesting Licensee, the dispute shall be resolved in accordance with the Dispute Resolution Procedures in Schedule 17 of the ICO Agreement, or in the case of a Billing Dispute, in accordance with Schedule 16 of the ICO Agreement.