

APPENDIX 14

DIRECTED AMENDMENTS TO SCHEDULE 12A

SCHEDULE 12A

RL TO RL INTERCONNECTION SERVICE

SCHEDULE 12A

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RL TO RL INTERCONNECTION SERVICE

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SCHEDULE 12A

HEADING - APPROVED

RL TO RL INTERCONNECTION SERVICE

1. GENERAL

1.1 This Schedule sets out the terms and conditions under which OpenNet will provide the Requesting Licensee with the **RL to RL Interconnection Service**, which shall consist of either:

- (a) direct connection between the Requesting Licensee's Co-Located Equipment and the Co-Located Equipment of another Requesting Licensee who has successfully obtained Co-Location Service licence within the same Central Office, or

CLAUSE 1.1(b) – DIRECTED AMENDMENTS

- (b) interconnection of the Requesting Licensee's Co-Location Equipment with the Co-Location Equipment of another Requesting Licensee by patching the OpenNet FDF connected to the first Requesting Licensee to the OpenNet FDF connected to the second Requesting Licensee, via a Patch Cable ("Additional Option"), ~~P~~provided Tthat:

IDA notes that the words "Provided That" should be in lowercase.

Accordingly, IDA directs OpenNet to amend this clause 1.1(b) in the manner specified above.

CLAUSE 1.1(b)(i) – DIRECTED AMENDMENTS

- (i) Notwithstanding anything in this ICO Agreement to the contrary, the Additional Option shall only be made available to the Requesting Licensee at OpenNet's ~~sole-reasonable~~ discretion. ~~OpenNet reserves the right to impose any additional conditions in respect of the Additional Option and all performance timelines and Service Level Guarantees required of OpenNet in this Schedule 12A shall not apply in relation to the provision of the Additional Option by OpenNet;~~ and

OpenNet's proposed modifications to clause 1.1(b)(i) do not provide sufficient certainty to the Requesting Licensee obtaining the RL to RL Interconnection Service. IDA also expects OpenNet to meet the same performance timelines and Service Level Guarantee obligations for both the default option in 1.1(a) and the Additional Option.

Accordingly, IDA directs OpenNet to amend this clause 1.1(b)(i) in the manner specified above.

CLAUSE 1.1(b)(ii) – DIRECTED AMENDMENTS

- (ii) The Requesting Licensee undertakes to pay all reasonable costs incurred by OpenNet in relation and directly attributable to the provision of the Additional Option, including but not limited to costs incurred in relation to construction and building materials, equipment and cables, cable trays, submissions to third parties and government agencies for design plan approvals, building alteration works and equipment and cable installations. Such costs shall ~~(to~~ be recovered on a cost-oriented basis).

OpenNet must only recover costs from Requesting Licensees which are directly attributable to the provision of the Additional Option and the cost recovery must be on a cost-oriented basis.

Accordingly, IDA directs OpenNet to amend this clause 1.1(b)(ii) in the manner specified above.

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.

CLAUSE 1.3 – APPROVED

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 RL to RL 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 RL to RL 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 RL to RL Interconnection Service at a Central Office;
- (b) before incurring the costs, OpenNet will provide the 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:
 - (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 ten (10) Business Days (or such other time as may be agreed between the Parties) from the date they are notified to the Requesting Licensee by OpenNet;
- (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. For the avoidance of doubt, the Requesting Licensee shall not be liable to bear any costs incurred by OpenNet under clause 1.3 unless the Requesting Licensee has given its prior approval under this clause 1.3(c); and
- (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.

CLAUSES 1.4, 1.5, 1.6, AND 1.7 - DIRECTED AMENDMENTS

1.4 The Requesting Licensee may request for one or more RL to RL Interconnection Services provided that the [QPRequesting Licensees](#) 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-Requesting Licensee~~ (**Proposed QPRequesting Licensee**) it is planning to have a RL to RL Interconnection with.
- 1.6 The Requesting Licensee and the Proposed ~~QP-Requesting Licensee~~ shall be responsible for working out the terms of their obligations to each other relating to the RL to RL Interconnection. OpenNet shall not be required to participate in any negotiations and/or be liable for any disputes, losses and damages arising from the RL to RL Interconnection and any interconnection agreement entered into between the Requesting Licensee and the Proposed ~~QPRequesting Licensee~~.
- 1.7 OpenNet shall not be responsible for any damage to the Requesting Licensee's and the Proposed ~~QP's-Requesting Licensee'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 negligent, wilful or reckless breach of this ICO Agreement by OpenNet.

IDA directs OpenNet to replace "QP" with "Requesting Licensee" in clauses 1.4, 1.5, 1.6 and 1.7 in the manner specified above.

CLAUSE 1.8 - APPROVED

- 1.8 The timeframes in this Schedule 12A relating to provisioning work for RL to RL Interconnection Service to be undertaken by OpenNet under clauses 2.4 and 2.6 (**RL to RL 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.

CLAUSE 1.9 – DIRECTED AMENDMENTS

- 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 ~~and directly~~ caused by OpenNet, ~~or~~ its contractors and/or suppliers, OpenNet will provide a remedy to the Requesting Licensee in accordance with Annex 12AB:

IDA considers that OpenNet's proposed modifications is not fully compliant with IDA's 3 July 2009 Directed Modifications, because it seeks to limit OpenNet's liability where it is an indirect cause of the failure to meet Service Level Guarantees. Further, the requirement of "directly" represents an unnecessary impediment to Requesting Licensees making appropriate claims for rebates.

Accordingly, IDA directs OpenNet to amend this clause 1.9(a) in the manner specified above.

- (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.

1.10 Initially, information relating to the Co-Location Space that is available, whether there is sufficient space at the relevant Co-Location Spaces at the Central Office for RL to RL Interconnection, procedures and forms for ordering the RL to RL Interconnection Service and an updated list of COs, including information on whether any of the listed COs has been earmarked for decommissioning, will be available on OpenNet's website, for access by the Requesting Licensee through secured means. The secured access to OpenNet's website will require the payment of a Per User Account eCharge (specified in clause 14 of Schedule 15 (Charges)) for each user account created. The aforementioned information shall be made available on the OpenNet Platform in due course. For the avoidance of doubt, such Per User Account Charge shall not be re-imposed when the information relating to Mandated Services is made available on the OpenNet Platform.

For the avoidance of doubt, IDA considers that there is merit to make clear that the applicable charge is the user account charge and that it would be unreasonable to impose the one-time charge a second time upon the OpenNet Platform becoming available.

Accordingly, IDA directs OpenNet to amend this clause 1.10 in the manner as specified above.

2. ORDERING AND PROVISIONING PROCEDURE

CLAUSES 2.1, 2.2 AND 2.3 - APPROVED

- 2.1 OpenNet shall process requests for RL to RL Interconnection Service (**RL to RL Interconnection Requests**) in a non-discriminatory manner on a first-come-first-serve basis.
- 2.2 The Requesting Licensee may submit RL to RL 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 RL to RL Interconnection Request using a RL to RL Interconnection Request Form in the form of Annex 12AA containing but not limited to the following information:

CLAUSES 2.3(a), 2.3(c) AND 2.3(d) – DIRECTED AMENDMENTS

- (a) the name and contact details of the Proposed Requesting LicenseeQP to which the RL to RL Interconnection Service is sought;
- (b) the Requesting Licensee’s contact details;
- (c) confirmation that the RL to RL Interconnection to be installed at the Co-Location Space at that Central Office is for the purpose of connecting to the Proposed Requesting LicenseeQP’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 Requesting LicenseeQP confirming that the RL to RL Interconnection Request sought has been agreed upon by both parties.

IDA directs OpenNet to replace “QP” with “Requesting Licensee” in clauses 2.3(a) and 2.3(c) in the manner specified above.

CLAUSES 2.4 AND 2.5 – DIRECTED AMENDMENTS

2.4 Within ~~three-one (31)~~ 31 Business Days of the date on which OpenNet receives the RL to RL Interconnection Request (**Request Date**), OpenNet must notify the Requesting Licensee (and shall provide the Requesting Licensee with a unique reference number or a similar form of identification in the notification) ~~whether-if~~ its Request is ~~accepted, or if-rejected,~~ for any one of the following reasons:

- (a) the RL to RL Interconnection Request is not in the prescribed form;
- (b) the RL to RL Interconnection Request does not contain the required information or the information provided is inaccurate or misleading;
- (c) OpenNet has plans or otherwise proposes to decommission the Central Office within six (6) months of the date of the RL to RL Interconnection Request; or
- (d) the Requesting Licensee has committed a material breach of the ICO Agreement or this Schedule.

2.5 Within three (3) Business Days of the Request Date, OpenNet must notify the Requesting Licensee (and shall provide the Requesting Licensee with a unique reference number or a similar form of identification in the notification) whether its Request is accepted, or if rejected, for any one of the following reasons:

- (a) there is insufficient space in the relevant cable tray at the relevant Co-Location Spaces at the Central Office;
- (b) the provision of the RL to RL Interconnection at a Central Office will give rise to significant health, safety, technical or engineering issues; or
- (c) there are security and confidentiality requirements or restrictions imposed on OpenNet by Governmental Agencies; ;

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

IDA considers it reasonable to expect OpenNet to be able to assess whether the Requesting Licensee's application is to be rejected for the reasons described in clauses 2.4(a), 2.4(b), and 2.4(c) within one (1) Business Day instead of three (3) Business Days as proposed by OpenNet since the assessment contemplated therein is relatively straightforward. In addition, for consistency with other ICO schedules,

OpenNet may also reject a Request if the Requesting Licensee has committed a material breach of the ICO Agreement or this Schedule.

Accordingly, IDA directs OpenNet to amend clauses 2.4 and 2.5 in the manner specified above.

CLAUSE 2.6 - APPROVED

2.6 The Requesting Licensee shall be liable for and shall pay OpenNet the RL to RL Interconnection Ordering Charge for the processing the RL to RL Interconnection Request as provided in Schedule 15 (Charges), irrespective of the outcome of the RL to RL Interconnection Request, unless the RL to RL Interconnection Request was wrongfully rejected by OpenNet.

3. PROJECT STUDY

CLAUSE 3.1 – DIRECTED AMENDMENTS

3.1 Except where OpenNet has rejected a RL to RL Interconnection Request under clauses 2.4 and 2.65, 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.

IDA notes that the reference to “clause 2.6” should be replaced by “clause 2.5”.

Accordingly, IDA directs OpenNet to amend this clause 3.1 in the manner specified above.

CLAUSES 3.2 AND 3.3 – APPROVED

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

CLAUSE 3.2(b) – DIRECTED AMENDMENTS

- (b) the number of Business Days (which shall not exceed twenty five (25) Business Days as specified in clause 4.4~~3~~) reasonably expected to complete the Site Preparation Work.

IDA notes that the reference to “clause 4.4” should be replaced by “clause 4.3”.

Accordingly, IDA directs OpenNet to amend this clause 4.3 in the manner specified above.

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 RL to RL Interconnection Request after completion of the Project Study.

4. SITE PREPARATION WORK

CLAUSE 4.1 – APPROVED

4.1 Within ten (10) Business Days from the date of notification of the result of the Project Study under clause 3.2 (or such other time as may be agreed between the Parties), the Requesting Licensee shall confirm in writing whether it wishes to proceed with the 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.

CLAUSE 4.3 – APPROVED

- 4.3 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 RL to RL 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.

CLAUSE 4.4 – DIRECTED AMENDMENTS

- 4.4 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 [Requesting LicenseeQP](#) to attend the Central Office for a final site inspection of the Co-Location Space.

IDA directs OpenNet to replace “QP” with “Requesting Licensee” in clause 4.4 in the manner specified above.

CLAUSE 5 - APPROVED

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

CLAUSES 5.1(a) AND 5.2(d) - APPROVED

- 5.1 The Requesting Licensee shall:
- (a) provide all installation materials and manpower needed for the installation of the RL to RL Interconnection;
 - (b) be responsible for patching the cable into their respective equipment; and

CLAUSE 5.1(c) - DIRECTED AMENDMENTS

- (c) be responsible for any cables that may be installed between its Co-Location Space and the Proposed ~~QP's~~ Requesting Licensee's Co-Location Space.

IDA directs OpenNet to replace "QP" with "Requesting Licensee" in clause 5.1(c) in the manner specified above.

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 RL to RL 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

CLAUSE 6.1 - APPROVED

6.1 OpenNet may suspend the RL to RL Interconnection at any time until further notice to the Requesting Licensee if the cable(s) for the RL to RL 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.

- 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.

CLAUSE 7 – APPROVED

7. TERMINATION OF RL TO RL INTERCONNECTION SERVICE

CLAUSE 7.1 – APPROVED

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

CLAUSE 7.2 – DIRECTED AMENDMENTS

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

IDA directs OpenNet to replace "QP" with "Requesting Licensee" in clause 7.2 in the manner specified above.

CLAUSE 7.3 – APPROVED

- 7.3 Upon termination of the RL to RL Interconnection Service the Requesting Licensee must discontinue the use of the Co-Location Space dedicated to the RL to RL Interconnection and remove its dedicated equipment for RL to RL Interconnection from the Co-Location Space without undue delay.

ANNEX 12AA

ANNEX12AA - APPROVED

RL TO RL INTERCONNECTION REQUEST FORM

Requesting Licensee	Date of Application: _____	Application Reference Number: \
	Location of CO:	RL to RL Interconnection to:
		<u>DIRECTED AMENDMENTS</u> [Company Name of the other Proposed <u>QP</u> Requesting Licensee]
	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)

DIRECTED AMENDMENTS

Please attach a letter of authorisation from the Proposed QPRequesting Licensee

IDA directs OpenNet to replace “QP” with “Requesting Licensee” in Annex 12AA in the manner specified above.

For and on Behalf of Requesting Licensee

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

OpenNet's Response: _____ 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

CLAUSE 1 – DIRECTED AMENDMENTS

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 50% of Project Study Fee) / 30
More than 30 Calendar Days	50% of Project Study Fee

IDA notes that OpenNet’s proposed modifications to this clause 1 of Annex 12AB are not fully compliant with IDA’s 7 August 2009 Directed Modifications requiring OpenNet to propose modifications to the Service Level Guarantee in this clause to increase the cap of the rebate to 50% of the Project Study Fee.

Accordingly, IDA directs OpenNet to amend this clause 1 of Annex 12AB in the manner specified above.

CLAUSE 2 – DIRECTED AMENDMENTS

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 50% of Site Preparation Charge) / 30
More than 30 Calendar Days	50% of Site Preparation Charge

IDA notes that OpenNet proposed modifications to this clause 2 of Annex 12AB are not fully compliant with IDA's Directed Modifications requiring OpenNet to propose modifications to the Service Level Guarantee in this clause 2 of Annex 12AB to increase the cap of the rebate to 50% of the Site Preparation Charge.

Accordingly, IDA directs OpenNet to amend this clause 2 of Annex 12AB in the manner specified above.

3. CLAIM PROCEDURES

CLAUSE 3(a) - APPROVED

- (a) A claim by the Requesting Licensee shall be made in writing within thirty (30) 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.
- (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.