

**APPENDIX 11**

**REQUIRED MODIFICATIONS TO SCHEDULE 10**

**SCHEDULE 10**

**CO to NBAP DP Connection**

## SCHEDULE 10

### CO TO NBAP DP CONNECTION

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## SCHEDULE 10

### CO TO NBAP DP CONNECTION

#### 1. SCOPE

This Schedule 10 sets out the terms and conditions under which OpenNet will provide the Requesting Licensee with a licence for Layer 1 Service (a service provided by OpenNet for the use of passive optical fibre cable) from OpenNet's designated Central Office (or "CO") to a Non-Building Address Point Distribution Point (NBAP DP) (**CO to NBAP DP Connection**).

- 1.1 This Schedule only applies to Requesting Licensees who are FBOs.

#### 2. SERVICE LEVEL GUARANTEES

- 2.1 OpenNet will provide the Service Level Guarantees in respect of the CO to NBAP DP Connection as set out in this Schedule. If OpenNet fails to meet any service activation period, Mean Time To Recovery or service level availability (collectively called the **Service Level Guarantees**) applicable to this Schedule and the failure to meet the Service Level Guarantees is solely and directly caused by OpenNet or its contractors and/or suppliers, OpenNet will provide a remedy in the form of a rebate to the Requesting Licensee in accordance with:

- (i) ~~Clause~~ 6.8 and any terms and conditions contained in this Schedule in respect of request and provisioning timeframes;
- (ii) ~~Clause—clause~~ 11.14 and any terms and conditions contained in this Schedule in respect of fault rectification timeframes; and
- (iii) ~~Clause—clause~~ 12.1 and any terms and conditions contained in this Schedule in respect of service level availability.

- 2.2 A claim by the Requesting Licensee shall be made in writing within fourteen thirty (~~1430~~) Calendar Days of the completion of the relevant calendar month on which the Service Level Guarantees are measured. 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 timeframes under this paragraph means that the Requesting Licensee

waives any entitlement to the Service Level Guarantee payment in respect of that claim.

2.3 If the Requesting Licensee is entitled to a rebate pursuant to the claim made hereunder, 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 in accordance with OpenNet's billing cycle.

2.4 The guarantee and rebates provided by OpenNet are:

(i) of an ex-gratia nature and personal to the Requesting Licensee and are non-transferable; and

(ii) subject to this Schedule.

2.5 Despite anything to the contrary in this section, if the Requesting Licensee qualifies for any claim, 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.

2.6 In addition to the specific terms and conditions of the Service Level Guarantees, the Service Level Guarantees shall not apply in any of the following circumstances:

(a) the CO to NBAP DP Connection is disconnected and/or reconnected by reason of it being suspended under the terms and conditions of this Schedule or ICO Agreement, except where the suspension is due to OpenNet's fault;

(b) fault due to any equipment, wiring and/or cabling owned or operated by the Requesting Licensee or on behalf of the Requesting Licensee;

(c) provision or restoration of the CO to NBAP DP Connection where any site-coordination meeting, Joint Investigation Meeting or fault identification coordination meeting is involved, except where (a) the fault was caused by OpenNet; and (b) the Requesting Licensee has not contributed to any delay in setting up the meeting. Notwithstanding the

above, in determining whether the Service Level Guarantees have been met by OpenNet, the time taken from the start of arranging any site-coordination meeting, Joint Investigation Meeting or fault identification coordination meeting up to the end of the meeting, shall always be excluded;

- (d) ~~or~~ where OpenNet needs to obtain or maintain any licence or permission necessary to the provision or restoration of the CO to NBAP DP Connection;
- (e) OpenNet has difficulty accessing the NBAP DP location;
- (f) delay in the provision or restoration of the CO to NBAP DP Connection caused by events beyond OpenNet's reasonable control;
- (g) OpenNet network outages for which the Requesting Licensee has not reported a fault;
- (h) fault is reported by the Requesting Licensee but no fault is found or confirmed after due and careful investigation, and verification by OpenNet;
- (i) OpenNet is required to carry out scheduled service interruption and the Requesting Licensee has been informed in accordance with clause 9.5; or
- (j) OpenNet is required to carry out fibre diversion at the request of the Government Agencies, private developers or other relevant parties and the Requesting Licensee has been informed in accordance with clause 9.5.

2.7 If the Requesting Licensee disputes OpenNet's reason for rejection, its records and/or the amount of rebate, the Requesting Licensee shall not be entitled to be credited with any rebate until and unless the dispute has been resolved.

2.8 A failure by OpenNet to meet any Service Level Guarantee does not constitute a breach of the ICO Agreement or this Schedule.

2.9 The Requesting Licensee acknowledges that the relevant remedy provided under clause 2.1 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 relevant Service Level Guarantees for the CO to NBAP DP

Connection and shall be OpenNet's sole and exclusive liability to the Requesting Licensee for such failure.

### 3. SERVICE DESCRIPTION AND ACCESS POINTS

3.1 OpenNet will provide a licence for the CO to NBAP DP Connection to the Requesting Licensee with the following:

- (a) one (1) fibre strand from OpenNet's Fibre Distribution Frame (**FDF**) at the Central Office designated by OpenNet to OpenNet's FDF at the NBAP DP;
- (b) one (1) Patching Service at OpenNet's FDF at the NBAP DP; and
- (c) one (1) Patching Service at OpenNet's FDF in the Central Office.

3.2 The Requesting Licensee shall access the CO to NBAP DP Connection at OpenNet's FDF at the Central Office designated by OpenNet or the Requesting Licensee's FDF at the Central Office designated by OpenNet, and at OpenNet's FDF at the NBAP DP.

### 4. ORDERING AND PROVISIONING PROCEDURE

4.1 The Requesting Licensee shall submit its request for the CO to NBAP DP Connection (**Request**) to OpenNet on a Business Day in the form of Annex 10A stating, but not limited to the following information:

- (a) the Customer's name and telephone number for the CO to NBAP DP Connection;
- (b) the NBAP DP address and a map demonstrating the location of the NBAP DP; ~~and~~
- (c) the Global Positioning System (GPS) coordinates, height (in metres, relative to ground level), and a broad description of the NBAP TP location; and-
- (d) where applicable, the Transmission Tie Cable Port to which the CO to NBAP DP Connection is to be connected at the Central Office.

4.2 Relocation of the CO to NBAP DP Connection is not allowed.

4.3 OpenNet shall at its sole discretion determine the serving CO from which the CO to NBAP DP Connection will be provided.

4.4 Initially, information relating to the Mandated Services 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 one-time charge for each user account created. Initially, information relating to network outages will be sent to the Requesting Licensee via email. The information relating to the Mandated Services and the information relating to network outages shall be made available on the OpenNet Platform in due course.

## 5. CO TO NBAP DP CONNECTION REQUEST

5.1 OpenNet shall process all Requests for the CO to NBAP DP Connection on a 'first come, first served' basis ~~up to the maximum number specified in clause 5.2.~~

5.2 For each ~~week~~Business Day, OpenNet shall process a combined total of no more than ~~2050-410~~ Requests for Basic Mandated Services and Layer 1 Redundancy Services (**Maximum Quota**) from all Requesting Licensees, and a daily roll-over mechanism shall apply for additional Requests beyond the Maximum Quota.

5.3 Within twenty (20) Business Days of the date on which OpenNet receives the request for the CO to NBAP DP Connection (Request Date) and subject to clause 5.2, OpenNet will complete its Project Study (not applicable for clauses 5.3(a), 5.3(b), 5.3(c) and 5.3(d)) and 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 (and if accepted, the service activation period), or if rejected, for any one of the following reasons: OpenNet shall process Requests beyond the Maximum Quota of an additional thirty percent (30%) above the Maximum Quota for all requests for Basic Mandated Services and Layer 1 Redundancy Services. The service activation period for such additional Requests shall be twice the service activation period of Requests which fall within the Maximum Quota. The additional Requests will be counted in the following week's Maximum Quota.

(a) the Request for CO to NBAP DP Connection is not in the prescribed form;

(b) the Request does not contain all the required information or the information provided is inaccurate or misleading;



- (c) the NBAP DP location is deemed to be inaccessible;
- (d) the Requesting Licensee has committed a material breach of the ICO Agreement or this Schedule;
- (e) the equipment or services that the Requesting Licensee proposes to use or to provide interfere with, or cause deterioration to services supplied by OpenNet;
- (f) there is obstruction from building owner, building management, home owner, End-User, property owner or relevant authorities to OpenNet installation or installation schedule;
- (g) the Transmission Tie Cable (installed pursuant to Co-location Service in Schedule 12) for connection to the CO to NBAP DP Connection is not operational at the point in time of OpenNet's provisioning of the NBAP CO to NBAP DP Connection;
- (h) the Transmission Tie Cable Port to be connected at the Central Office in relation to the Request for CO to NBAP DP Connection is already in use;
- (i) OpenNet has not rolled out its Network to the designated Building MDF Room serving the NBAP DP location;
- (j) OpenNet needs to increase capacity to provide the CO to NBAP DP Connection; or
- (k) there are security and confidentiality requirements or restrictions imposed on OpenNet by Government Agencies.

5.4 Notwithstanding anything in clause 5.3 to the contrary, OpenNet shall give a qualified acceptance to the Requesting Licensee with a revised service activation period if:

- (a) there is initial obstruction from building owner, building management, home owner, End-User, property owner or relevant authorities to OpenNet installation or installation schedule, but within two (2) Business Days from the initial visit, the Requesting Licensee obtains a firm commitment from the building owner, building management, home owner, End-User, property owner or relevant authorities (as applicable) and submits a written confirmation to OpenNet (in the form of Annex 10B) that

OpenNet would be allowed access on a definite date acceptable to OpenNet and that the Requesting Licensee shall pay the Installation and Onsite Charges for that visit and all subsequent visits by OpenNet;

(b) the Transmission Tie Cable (installed pursuant to Co-location Service in Schedule 12) for connection to the CO to NBAP DP Connection is not operational at the point in time of OpenNet's provisioning of the CO to NBAP DP Connection, but OpenNet has, at the time of the Request, already scheduled for such Transmission Tie Cable to be operational by a definite date;

(c) OpenNet needs to increase capacity in order to provide the CO to NBAP DP Connection, but OpenNet has, at the time of the Request, already scheduled for capacity to be increased by a definite date; or

(d) the NBAP DP location is initially deemed to be inaccessible, but OpenNet and the Requesting Licensee have agreed to conduct a joint site survey on a definite date to select an alternative NBAP DP location. For the avoidance of doubt, the Requesting Licensee will be required to pay Onsite Charges for this joint site survey and all subsequent joint site surveys.

~~In the event that the Request exceeds the Maximum Quota OpenNet shall inform the Requesting Licensee and the Request will be processed at twice the service activation period of Requests which fall within the Maximum Quota.~~

~~5.5 Within one (1) Business Day of the date on which OpenNet receives the request for the CO to NBAP DP Connection (**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 Request for the CO to NBAP DP Connection is not in the prescribed form;~~

~~(b) the Request does not contain all the required information or the information provided is inaccurate or misleading;~~

~~(c) the Request has exceeded the threshold of 30% above the Maximum Quota;~~

~~(d) the NBAP DP location is determined to be inaccessible; or~~

~~(e) — where the Requesting Licensee has committed a material breach of the ICO Agreement or this Schedule.~~

~~5.6 — If OpenNet has provided its in principle acceptance to the Request for the CO to NBAP DP Connection, OpenNet will proceed with its Project Study and inform the Requesting Licensee within twenty (20) Business Days of the Request Date, or such other period as may be notified by OpenNet to the Requesting Licensee, whether or not it is able to provide the CO to NBAP DP Connection, and if it is able to provide the CO to NBAP DP Connection, the Service Activation Period, taking into consideration the following:~~

~~(a) — whether the equipment or services that the Requesting Licensee proposes to use or to provide interfere with, or cause deterioration to services supplied by OpenNet;~~

~~(b) — obstruction from building owner, building management, home owner, End User, property owner or relevant authorities to OpenNet installation or installation schedule;~~

~~(c) — whether the Transmission Tie Cable (installed pursuant to Co location Service in Schedule 12) for connection to the CO to NBAP DP Connection is operational at the point in time of OpenNet's provisioning of the CO to NBAP DP Connection;~~

~~(d) — whether the Transmission Tie Cable Port to be connected at the Central Office in relation to the Request for the CO to NBAP DP Connection is already in use;~~

~~(e) — whether OpenNet has rolled out its Network to the designated Building MDF Room serving the NBAP DP location;~~

~~(f) — whether the NBAP DP location is accessible;~~

~~(g) — whether OpenNet needs to increase capacity to provide the CO to NBAP DP Connection; and~~

~~(h) — security and confidentiality requirements or restrictions imposed on OpenNet by Government Agencies.~~

5.5 Without prejudice to clause 5.83, the Requesting Licensee shall pay OpenNet the applicable Installation Charge specified in Schedule 15 (Charges) for provisioning the CO to NBAP DP Connection.

5.6 In addition to the Installation Charge, the Requesting Licensee ~~will~~ shall be liable to pay a one-time charge for installation of the OpenNet Network from the serving Central Office or Building MDF Room to the NBAP DP which will include ducting and/or trenching to reach the NBAP DP.

5.7 Where OpenNet (in its sole discretion) decides that it is necessary to conduct site visit(s) to assess the CO to NBAP DP Connection Request from the Requesting Licensee, the Requesting Licensee shall be liable to pay all applicable Onsite Charges for such site visit(s).

~~5.9 OpenNet may reject a Request for the CO to NBAP DP Connection if:~~

~~(a) the equipment or services that the Requesting Licensee proposes to use or to provide may interfere with, or cause deterioration to services supplied by OpenNet;~~

~~(b) the building owner, building management, home owner, End User, property owner or relevant authorities do not permit the performance of installation work;~~

~~(c) the Transmission Tie Cable (installed pursuant to Co location Service in Schedule 12) for connection to the CO to NBAP DP Connection is not operational at the point in time of OpenNet's provisioning of the CO to NBAP DP Connection;~~

~~(d) the Transmission Tie Cable Port to be connected at the Central Office in relation to the Request for the CO to NBAP DP Connection is already in use; or~~

~~(e) OpenNet has not rolled out its Network to the designated Building MDF Room serving the NBAP DP location;~~

~~(f) where upon OpenNet's site survey, the NBAP DP location is determined to be inaccessible; or~~

~~(g) there are security and confidentiality requirements or restrictions imposed on OpenNet by Government Agencies.~~

- 5.8 Where OpenNet rejects any Request for the CO to NBAP DP Connection, OpenNet shall provide reasons explaining the basis for rejection.
- 5.9 Where OpenNet informs the Requesting Licensee that the Request is accepted, OpenNet will inform the Requesting Licensee of the one-time charge payable for the installation of the OpenNet Network from the designated Central Office or Building MDF Room to the NBAP DP (which will include ducting / trenching to reach the NBAP DP) and the ~~s~~Service ~~a~~Activation ~~p~~Period for the CO to NBAP DP Connection. OpenNet shall provide a reasonable breakdown of the charge components for this one-time charge.
- 5.10 The Requesting ~~Licensee~~ Licensee must provide its acceptance of the ~~S~~Service ~~A~~Activation ~~P~~Period and agreement to pay the one-time installation charge to OpenNet within ten (10) Business Days, failing which, the Request shall be deemed cancelled and the Requesting Licensee shall be liable for Cancellation Charges in accordance with Schedule 15 (Charges).
- 5.11 Where the Requesting Licensee provides its acceptance of the ~~S~~Service ~~A~~Activation ~~P~~Period and agreement to pay the one-time installation charge, the ~~S~~Service ~~A~~Activation ~~P~~Period shall be deemed to commence on the next Business Day from the date the acceptance is received by OpenNet.

## 6. DELIVERY

- 6.1 OpenNet shall provide the CO to NBAP DP Connection by the end of the ~~S~~Service ~~A~~Activation ~~P~~Period. ~~OpenNet's obligation to provide the CO to NBAP DP Connection under this clause 6.1 shall be conditional on the Transmission Tie Cable being installed and operational on the Request Date.~~
- 6.2 Unless otherwise stated, OpenNet shall retain the responsibility for working at OpenNet's FDF at the Central Office and NBAP DP, including Patching Service at OpenNet's FDF at the Central Office and NBAP DP in accordance with Schedule 13 on Patching Services. The Requesting Licensee shall bear the Charges for such work carried out by OpenNet.
- 6.3 OpenNet will provide the necessary Patching Service at OpenNet's FDF at the NBAP DP using Patch Cable of not exceeding ten (10) metres in length. The Requesting Licensee shall provide its own Patch Cable if it requires a longer Patch Cable. For the avoidance of doubt, where the Requesting Licensee provides its own Patch Cable, OpenNet will not offer and the Requesting Licensee shall not

request for any rebate or discount over the Patching Service or the CO to NBAP DP Connection.

- 6.4 OpenNet will use optical fibre cable based on the ITU-T G.652D standard for outdoor installations and the ITU-T G.657A standard for in-building installations (where applicable) to deliver the CO to NBAP DP Connection.
- 6.5 OpenNet will test the optical fibre cable from OpenNet's FDF at its designated Central Office or the Requesting Licensee's FDF at the Central Office designated by OpenNet to OpenNet's FDF at the NBAP DP to ensure that the CO to NBAP DP Connection falls within the specified optical performance. Testing will be conducted at wavelengths of 1310nm, 1490nm and 1550nm.
- 6.6 OpenNet shall ensure that the optical power loss does not exceed -0.4dB per km and -0.5dB per connector.
- 6.7 OpenNet shall promptly notify the Requesting Licensee upon the completion of provisioning the CO to NBAP DP Connection.
- 6.8 Subject to clause 6.9, in the event OpenNet fails to meet the applicable ~~S~~service ~~A~~activation ~~P~~period for a Request, OpenNet shall compensate the Requesting Licensee an amount equal to the number of days of delay multiplied by the weekly recurring charge for the CO to NBAP DP Connection, subject to a maximum of 30 times the weekly recurring charge for the CO to NBAP DP Connection (**Weekly Recurring Charge**), where:

Weekly Recurring Charge = Monthly recurring charge x 7 / 30

- 6.9 Except for Requests with service activation periods which have been extended pursuant to clause 5.4, OpenNet shall not be required to compensate the Requesting Licensee under any of the following circumstances:
  - (a) Delay in the granting of permission from or permission is not granted to install the required Network to the NBAP DP;
  - (b) The Requesting Licensee requests the deferment of the service activation date; or
  - (c) The designated Building MDF Room serving the NBAP DP location which was initially under network coverage is demolished and/or reconstructed.

## 7. RESPONSIBILITY AT OPENNET FDF

- 7.1 The Requesting Licensee shall not, and shall ensure that its employees, agents and contractors do not, at any time access OpenNet's FDF at the Central Office and NBAP DP.
- 7.2 Where the Requesting Licensee wishes to change the existing patching connection at OpenNet's FDF at the Central Office, Building MDF Room or NBAP DP, the Requesting Licensee shall submit an application for termination of the existing Patching ~~service~~Service and order for a new ~~a~~ Patching Service at the Central Office, Building MDF Room or NBAP DP in accordance with Schedule 13 (Patching Service).

## 8. DEACTIVATION

- 8.1 Subject to the minimum contract term, the Requesting Licensee may terminate the CO to NBAP DP Connection by giving OpenNet not less than one (1) month prior written notice.
- 8.2 If the CO to NBAP DP Connection is terminated by the Requesting Licensee pursuant to clause 8.1 before the expiry date of the minimum contract term, the Requesting Licensee must pay OpenNet one hundred percent (100%) of the ~~monthly~~Monthly recurring~~Recurring charge~~Charge for the remainder of the minimum contract term.
- 8.3 Where any Patching Service is no longer required as a result of the termination of the CO to NBAP DP Connection, OpenNet shall remove the Patching Service at all the relevant access points and the Requesting Licensee shall be liable for the termination charges in accordance with Schedule 15 (Charges). Notwithstanding the above, the Requesting Licensee shall not be liable to pay any Charges for the removal of Patching Service related to or in connection with the termination of the CO to NBAP DP Connection, if such termination is the result of OpenNet's fault.

## 9. STANDARD TERMS AND CONDITIONS

- 9.1 OpenNet shall at its sole discretion determine its network deployment, including but not limited to the access points, fibre cable routing and location of the Central Office from which the CO to NBAP DP Connection is provided.

- 9.2 OpenNet shall be responsible for the maintenance of the CO to NBAP DP Connection, excluding all Patching Services installed under this Schedule. The terms and conditions of Patching Services provided are set out in Schedule 13 (Patching Service). For the avoidance of doubt, if there is a fault at the Patch Cable, OpenNet will not charge the Requesting Licensee an additional Patching Charge if OpenNet (or its contractors and/or suppliers) was solely and directly responsible for the fault at the Patch Cable.
- 9.3 Except to the extent strictly necessary to accurately describe the service to actual or potential Customers, the Requesting Licensee shall not use OpenNet's name, any of OpenNet's trademarks or the fact that any service is supplied using OpenNet's Network in promoting the Requesting Licensee's service.
- 9.4 The Parties shall in good faith co-operate with each other and take reasonable measures to ensure that there is no interference with or deterioration to OpenNet's existing services or those of a Third Party as a result of the Requesting Licensee's use of the CO to NBAP DP Connection.
- 9.5 If it is necessary to carry out any scheduled service interruption, including but not limited to planned repair, or replacement or upgrade to any equipment or facility forming part of the CO to NBAP DP Connection, OpenNet shall provide the Requesting Licensee with at least ~~three-one (13) weeks-month's~~ written notice in advance of such interruptions, repairs or upgrades, and shall inform Requesting Licensees of the period of service interruption. OpenNet shall take reasonable measures to minimise any service disruption to the Requesting Licensee.
- 9.6 If the scheduled service interruption affects ~~50 or more~~ CO to NBAP DP Connections, OpenNet will endeavour to carry out the scheduled service interruption between ~~midnight 1:00am~~ and 6:00am.
- 9.7 Subject to Requesting Licensee acquiring redundancy service, OpenNet ~~would~~shall, where ~~possible~~technically feasible, provide assistance to the Requesting Licensee to divert its CO to NBAP DP Connection to the redundancy service before commencing the scheduled service interruption.
- 9.8 Where there are available resources, OpenNet will, where possible, first divert critical links to alternative routings before commencing the scheduled service interruption.
- 9.9 OpenNet shall not be liable for any loss caused by such scheduled service interruption.



9.10 The Requesting Licensee shall be responsible to the Requesting Licensee's Customers for all aspects of the Requesting Licensee's services including but not limited to the operations and maintenance of the Requesting Licensee's service.

9.11 The Requesting Licensee must procure and maintain at its own cost:

(a) any equipment or software needed to implement, receive or use the CO to NBAP DP Connection;

(b) co-location at the designated Central Office and any space near the NBAP DP for its equipment;

~~(c) connection to RSPs and the Requesting Licensee's Customers; and~~

(c) access to the NBAP DP location.

9.12 Nothing in this Schedule vests in the Requesting Licensee any right, title or proprietary interest in the optical fibre cable, equipment or facilities forming part of the CO to NBAP DP Connection.

## **10. ACCESS AND APPROVALS REQUIRED**

10.1 The Parties shall comply with clause 15.5 of the main body of this ICO Agreement in relation to the obtaining of all licences, permits, consents, waivers, authorisations and intellectual property or other rights required for the provision of the CO to NBAP DP Connection.

## **11. FAULT REPORTING AND CLEARING**

11.1 Each Party must have or establish a Fault Reporting and Control Centre (**FCC**) to act as a single point of contact for the reporting, management and clearing of faults. The FCC must be available twenty-four (24) hours a day, seven (7) days a week.

11.2 It is the Requesting Licensee's responsibility to determine the source of the fault at its own cost and to ensure that the fault does not lie within its own network before reporting the fault to OpenNet.

11.3 Upon receipt of a fault report from the Requesting Licensee under clause 11.12, OpenNet shall ~~use its reasonable endeavours to~~ investigate the cause of the fault experienced by the Requesting Licensee in a diligent and responsible manner as

would be expected of a competent service provider. OpenNet shall update the Requesting Licensee as and when there is a change in status of the fault investigation/rectification work.

- 11.4 If, following investigation, OpenNet determines that the fault is at the Transmission Tie Cable at the Central Office, OpenNet will patch the CO to NBAP DP Connection to another available Transmission Tie Cable Port and charge the Requesting Licensee a Patching Charge in accordance with Schedule 15 (Charges). OpenNet will not charge the Requesting Licensee a Patching Charge if OpenNet (or its contractors and/or suppliers) was solely and directly responsible for the fault at the Transmission Tie Cable at the Central Office.
- 11.5 If, following investigation, OpenNet determines that the fault is at the Patch Cable at the NBAP DP, OpenNet will replace with another Patch Cable and charge the Requesting Licensee a Patching Charge(s) in accordance with Schedule 15 (Charges). OpenNet will not charge the Requesting Licensee a Patching Charge if OpenNet (or its contractors and/or suppliers) was solely and directly responsible for the fault at the Patch Cable at the NBAP DP.
- 11.6 If, following investigation, OpenNet determines that no fault is found or the fault is not with the OpenNet Network or equipment, then OpenNet shall charge the Requesting Licensee a No Fault Found Charge for the fault report in accordance with Schedule 15 (Charges).
- 11.7 If OpenNet is unable to identify a fault, OpenNet will call for a fault identification coordination meeting between OpenNet and the Requesting Licensee to identify a the fault. The Requesting Licensee shall provide all reasonable assistance requested by OpenNet. Each Party is to bear its own cost for attending such fault identification coordination meeting as well as any testing or trouble-shooting activities required as a result of such meeting.
- 11.8 The CO to NBAP DP Connection is deemed to be restored when OpenNet has tested and confirmed to the Requesting Licensee that the CO to NBAP DP Connection has been restored.
- 11.9 Where the Requesting Licensee has lodged with OpenNet a fault report and OpenNet is in the process of investigating the fault or where the Requesting Licensee has not lodged a fault report but suspects that there is a fault with the CO to NBAP DP Connection, the Requesting Licensee may request OpenNet for a joint investigation. The Requesting Licensee shall propose the date, time and venue for the joint investigation. Subject to OpenNet's resource availability and

agreement to the date, time and venue, OpenNet shall attend the joint investigation and charge the Requesting Licensee the Joint Investigation Charge according to ~~this~~ Schedule 15 (Charges).

11.10 The Requesting Licensee acknowledges that OpenNet may temporarily disconnect the Requesting Licensee's CO to NBAP DP Connection to perform reasonable fault analysis and line testing on the CO to NBAP DP Connection. OpenNet shall notify the Requesting Licensee at least thirty (30) minutes before the temporary disconnection and provide its reasons for the temporary disconnection.

11.11 Each Party shall maintain and store its own records of faults and repairs.

### **Mean Time To Recovery**

11.12 OpenNet shall restore any fault within a standard Mean Time To Recovery (**MTTR**) of eight (8) hours.

11.13 Subject to clause 2.6, the MTTR shall be the average time OpenNet took to restore service for all fault incidents for all CO to NBAP DP Connections acquired by the Requesting Licensee under this Schedule during a month, measured from the time each fault is reported by the Requesting Licensee to the time OpenNet confirms that the fault is restored, excluding fault incidents where OpenNet is prevented or restricted from restoring the service owing to matters that are not within OpenNet's control.

11.14 In the event OpenNet fails to meet the standard MTTR for a particular month, OpenNet shall compensate the Requesting Licensee an MTTR Rebate equal to the difference between the MTTR experienced by the Requesting Licensee and the standard MTTR in terms of number of days, multiplied by the number of services affected, multiplied by the Weekly Recurring Charge for the CO to NBAP DP Connection, subject to a maximum of 30 times the Weekly Recurring Charge for the CO to NBAP DP Connection.

## **12. SERVICE LEVEL AVAILABILITY**

12.1 OpenNet shall offer a service level availability of 99.99% per month for the CO to NBAP DP Connection. OpenNet shall offer to rebate the Requesting Licensee ten percent (10%) of the Monthly Recurring Charge if OpenNet fails to meet the service level availability for that month.

12.2 Service level availability for the CO to NBAP DP Connection is calculated as follows:

$$\frac{(A - B)}{(A)} \times 100\%$$

Where A = 24 hours x number of days for the month (in hours); and

B = total network outage time for the CO to NBAP DP Connection in the same month (in hours)

12.3 Subject to clause 2.6, the total network outage time is the sum of all minutes for which the CO to NBAP DP Connection is unavailable measured from the time each fault is reported by the Requesting Licensee to the time OpenNet confirms that the fault is restored, excluding fault incidents where OpenNet is prevented or restricted from restoring the service owing to matters that are not within OpenNet's control.

### **13. PROTECTION AND SAFETY**

13.1 Each Party is responsible for the safe operation of its Network and in particular the safe operation of any equipment within its Network on its side of the connection at the FDF in Central Office and at the NBAP DP.

13.2 Each Party shall, so far as reasonably practicable, take all necessary steps to ensure that the licence of the CO to NBAP DP Connection, its operations and its implementation of this Schedule:

- (a) do not endanger the safety or health of any person, including the employees and contractors of the Parties; and
- (b) do not damage, interfere with or cause any deterioration in the operation of the OpenNet Network.

### **14. TERM OF LICENCE**

14.1 The minimum contract term for the CO to NBAP DP Connection shall be twelve (12) months starting from the service activation date of the CO to NBAP DP Connection.

## 15. SUSPENSION

- 15.1 ~~Subject to clause 11.2 of the main body of this ICO Agreement,~~ OpenNet may suspend the Requesting Licensee's licence to the CO to NBAP DP Connection at any time until further notice to the Requesting Licensee if the CO to NBAP DP Connection licence 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 the OpenNet Network. If the suspension is the result of the Requesting Licensee's fault, the Requesting Licensee shall continue to pay the Monthly Recurring Charge during the period of suspension.
- 15.2 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 the CO to NBAP DP Connection licence under this clause 15.

## 16. TERMINATION OF LICENCE

- 16.1 The Requesting Licensee shall keep OpenNet informed on the Requesting Licensee's utilisation of each CO to NBAP DP Connection six (6) months from the service activation date and when there are changes to the utilisation.
- 16.2 The Requesting Licensee must use or activate a service to a Retail Service Provider using the CO to NBAP DP Connection within six (6) months from the service activation date of the CO to NBAP DP Connection. If the Requesting Licensee fails to do so, OpenNet will deactivate the CO to NBAP DP Connection upon giving the Requesting Licensee ten (10) Business Days prior notice. The Requesting Licensee must pay OpenNet the Monthly Recurring Charges for the remainder of the minimum contract term.

~~OpenNet may terminate the licence in respect of the CO to NBAP DP Connection after giving the Requesting Licensee ten (10) Business Days prior written notice if: (1) the Requesting Licensee abandons its CO to NBAP DP Connection or; (2) the Requesting Licensee is not providing any service over the CO to NBAP DP Connection; and the Requesting Licensee did not dispute such written notice given by OpenNet.~~

- 16.3 ~~Subject to clause 12.3 of the main body of this ICO Agreement,~~ OpenNet may immediately terminate a licence of the CO to NBAP DP Connection under this Schedule if:

- (a) the Requesting Licensee is no longer an FBO;
- (b) the OpenNet ICO is revoked by the Authority under clause 12.8 of the ICO Agreement;
- (c) the Authority removes the requirement for OpenNet to supply the CO to NBAP DP Connection under the OpenNet ICO or exempts OpenNet from supplying the CO to NBAP DP Connection under the ICO Agreement, provided that the date of termination shall not be earlier than the effective date of the Authority's decision;
- (d) in OpenNet's reasonable opinion, the Requesting Licensee is using the CO to NBAP DP Connection in contravention of an applicable law, licence, code, regulation or direction and OpenNet has the necessary confirmation from the relevant Government Agencies that the Requesting Licensee is in contravention of the applicable law, licence, code, regulation or direction;
- (e) in OpenNet's reasonable opinion, the Requesting Licensee is using the CO to NBAP DP Connection in a manner which places or allows a Third Party to act in contravention of an applicable law, licence, code, regulation or direction and OpenNet has the necessary confirmation from the relevant Government Agencies that the Third Party is in contravention of the applicable law, licence, code, regulation or direction;
- ~~(f) the CO to NBAP DP Connection is used other than the purposes specified in clause 1;~~
- (f) the licence in respect of Co-Location Space to which the CO to NBAP DP Connection is connected has been terminated or has expired;
- (g) the CO to NBAP DP Connection has become unsafe for its purpose; or
- (h) OpenNet's right to own, maintain or operate the CO to NBAP DP Connection has been revoked or terminated or has expired; ~~;~~ ~~or~~
- ~~(i) use of the CO to NBAP DP Connection 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.~~

16.4 ~~Subject to clause 12.3 of the ICO Agreement, e~~Either Party (**Terminating Party**) may terminate the CO to NBAP DP Connection:

- (a) if the other Party is in breach of this Schedule other than failure to pay any sum for which the Requesting Licensee has been invoiced, and such breach remains un-remedied for a period of sixty (60) Calendar Days after receiving notice from the Terminating Party;
- (b) if the Requesting Licensee's CO to NBAP DP Connection licence has been suspended pursuant to clause 15.1, and the cause of such suspension has not been remedied or rectified for a period of sixty (60) Calendar Days from the date of the suspension; or
- (c) if the Requesting Licensee is in breach of this Schedule by its failure to pay any sum for which the Requesting Licensee has been invoiced, and such breach remains un-remedied for a period of fourteen (14) Calendar Days after receiving notice from the Terminating Party. For the avoidance of doubt, this sub-clause shall not apply pending the resolution of any Billing Dispute in accordance with the provisions of Schedule 16 (Billing).

16.5 Upon expiry or termination of the licence of the CO to NBAP DP Connection:

- (a) the Requesting Licensee must immediately discontinue use of the CO to NBAP DP Connection;
- (b) the Requesting Licensee must promptly and without undue delay~~immediately~~ disconnect all equipment connected to the CO to NBAP DP Connection; and
- (c) OpenNet shall be responsible for removing all necessary Patching Services at the Requesting Licensee's cost in accordance with Schedule 15 (Charges). Notwithstanding the above, the Requesting Licensee will not be liable for OpenNet's costs of removing all necessary Patching Services, if the termination is the result of OpenNet's fault.

16.6 ~~Upon termination of~~ ~~if~~ the licence of the CO to NBAP DP Connection is terminated as a result of the Requesting Licensee's fault, the Requesting Licensee shall be liable to OpenNet for the Monthly Recurring Charges for the remainder of the minimum contract term.

16.7 If the Requesting Licensee fails to disconnect its equipment from the CO to NBAP DP Connection under clause 16.56(b), OpenNet may at its sole discretion remove and/or dispose of the Requesting Licensee's equipment. The Requesting Licensee shall pay to OpenNet all reasonable costs associated with the work undertaken by OpenNet including the cost of disposing the Requesting Licensee's equipment. The Requesting Licensee shall have no claim whatsoever against OpenNet in connection with the removal and/or disposal of the Requesting Licensee's equipment from the CO to NBAP DP Connection.

**17. REDUNDANCY SERVICE**

17.1 The Requesting Licensee may acquire one separate fibre strand from OpenNet's FDF at the Central Office to OpenNet's FDF at the NBAP DP (**Redundancy Service**) at the same prices, terms and conditions as the CO to NBAP DP Connection, unless stipulated otherwise in this clause 17.

17.2 OpenNet shall provide the Redundancy Service via the same duct and along the same path as the existing CO to NBAP DP Connection, without Duct Diversity and without Path Diversity. OpenNet may provide the Redundancy Service using a separate fibre strand from the same fibre cable that carries the existing CO to NBAP DP Connection.

17.3 The Requesting Licensee is eligible to acquire a Redundancy Service for the CO to NBAP DP Connection provided that the Requesting Licensee has already acquired an equivalent CO to NBAP DP Connection between the same Central Office and NBAP DP.

17.4 The Requesting Licensee shall be responsible, at its own cost and equipment, for the implementation of diversity or redundancy for its services using the Redundancy Service provided by OpenNet.

17.5 OpenNet shall make the Redundancy Service available to the Requesting Licensee, except where OpenNet is unable to build the requisite infrastructure to provide the Redundancy Service~~The supply of the Redundancy Service is subject to the availability of OpenNet's resources.~~



**ANNEX 10A: REQUEST FORM FOR CO TO NBAP DP CONNECTION**

Request for CO to NBAP DP Connection

Requesting Licensee	Date of Application: _____	Application Reference Number: _____
	End-User Name: _____	Assigned Transmission Tie Cable Port (Where applicable): _____
	NBAP DP address or description of address (Please attach map): _____	
	Any other info: _____ <input type="checkbox"/> <u>Redundancy Service is required</u>	

For and on Behalf of Requesting Licensee

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

Part 1: Date: \_\_\_\_\_

OpenNet	<input type="checkbox"/> Application accepted in principle and will proceed with detailed study: Circuit Identification Number: _____	
	<input type="checkbox"/> Application rejected Reason for rejection: _____	
	OpenNet Name / Signature: _____	Queue Status: _____

Part 2: Date: \_\_\_\_\_

OpenNet	<input type="checkbox"/> Circuit Provision: Provision Date: _____ Digging and Trenching Work Charges: _____ (Breakdown of charges to be attached)	
	<input type="checkbox"/> Application rejected Reason for rejection: _____	
	OpenNet Name / Signature: _____	

Requesting Licensee Acceptance:

Requesting Licensee	We <b>agree</b> that we are liable for the digging and trenching work charges and agree with the service provisioning date stated (both) above.	
	Sign: _____	Company Stamp: _____
	Name: _____	Company Name: _____
	Designation: _____	
	Contact Number, Fax and email address _____	

**ANNEX 10B: QUALIFIED ACCEPTANCE REQUEST FORM FOR CO TO NBAP DP CONNECTION**

**Request for CO to NBAP DP Connection**

Requesting Licensee

Date of Application: \_\_\_\_\_ Application Reference Number: \

Requested Date of Activation: \_\_\_\_\_ QA - \_\_\_\_\_

Residential End-User Name: \_\_\_\_\_ Residential End-User Telephone Number: \_\_\_\_\_

Residential End-User Address: \_\_\_\_\_

Any other info: \_\_\_\_\_

Redundancy Service is required

Requesting Licensee

For and on Behalf of Requesting Licensee

Sign: \_\_\_\_\_ Company Stamp: \_\_\_\_\_

Name: \_\_\_\_\_ Company Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Contact Number, Fax and email address \_\_\_\_\_

OpenNet

Part 1: Date: \_\_\_\_\_

Application accepted in principle:  
Circuit Identification Number: \_\_\_\_\_  
Tentative Provision Date : \_\_\_\_\_ Provide internal cabling to First Termination Point (Y/N)

Application rejected  
Reason for rejection: \_\_\_\_\_

OpenNet Name / Signature: \_\_\_\_\_ Queue Status: \_\_\_\_\_

OpenNet

Part 2: Date: \_\_\_\_\_

Circuit Provision:  
Revised Provision Date (where applicable): \_\_\_\_\_  
Reason: \_\_\_\_\_ Insufficient Capacity (Y/N)  
Any other reason: \_\_\_\_\_

Application rejected  
Reason for rejection: \_\_\_\_\_

OpenNet Name / Signature: \_\_\_\_\_