

APPENDIX 14

REQUIRED MODIFICATIONS TO SCHEDULE 12A

SCHEDULE 12A

RL TO RL INTERCONNECTION SERVICE

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SCHEDULE 12A

RL TO RL INTERCONNECTION SERVICE

SCHEDULE 12A – MODIFICATION REQUIRED

IDA Directed Modifications: To ensure clarity and consistency among the provisions of the ICO, IDA directs OpenNet to ensure consistency in its usage of defined terms. Without limitation to the foregoing, IDA notes that “Cost-Oriented Basis” is a defined term in Schedule 18, whereas there are references to “cost-oriented basis” and “cost-oriented” in this Schedule 12A. Where applicable, OpenNet should ensure consistent usage of the term “Cost-Oriented Basis”.

IDA refers OpenNet to section 10 of the Explanatory Memorandum to this Direction. Accordingly, IDA directs OpenNet to propose, for IDA’s approval, modifications to Schedule 12A in the manner specified therein.

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
- (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”), provided that:
 - (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 reasonable discretion; and

- (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 be recovered on a cost-oriented basis.

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 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.
- 1.4 The Requesting Licensee may request for one or more RL to RL Interconnection Services provided that the Requesting 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 Requesting Licensee (**Proposed Requesting Licensee**) it is planning to have a RL to RL Interconnection with.
- 1.6 The Requesting Licensee and the Proposed 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 Requesting Licensee.
- 1.7 OpenNet shall not be responsible for any damage to the Requesting Licensee's and the Proposed 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.

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

CLAUSE 1.10 – MODIFICATION REQUIRED

- 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 Charge (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.

IDA Directed Modifications: IDA refers OpenNet to section 10 of the Explanatory Memorandum to this Direction. IDA directs OpenNet to propose, for IDA's approval, modifications to clause 1.10 as specified therein. Without limitation to the foregoing, OpenNet should update clause 1.10 to reflect that OpenNet has launched its Platform, commenced B2B transactions and that orders are processed through such means. OpenNet should also reflect that Mandated Services information shall be provided over the Platform and via B2B transactions.

CLAUSE 1.11 – MODIFICATION REQUIRED

1.11 Onsite charges are applicable whenever Requesting Licensee requests for OpenNet to be onsite for any reason.

IDA Directed Modifications: Comments were received that OpenNet should not be allowed to impose onsite charges in cases where OpenNet needs to be present to provision a service or to be present due to its own fault or error. After careful consideration, IDA agrees that it would be unreasonable for any onsite charge to be imposed under such circumstances as it is not caused by the Requesting Licensee.

Accordingly, IDA directs OpenNet to propose, for IDA's approval, modifications to this clause 1.11 to give effect to the above requirement.

2. ORDERING AND PROVISIONING PROCEDURE

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:

- (a) the name and contact details of the Proposed Requesting Licensee 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 Licensee'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 Licensee confirming that the RL to RL Interconnection Request sought has been agreed upon by both parties.

CLAUSES 2.4(a) – (b) – MODIFICATION REQUIRED

2.4 Within one (1) Business Day 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) if its Request is 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.

IDA Directed Modifications: Comments were received that clauses 5.3(a)-(c) under Schedule 1 should not apply in the case of B2B orders. Instead, the "errors" described in these clauses should be checked in real-time and feedback provided immediately so that corrections can be made on the spot.

Similar to the IDA's position in Schedule 1, IDA is of the view that clauses 2.4(a)-(b) should also adopt the same approach. Accordingly, IDA directs OpenNet to propose, for IDA's approval, modifications to clauses 2.4(a)-(b) to give effect that "errors" described in these clauses should be checked in real-time and feedback provided immediately so that corrections can be made on the spot.

IDA further refers OpenNet to section 10 of the Explanatory Memorandum to this Direction. Accordingly, IDA directs OpenNet to propose, for IDA's approval, the necessary modifications to give effect to the directed modifications set out therein. Without limitation to the foregoing, OpenNet should update clauses 2.4(a)-(b) to reflect that OpenNet has launched its Platform, commenced B2B transactions and that orders are processed through such means.

CLAUSE 2.5 – MODIFICATION REQUIRED

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 Directed Modifications: To ensure that Requesting Licensee is informed of any rejection as soon as possible, IDA is of the view that it would be reasonable to require OpenNet to promptly notify the Requesting Licensees of any rejection and explain the basis of such rejection. Accordingly, IDA directs OpenNet to propose, for IDA's

approval, modifications to clause 2.5 to incorporate the above requirement.

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

3.1 Except where OpenNet has rejected a RL to RL Interconnection Request under clauses 2.4 and 2.5, 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 4.3) 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 RL to RL Interconnection Request after completion of the Project Study.

4. SITE PREPARATION WORK

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.

CLAUSE 4.2 – MODIFICATION REQUIRED

- 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.

IDA Directed Modifications: Similar to Schedule 12, IDA expects OpenNet to maintain its initial estimated charges save in exceptional situations where clearly unforeseen circumstances result in an increase in costs and OpenNet is able to fully justify the occurrence of such circumstances. Accordingly, IDA considers that it is fair and reasonable to require OpenNet to use its best endeavour to complete the Site Preparation Work within the estimated charges.

Accordingly, IDA requires OpenNet to propose, for IDA's approval, modifications to clause 4.2 to incorporate the above requirement.

- 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.
- 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 Licensee to attend the Central Office for a final site inspection of the Co-Location Space.

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

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

- 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.

CLAUSE 6.2 – MODIFICATION REQUIRED

- 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.

IDA Directed Modifications: Comments were received that OpenNet ought to be responsible for any Loss arising from OpenNet's own fault. It is unclear as to whether the intent of clause 6.2 is to exclude all liability for any Loss arising from suspension of Co-Location Space even where such liability has not been specifically excluded (or is in fact included) under clause 14 of the Main Body of the ICO. For example, clause 14.5 of the Main Body of the ICO provides that "Neither Party excludes or restricts its liability for death, personal injury, gross negligence or wilful default." IDA's position is that clause 6.2 must be subject to clause 14 of the Main Body of the ICO, and it cannot purport to be broader in scope and application than clause 14. IDA requires OpenNet to clarify the intent of clause 6.2 and to address this issue.

Accordingly, IDA directs OpenNet to propose, for IDA's approval, modifications to clause 6.2 to incorporate the above requirements.

7. TERMINATION OF RL TO RL INTERCONNECTION SERVICE

- 7.1 The Requesting Licensee may terminate the RL to RL Interconnection Service Licence by giving OpenNet at least one (1) month prior notice.
- 7.2 Upon expiry or termination of the Requesting Licensee's and/or the Proposed 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.

- 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

RL TO RL INTERCONNECTION REQUEST FORM

Requesting Licensee	Date of Application: _____	Application Reference Number: \
	Location of CO:	RL to RL Interconnection to: [Company Name of the Proposed 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)

Please attach a letter of authorisation from the Proposed Requesting Licensee

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

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 (50% of Project Study Fee) / 30
More than 30 Calendar Days	50% of 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 (50% of Site Preparation Charge) / 30
More than 30 Calendar Days	50% of Site Preparation Charge

3. CLAIM PROCEDURES

CLAUSE 3(a) – MODIFICATION REQUIRED

- (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.

IDA Directed Modifications: Comments were received from industry respondents that OpenNet should process all claims within a 30-day period, following which any claims that remain unresolved should be automatically deemed to be approved.

IDA considers that it is reasonable for the industry to expect OpenNet to process claims in a timely manner. However, IDA also recognises that OpenNet may face difficulties in complying with a 30-day timeframe, as there are a number of Requesting Licensees who may submit claims to OpenNet at any time. In consideration of the above, IDA is prepared to allow OpenNet to propose a timeframe to process the submitted claim. OpenNet is required to provide satisfactory justification to IDA as to the reasonableness of the timeframe.

IDA is also of the view that in the interest of clarity, OpenNet should clarify whether the rebate will be credited into Requesting Licensee's account in the bill immediately after OpenNet had processed the claim.

Accordingly, IDA directs OpenNet to propose, for IDA's approval, modifications to clause 3(a) to address the above.

- (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.