

### **SCHEDULE 3**

#### **PART A**

### **SCHEDULE 1: CONDITIONS INCLUDED UNDER SECTION 7 OF THE ACT**

#### **PART 1: DEFINITIONS AND INTERPRETATION RELATING TO THE CONDITIONS IN SCHEDULE 1**

**1.** In this Schedule unless the context otherwise requires:

“Applicable Service” means any telecommunication service which is provided by means of the Applicable Systems;

“Applicable Terminal Equipment” means apparatus which is applicable terminal equipment within the meaning of regulation 4 of the Terminal Equipment Regulations or regulation 2(1)(c) of the RTTE Regulations;

“Approved Apparatus” means apparatus approved under section 22 of the Act for connection to that system or which meets the appropriate essential requirements of regulation 4 of the RTTE Regulations;

“Auditing Standards” means United Kingdom auditing standards and guidelines issued from time to time by the Auditing Practices Board or its predecessor body, the Auditing Standards Body;

“Call Office” means telecommunication apparatus not supplied by the Licensee to any particular person but made available for use by the public or a class of the public;

“Compatibility” means that between the parties concerned there is no reasonably foreseeable risk of:

- (i) duplication of any Number; or
- (ii) any other related effect,

which would be liable to introduce ambiguity or errors or impose undue restrictions on any user or group of users;

“Competitive Standard Service” means a service which, unless a contrary determination by the Director applies pursuant to Condition 15.10:

- (i) a Schedule 2 Public Operator has requested the Licensee to offer to enter into an agreement to provide under Condition 13;
- (ii) the market for which has been determined by the Director to be competitive under Condition 15.10(a);

“Compliant Terminal Equipment” means Applicable Terminal Equipment which at the time of being placed on the market within the European Community (“the applicable time”) satisfied the requirements of regulation 8 of the Terminal Equipment Regulations or met the appropriate essential requirements of regulation 4 of the RTTE Regulations and either—

- (i) has not subsequently been modified so as to cease to satisfy or (as the case may be) meet those requirements as they were at the applicable time, or
- (ii) has subsequently been so modified but in such a way that it satisfied or (as the case may be) met those requirements as they were at the time of modification;

“Condition” means a Condition in this Schedule;

“Connectable System” means a telecommunication system which is authorised to be run under a licence which authorises connection of that system to the Applicable Systems;

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“Connection Service” means a telecommunication service consisting in the conveyance of any Message which has been, or is to be, conveyed by means of the Applicable Systems;

“Conventions” means the National Numbering Conventions comprising a set of principles and rules published from time to time by the Director relating to the use and management of Numbers;

“Essential Interface” means, in relation to a Point of Connection, an interface at which in the opinion of the Director it is essential that interoperability between the Applicable Systems and the respective Operator’s telecommunication systems is available;

“Fixed Public Telephone Network” means the public switched telecommunications network which supports the transfer between Network Termination Points at fixed locations of speech and 3.1 KHz bandwidth audio information, to support *inter alia*;

- (i) voice telephony,
- (ii) facsimile Group III communications, in accordance with ITU-T Recommendations in the “T-Series”,
- (iii) voice band data transmission via modems at a rate of at least 2,400 bit/s, in accordance with ITU-T Recommendations in the “V-Series”,

where access to the end-user’s Network Termination Point is via a number or numbers in the national numbering plan;

“Fixed Public Telephone System” means the telecommunication systems run by a person under a licence which has been granted under section 7 of the Act whether to a particular person, persons of a class or persons generally, and which form part of the Fixed Public Telephone Network by means of which Fixed Publicly Available Telephone Services are provided;

“Fixed Publicly Available Telephone Service” means the provision to end-users at fixed locations of a service for the originating and receiving of national and international calls, including voice telephony services and may include, in addition, access to emergency “112” services, the provision of operator assistance, directory services, provision of public-pay telephones, provision of service under special terms or provision of special facilities for customers with disabilities or with special social needs but does not include Value Added Services provided over the Public Telephone System;

“Geographic Number Ranges” means a Number range from the Specified Numbering Scheme where part of the digit structure contains geographic significance used for routing calls to the physical location of the Network Termination Point of the Subscriber to whom the Number has been assigned;

“Geographic Portability” means Portability relating to Numbers allocated as provided for in the Conventions in accordance with the rules for the allocation of Geographic Number Ranges;

“Group” means a Parent Undertaking and its subsidiary undertaking or undertakings within the meaning of Section 258 of the Companies Act 1985 as substituted by section 21 of the Companies Act 1989; and “Licensee’s Group” means a Group in respect of which the Licensee is either a Parent Undertaking or a subsidiary undertaking;

“Interconnection” means the physical and logical linking of telecommunications systems used by the same or a different organisation in order to allow the users of one organisation to communicate with users of the same or another organisation or to access services provided by another organisation irrespective of whether services are provided by the parties involved or other parties who have access to the systems;

“Interconnection Directive” means Directive [97/33/EC](#) on interconnection in telecommunications with regard to ensuring universal service and interoperability through the application of the principles of Open Network Provision (ONP);

“Interconnection Regulations” means the Telecommunications (Interconnection) Regulations 1997 (S.I.1997/2931);

“Interested Parties” means those persons (if any), other than the Licensee, with whom, in any particular case, the Director is required or considers it appropriate to consult;

“International Simple Resale Bearer Circuit” means a communication facility which is:

- (i) comprised both in a public telecommunications system and in an equivalent telecommunication system in a country or territory other than the United Kingdom;
- (ii) for the conveyance of Messages between:
  - (A) in the case of outbound Messages, the last point of connection within the United Kingdom at which the route of the Messages is selected and the first point of connection in any country or territory other than the United Kingdom;
  - (B) in the case of inbound Messages, the last point of connection in any country or territory other than the United Kingdom and the first point of connection in the United Kingdom at which the route of the Messages is selected;
- (iii) made available to a particular Service Provider;
- (iv) such that all of the Messages transmitted at any of the points mentioned in sub-paragraph (ii) above are received at every other such point;
- (v) such that all the points mentioned in sub-paragraph (ii) above are points of connection between telecommunication systems referred to in sub-paragraph (i) above and other telecommunication systems; and
- (vi) such that all the points mentioned in sub-paragraph (ii) above are fixed by the way in which the facility is installed and cannot otherwise be selected by persons or telecommunications apparatus sending Messages by means of that facility; but
- (vii) excluding from the extent of the facility any Private Leased Circuit installed between the particular Service Provider and any other person in the United Kingdom;

“ITU-T” means the International Telecommunication Union;

“Licence” shall have the meaning it has in paragraph 4 of this Licence;

“Major Office” means the Licensee’s registered office and such other offices as the Director, having consulted the Licensee, may direct;

“Message” means anything falling within paragraphs (a) to (d) of section 4(1) of the Act;

“Metering System” means the totality of all apparatus, data, procedures and activities which the Licensee employs to determine the extent of any telecommunication services provided by means of the Applicable Systems;

“Mobile Public Telephone System” means any telecommunication system run under a licence whether granted to a particular person, persons of a class or persons generally, by means of which Publicly Available Mobile Telephone Services are provided at Network Termination Points connected to telecommunication systems which are designed or adapted to be capable of being used while in motion;

“Mobile Radio Telecommunication Service” means any telecommunication service consisting in the conveyance of Messages by means of a telecommunication system where every Message that is conveyed thereby has been, or is to be, conveyed through the agency of Wireless Telegraphy to or from a telecommunication system which is designed or adapted to be capable of being used while in motion;

“National Numbering Conventions” has the meaning given to it in Condition 4.1;

“Network Charge Change Notice” has the meaning given to it in Condition 15.5;

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“Network Connecting Apparatus” means telecommunication apparatus comprised in the Applicable Systems which is not Network Termination and Testing Apparatus and is connected to another telecommunication system;

“Network Service” means any of the following:

- (i) a service consisting only of functions which enable End-users to send, receive, or both, Messages to or from one or more End-users, including functions which enable the establishment of a prior connection between such End-users;
- (ii) a service which consists only of functions which could not practically be provided to any End-user in identical form by anyone other than the Licensee, because those functions are dependent upon the functions referred to in sub-paragraph (i) above;
- (iii) any service which has been agreed by the Licensee and the Director;

“Network Termination and Testing Apparatus” means an item of telecommunication apparatus comprised in the Applicable Systems installed in a fixed position on Served Premises which enables:

- (i) Approved Apparatus to be readily connected to, and disconnected from, the Applicable Systems;
- (ii) the conveyance of Messages between such Apparatus and the Applicable Systems; and
- (iii) the due functioning of the Applicable Systems to be tested;

but the only other functions of which, if any, are:

- (A) to supply energy between such Apparatus and the Applicable Systems;
- (B) to protect the safety or security of the operation of the Applicable Systems; or
- (C) to enable other operations exclusively related to the running of the Applicable Systems to be performed or the due functioning of any system to which the Applicable Systems are or are to be connected to be tested (separately or together with the Applicable Systems);

“Network Termination Point” has the meaning given in Annex A;

“New Standard Service” means a service which, unless a contrary determination by the Director applies pursuant to Condition 15.10:

- (i) the Licensee first provides after it has been determined by the Director to be an Operator having Significant Market Power pursuant to regulation 4(1) of the Interconnection Regulations;
- (ii) a Schedule 2 Public Operator has requested the Licensee to offer to enter into an agreement to provide under Condition 13;

“Non-Geographic Portability” means Portability relating to Numbers allocated in accordance with the rules for the allocation of Number Ranges other than Geographic Number Ranges as provided for in the National Numbering Conventions but excluding Portability relating to Numbers allocated for use with Mobile Radio Telecommunication Services and Radiopaging Services;

“Number” means:

- (i) except for the purpose of Condition 5, any identifier which would need to be used in conjunction with any public switched telecommunication service for the purposes of establishing a connection with any Network Termination Point, user, telecommunication apparatus connected to any Public Switched Network or service element, but not including any identifier which is not accessible to the generality of users of a public switched service;
- (ii) for the purpose of Condition 5, any identifier (including any name or address) of any user, telecommunication apparatus, or telecommunications service related element;

“Number Portability” means a facility whereby Subscribers who so request can retain their number on a Fixed Public Telephone System and the integrated services digital network (ISDN), independent of the organisation providing the service at the Network Termination Point of a Subscriber at a specific location in the case of Geographic Portability or at any location in the case of Non-Geographic Portability;

“Numbering Plan” means a plan describing the method adopted or to be adopted for allocating and re-allocating a Number to any Network Termination Point, user, telecommunication apparatus or service element;

“Operator” means any person running a telecommunication system for the purpose of providing telecommunication services;

“Parent Undertaking” has the same meaning as in section 258 of the Companies Act 1985, as substituted by section 21 of the Companies Act 1989;

“Point of Connection” means a point at which the Applicable Systems and an Operator’s system are connected;

“Portability” means a facility which may be provided by the Licensee to an Operator or to a Service Provider enabling any Subscriber who requests Number Portability to continue to be provided with any telecommunication service by reference to the same Number irrespective of the identity of the person providing such a service;

“Private Leased Circuit” means a communication facility which is:

- (i) provided by means of one or more public telecommunication systems;
- (ii) for the conveyance of Messages between points, all of which are points of connection between telecommunication systems referred to in paragraph (i) above and other telecommunication systems;
- (iii) made available to a particular person or particular persons;
- (iv) such that all of the Messages transmitted at any of the points mentioned in sub-paragraph (ii) above are received at every other such point; and
- (v) such that the points mentioned in sub-paragraph (ii) above are fixed by the way in which the facility is installed and cannot otherwise be selected by persons or telecommunication apparatus sending Messages by means of that facility;

“Prospectively Competitive Standard Service” means unless a contrary determination by the Director applies pursuant to Condition 15.10, a service:

- (i) which a Schedule 2 Public Operator has requested the Licensee to offer to enter into an agreement to provide under Condition 15;
- (ii) which the Director has determined pursuant to Condition 15.10(a) is likely to become competitive within a market specified by him, and within a period specified by him;

“Public Operator” means any person who is authorised or permitted to run publicly available telecommunication systems or provide publicly available telecommunication services or both;

“Public Switched Network” means a public telecommunication system by means of which two-way telecommunication services are provided whereby Messages are switched incidentally to their conveyance, and, for the avoidance of doubt, a Public Switched Network does not include Private Leased Circuits or International Simple Resale Bearer Circuits;

“Publicly Available Mobile Telephone Services” means a telecommunication service which consists, wholly or partly, in the provision of Mobile Radio Telecommunication Services to an end user and makes use wholly or partly of a Mobile Public Telephone System but does not include Value Added Services provided over the Public Telephone System;

“Publicly Available Telephone Service” means either Fixed Publicly Available Telephone Services or Publicly Available Mobile Telephone Services or both;

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“Public Telephone System” means a Fixed Public Telephone System or a Mobile Public Telephone System, or both;

“RTTE Regulations” means the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (S.I. 2000/730);

“Radiopaging Service” means telecommunication services consisting in the conveyance of Messages by means of Wireless Telegraphy where every Message, apart from a simple acknowledgement, is ultimately transmitted from a Station for Wireless Telegraphy comprised in the Applicable Systems run by the Licensee to a Station for Wireless Telegraphy or Wireless Telegraphy Apparatus that is not comprised in those Applicable Systems;

“Relevant Company” means:

- (i) the Licensee; or
- (ii) a Parent Undertaking in relation to the Licensee;

“Relevant System” means a Connectable System which is, or is to be, connected to any of the switched Applicable Systems;

“Relevant Terminal Apparatus” means:

- (i) “Terminal Apparatus”, that is to say any telecommunication apparatus installed on Served Premises except a Call Office; and
- (ii) any other telecommunication apparatus connected to the apparatus referred to in subparagraph (i) above constituting a system run under a Licence by the person using that Terminal Apparatus;

“Schedule 2 Public Operator” means a Public Operator who:

- (A) is a Licensee whose name has been notified to the European Commission, by the United Kingdom, as an organisation covered by Annex II of the Interconnection Directive;
- (B) is authorised to provide switched and unswitched bearer capabilities to Users upon which other telecommunication services depend; and
- (C) does any of the following:
  - (AA) runs public switched systems, or provides publicly available telecommunication services, or both, and in doing so controls the means of access to one or more Network Termination Points identified by one or more unique numbers in the Specified Numbering Scheme;
  - (BB) provides leased lines to User’s premises;
  - (CC) makes available International Simple Resale Bearer Circuits;
  - (DD) runs public switched systems, or provides publicly available telecommunication services, or both, and in doing so controls the means of access, for the services concerned, to one or more end-users identified by one or more unique identifiers within an internationally recognised numbering and addressing plan;
  - (EE) provides publicly available telecommunication services and in doing so controls the means of access for the services concerned, to one or more end users identified by one or more unique numbers in the Specified Numbering Scheme; or
  - (FF) provides publicly available switched or unswitched bearer services between telecommunication systems run by one or more third parties;

“Scheme” has the meaning given to it in Condition 4.1;

“Served Premises” means a single set of premises in single occupation where apparatus has been installed for the purpose of the provision of telecommunication services by means of the Applicable Systems at those premises;

“Service Provider” means any person who is in the business of providing telecommunication services of any description;

“Shares” has the same meaning as in section 259(2) of the Companies Act 1985, as substituted by section 22 of the Companies Act 1989, and the term “Shareholding” is to be construed accordingly;

“Specified Numbering Scheme” means a scheme for the allocation and re-allocation of Numbers for the purposes of any of the switched Applicable Systems and the systems of other licensed Operators which is specified by the Director for the purpose of this Licence and described in a list kept for that purpose by him and made available by him for inspection by the general public;

“Standard List” means the list of Standard Services;

“Standard Service” means a Competitive Standard Service, a Prospectively Competitive Standard Service, a New Standard Service, or any other service which a Schedule 2 Public Operator has requested the Licensee to offer to enter into an agreement to provide under Condition 13;

“Subscriber” means any natural or legal person who or which is a party to a contract with the provider of Publicly Available Telephone Services for the supply of such services in the United Kingdom;

“Subsidiary” has the meaning given to it in section 736 of the Companies Act 1985 as substituted by section 144(1) of the Companies Act 1989;

“Telecommunications Numbering and Addressing Body” means a body approved by the Director as representative of the Licensee, other public telecommunications operators and other persons whom the Director considers it appropriate to include in consultations about the content of the National Numbering Conventions and the Scheme;

“Terminal Equipment Regulations” means the Telecommunications Terminal Equipment Regulations 1992 (S.I. 1992/2423);

“Transfer Charge” means the charge which is applied by the Licensee to itself or to any body corporate controlled by it for the use or provision of a service which is the same as a Standard Service;

“United Kingdom” includes any area to which the provisions of the Act apply by virtue of section 107;

“Users” means individuals, or organisations using or requesting Publicly Available Telecommunication Services;

“Value Added Service” means any service which is provided by means of the Applicable Systems, not being a service which consists wholly in the provision of any Network Services; and

“Wireless Telegraphy”, “Station for Wireless Telegraphy” and “Wireless Telegraphy Apparatus” have the same meaning as in the Wireless Telegraphy Act 1949.

2. Expressions cognate with those referred to in this Schedule shall be construed accordingly.

3. Any reference in any Condition in this Schedule, however expressed, to the Director notifying the Licensee about any matter, affording the Licensee an opportunity to make representations, taking representations made by the Licensee into account or explaining, or giving reasons for any matter to the Licensee, shall be without prejudice to any obligation of due process or similar obligation which the Director is or may be under by virtue of any rule or principle of law or otherwise.

4. Subject to paragraph 5 below, if the Director is considering whether a determination, direction or consent under any Condition in this Licence is appropriate, he shall notify the Licensee and any Interested Parties of his proposed decision or the options which he is considering, and his

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reasons, and give them a reasonable opportunity to make representations. On making or refusing a determination or direction or giving or refusing consent, he shall notify the Licensee and Interested Parties of the determination, direction or consent or refusal, as the case may be, and his reasons.

5. Paragraph 4 does not apply in relation to any determination, direction or consent the procedure for which is otherwise set out in this Licence or in or under any enactment.

6. Where the Director makes a determination for the purposes of Part A of Schedule 1, or decides that such a determination shall no longer apply, the procedure shall be as follows:

- (a) the Director shall serve upon the Licensee a notice, with reasons, informing the Licensee that it appears to the Director that the Licensee is an Operator having Significant Market Power for the purposes of the Interconnection Directive as referred to in Condition 12;
- (b) the notice in sub-paragraph (a) above shall be copied to Interested Parties at the same time as being served upon the Licensee;
- (c) the Licensee and Interested Parties shall be given a period of not less than 28 days in which to make representations;
- (d) the representations made by the Licensee or Interested Parties, or both, shall be published in such manner as the Director considers appropriate to bring such representations to the attention of the Licensee and Interested Parties (having regard to the wish of the Licensee or any Interested Party to keep matters contained in any representation confidential);
- (e) the Licensee and Interested Parties shall be given a further period of not less than 28 days in which to make any observations on the representations which have been published;
- (f) when the Director has considered the representations and any observations made, he shall prepare a draft decision and statement of reasons for that decision and send it to the Licensee, and any Interested Party who has submitted representations or observations, or both, giving those persons a period of not less than 14 days within which to comment; and
- (g) after considering any comments received, the Director shall inform the Licensee of his decision, with reasons, and publish such decision in the same manner he published the representations referred to in paragraph 6(d) above.