

**PRIVATE & CONFIDENTIAL**

**1 July 2004**

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**INFRASTRUCTURE PROVIDER FOR THE TELECOMMUNICATION  
INDUSTRY (InTi) LICENCE  
GRANTED TO**

**[LICENSEE'S NAME]**

**UNDER SECTION 5 OF THE TELECOMMUNICATIONS ORDER, 2001**

**ON [DATE]**

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**AUTHORITY FOR INFO-COMMUNICATIONS TECHNOLOGY  
INDUSTRY OF BRUNEI DARUSSALAM (AiTi)**

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**AUTHORITY FOR INFO-COMMUNICATIONS TECHNOLOGY  
INDUSTRY OF BRUNEI DARUSSALAM (AiTi)**

**INFRASTRUCTURE PROVIDER FOR TELECOMMUNICATION  
INDUSTRY (InTi) LICENCE**

**GRANTED BY THE AUTHORITY FOR INFO-COMMUNICATIONS TECHNOLOGY  
INDUSTRY OF BRUNEI DARUSSALAM (AiTi)**

**UNDER SECTION 5 OF THE  
TELECOMMUNICATIONS ORDER, 2001**

The Authority for Info-communications Technology Industry of Brunei Darussalam (hereinafter referred to as “AiTi”), in exercise of the powers conferred on it under Section 5 of the Telecommunications Order 2001 (hereinafter referred to as the “Order”), hereby grants to **[insert licensee name]** (hereinafter referred to as the “Licensee”) a licence to establish, install and maintain the telecommunication infrastructure (hereinafter referred to as the “Infrastructure”) [and a right to use radio frequency spectrum which has been allocated to the Licensee by AiTi (hereinafter referred to as the “Allocated Frequency Spectrum”) for the purposes of operating the Infrastructure] **[include if licence issued with spectrum right]** as specified in **Schedule A**, subject to the general terms and conditions set out in **Schedule B**, and the specific terms and conditions set out in **Schedule C**.

**Issued on [date]**

**by**

**CHIEF EXECUTIVE  
AUTHORITY FOR INFO-COMMUNICATIONS TECHNOLOGY INDUSTRY  
OF BRUNEI DARUSSALAM**

## Schedule A

### PART I

#### Description of the Telecommunication Infrastructure to be provided by [Licensee name]

1. *Category of Licence*

The Licensee is granted a licence to provide the following:

- Mobile Telecommunication Infrastructure
- Non-Fixed Telecommunication Infrastructure
- Fixed-Wired Telecommunication Infrastructure
- Fixed-Wireless Telecommunication Infrastructure

2. *Infrastructure*

The infrastructure to be established by the Licensee shall be as stated in the Licensee's Licence Application on [date].

3. *Technical Summary*

The Licensee's network shall comprise **[insert technical summary]**.

The Licensee's network components is as follows:

**[insert technical network diagram]**

### PART II

#### Description of Prohibited Infrastructure and Services for [Licensee name]

1. *Prohibited Infrastructure*

Nil.

2. *Prohibited Services*

Nil.

### PART III Description of Allocated Frequency Spectrum for [Licensee name]

1. *Allocated Frequency Spectrum*

The Allocated Frequency Spectrum means:

**[insert frequency bands allocated]**

2. *Purpose*

The Allocated Frequency Spectrum shall be used for the purposes of operating the Infrastructure.

## Schedule B

### TERMS AND CONDITIONS OF THE INFRASTRUCTURE PROVIDER FOR THE TELECOMMUNICATION INDUSTRY (InTi) LICENCE

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**TERMS AND CONDITIONS OF THE INFRASTRUCTURE PROVIDER FOR THE  
TELECOMMUNICATION INDUSTRY (InTi) LICENCE**

**1 THE LICENCE**

**1.1 Period**

1.1.1 The Licence comes into force on [date] and shall be valid for a period of **20 years**, unless suspended or cancelled by AiTi in accordance with Clause 2.4 or 2.5, or terminated by the Licensee in accordance with Clause 2.6.

1.1.2 The Licence may be further renewed for such period as AiTi thinks fit and subject to such terms and conditions as may be specified by AiTi under Section 5 of the Order.

**1.2 Fees**

1.2.1 The Licensee shall pay the granting fee of [**B\$xx,xxx**] within 2 weeks of the grant of the Licence. The failure of the Licensee to pay the granting fee shall constitute a breach that may result in the suspension or cancellation of this Licence in accordance with Clause 2.4 of this Licence. **[to include only if there is an applicable granting or bid fee]**

1.2.2 The Licensee shall pay to AiTi a periodic licence fee on a regular basis, that is 1.5%, or such other percentage as may be determined and notified by AiTi, of the audited periodic gross turnover (“PGTO”) based on the provision of the Infrastructure [and the use of the Allocated Frequency Spectrum] **[include if licence issued with spectrum right]**, subject to a minimum of B\$100,000.00 per year. The PGTO shall be computed based on the turnover of the Licensee for all businesses, operations and other activities related to the provision of the licensed or licensable Infrastructure [and the use of the Allocated Frequency Spectrum] **[include if licence issued with spectrum right]**, irrespective of and not discounting any revenue sharing, joint venture or other arrangements that the Licensee may have with other third parties or related companies.

1.2.3 The periodic licence fee shall be payable in advance based on the PGTO for the preceding period’s actual PGTO.

1.2.4 The periodic licence fee shall be payable on a 6 monthly basis, so as to provide 2 annual instalments, unless otherwise determined and notified in advance by AiTi. The first periodic fee shall be payable on the 31st of January of each year, and the second periodic fee shall be payable on the 31st of July of that same year.

1.2.5 The fee shall be calculated based on the PGTO of licensed and licensable activities of the last six monthly financial accounts. Where the annual financial accounting period of the licensee finishes in the immediate 6 monthly period ending 30 November, then those accounts shall be used to calculate the first

periodic fee for that period, and if not, then the nearest 6 monthly financial accounts prior to 30 November shall be used. The second periodic fee shall be based on the PGTO of the nearest annual or 6 monthly financial accounts of the licensee ending on or before 31 May of the preceding 6 monthly period.

1.2.6 The financial accounts used for the above calculations shall be audited on at least an annual basis and a copy thereof shall be provided to AiTi at the time the periodic licence fee is payable. Where the audited financial accounts show an under reporting of PGTO to that used at the time a prior periodic fee was payable, then an additional balancing fee amount shall be payable by the licensee so as to make up such shortfall. This balancing fee amount shall be payable in conjunction with the periodic fee at the first time the audited financial accounts reveal it at either of the 6 monthly periods.

1.2.7 All fees collected by AiTi shall be forfeited by AiTi if the licence is cancelled or suspended during the term of the licence, or if the Licensee withdraws its acceptance of the Licence after approval for the Licence has been granted by AiTi.

1.2.8 Where there is late payment of licence fees, the Licensee shall be charged interest based on the prime interest rate as published by the Brunei Association of Banks. Interest shall be charged for the period beginning on the due date of the payment and ending on the date of its receipt in full by AiTi. Interest shall accrue from day to day and be calculated on the basis of the actual number of days elapsed and a 365-day year.

1.2.9 For the avoidance of doubt, the Licensee shall continue to be subject to its obligations under the Licence and shall not be released from such obligations by reason of any late payment of licence fees.

### **1.3 Non-Transferable**

1.3.1 The Licensee shall not assign, transfer, sublet or otherwise dispose of its rights, duties, liabilities, obligations and privileges under this Licence to any person or persons except with the prior written approval of AiTi.

1.3.2 Any such approval shall be given subject to terms and conditions, which AiTi at its sole discretion may impose.

### **1.4 Variation**

1.4.1 AiTi may vary or amend any of the terms of this Licence pursuant to Section 7 of the Order.

### **1.5 Warranty**

1.5.1 The Licensee acknowledges that this Licence was granted on the basis of the application submitted by the Licensee. The Licensee hereby represents and

warrants that it has complied with the rules and procedures that have been stipulated by AiTi in relation to the application for this Licence, that the Licensee has not been involved in any act or omission of any act constituting a breach of the rules and procedures stipulated by AiTi, and that the Licensee has met and satisfied all requirements that AiTi has stated as a prerequisite to the Licence application. The Licensee further warrants that all the information submitted in the application for the Licence are true, accurate and complete.

- 1.5.2 The Licensee acknowledges and agrees that in the event that AiTi determines that the Licensee has breached any of the rules and procedures in relation to the application to this licence, AiTi shall be entitled to cancel or suspend this Licence or any part thereof in accordance with Clauses 2.4 or 2.5 of this Licence.

## **1.6 Structure**

- 1.6.1 The Licensee shall be a corporate entity incorporated in Brunei Darussalam or a Brunei Darussalam government department. Where the Licensee is a joint venture vehicle between a local and a foreign party, or where one or more foreign parties control or hold any shares conferring voting rights (whether directly or indirectly) in the Licensee, then the foreign party must not have majority vote or control of the Licensee. A foreign party is deemed to have a majority vote or have control of a Licensee if:

- (a) the foreign party has the power or right (whether directly or indirectly through one or more other persons or entities, and whether alone or together with one or more other foreign parties) to appoint or remove the majority of the directors of the Licensee or otherwise controls or has the power or right to determine the composition of the board of directors of the Licensee; “control” in this context refers to the ability or power to exercise a significant influence over the composition of the board of directors of the Licensee;
- (b) the foreign party possesses, controls or has the right to exercise (whether directly or indirectly through one or more other persons or entities and whether alone or together with one or more other foreign parties) more than half of the voting power at a general meeting or board meeting of the Licensee; “control” in this context refers to the ability or power to exercise a significant influence over the voting at a general meeting or board meeting of the Licensee; or
- (c) if the foreign party holds or owns or has an interest in (whether directly or indirectly through one or more other persons or entities and whether alone or together with one or more other foreign parties) more than half of the issued share capital of the Licensee (including preference and other shares as long as such shares confer voting rights); “interest” in this context includes any beneficial or equitable interest or ownership, or interest conferred as a result of any instrument of trust.

- 1.6.2 A “foreign party” includes:

- (a) in the case of an individual, anyone who is not a Brunei Darussalam citizen; and

- (b) in the case of a company, partnership, unincorporated body or association, body corporate or other entity, any such company, partnership, unincorporated body or association, body corporate or other entity (whether established or incorporated in or outside Brunei Darussalam) which is ultimately owned (whether partially or wholly) or controlled, by one or more persons who are not Brunei Darussalam citizens or by one or more entities incorporated or established outside Brunei Darussalam. “Control” in this context refers to the ability or power to exercise a significant influence over management and decision-making.

1.6.3 Where the Licensee changes its corporate structure in breach of this Clause 1.6, it shall be deemed a breach of the Licence.

## **1.7 Geographical Coverage**

### **[Clause to be included for InTi with Allocated Frequency Only]**

1.7.1 The geographical area in which the Licensee is permitted to use the Allocated Frequency Spectrum for the purposes of operating the Infrastructure in Brunei Darussalam and its territorial waters up to [100] km from the coast line.

## **2 DIRECTIONS AND ENFORCEMENT**

### **2.1 Direction by AiTi**

2.1.1 The Licensee shall strictly and without any undue delay comply with any directions, which AiTi may from time to time issue in the exercise of its powers, functions or duties under Section 27 of the Order, in this Licence, or under any other applicable written law in force in Brunei Darussalam.

2.1.2 AiTi may, by notice in writing to the Licensee amend, vary or revoke wholly or in part any directions given by it pursuant to Clause 2.1.1, and the Licensee shall, at its own expense, comply with such amended, varied or revoked direction accordingly.

2.1.3 Unless otherwise expressly specified, the Licensee shall safeguard the secrecy of all directions given by AiTi. The Licensee shall not during the currency and after the expiry, termination or cancellation of the Licence disclose or permit the disclosure of any of the said directions to any person not authorised to receive the same without the prior written consent of the Chief Executive of AiTi. The Licensee shall further take all reasonable precautions in dealing with the said directions so as to prevent any unauthorised persons from having access to the same.

2.1.4 AiTi or officers authorised by AiTi shall have the right of access at all times to all of the Licensee’s premises to conduct inspection of all facilities, equipment and plants.

## **2.2 Dispute Resolution**

- 2.2.1 Subject to Clause 2.2.3, in the event that the Licensee fails to reach an agreement with other telecommunication licensees on matters relating to the requirements of the Order, this Licence, codes of practice, directions or advisory guidelines that may be issued from time to time by AiTi under Sections 26, 27 or 28 of the Order, the dispute shall be referred to and determined by AiTi whose decision shall be binding on all parties concerned. AiTi shall have the discretion to make its decision on the basis of national or public interest, and not on a commercial basis.
- 2.2.2 AiTi reserves the right to levy a fee for work undertaken in this respect.
- 2.2.3 If the Licensee is aggrieved by any decision or direction of AiTi under this Clause 2.2, the Licensee may appeal to the Minister in accordance with Sections 27(4) and 72 of the Order.

## **2.3 Codes of Practice**

- 2.3.1 The Licensee shall comply with all applicable codes of practice, and any additional or supplemental guidelines that AiTi may issue from time to time, in accordance with Sections 26 and 28 of the Order.

## **2.4 Penalty for Breach**

- 2.4.1 Where the Licensee breaches any licence condition, AiTi may impose a financial penalty on the Licensee in accordance with Section 8 or any other relevant section of the Order.
- 2.4.2 AiTi may at any time suspend or cancel the Licence for the breach of any condition in this Licence, or in default of payment or any consideration payable hereunder.
- 2.4.3 AiTi reserves the right to publish at any time information concerning any enforcement actions taken against and/or penalties imposed on the Licensee.

## **2.5 Suspension or Cancellation**

- 2.5.1 AiTi may, in any of the events specified in Section 8 of the Order, by notice in writing given to the Licensee, suspend or cancel the Licence in whole or in part, or impose a fine of such amounts as AiTi thinks fit.

## **2.6 Termination**

- 2.6.1 In the event that the Licensee desires to terminate the Licence or any of the Infrastructure it provides, the Licensee shall seek AiTi's written approval at least

twelve (12) months in advance. If the Licensee intends to terminate all the Infrastructure it provides under the Licence, the Licensee shall be deemed as intending to terminate the Licence.

2.6.2 No termination shall take effect until AiTi's written approval is obtained under Clause 2.6.1.

2.6.3 In the event of a termination, AiTi reserves the right to issue directions to the Licensee regarding the take over of the Infrastructure of the Licensee, and for action to be taken to migrate the customers of the Licensee to another licensee.

## **2.7 Rights upon Termination, Suspension or Cancellation**

2.7.1 Any termination, suspension or cancellation of the Licence shall be without prejudice to the rights and remedies which may accrue to the Licensee or AiTi under the Licence or any written law in force in Brunei Darussalam as at the date of termination except that the Licensee shall not have the right to seek a refund of the licence fee or any other fee paid in advance, whether in whole or in part.

## **2.8 Exceptions and Limitations**

2.8.1 The Licensee shall not be held to have failed to comply with its obligations in this Licence if and to the extent that AiTi is satisfied that it is prevented from complying with those obligations for the following reasons:

- (a) malfunction or failure of any equipment where AiTi determines that reasonable measures were taken beforehand to prevent such malfunction or failure; or
- (b) the act or omission of any national authority, local authority or international organisation; or
- (c) any other factor, which, in the opinion of AiTi is beyond the Licensee's reasonable control and which notwithstanding the exercise by it of reasonable diligence and foresight, the Licensee was unable to prevent or overcome,

provided that the Licensee shall use all reasonable endeavours to resolve with all reasonable speed any factor preventing the compliance with its obligations and the Licensee shall immediately resume the performance of its obligations as soon as the factor which prevented such compliance is resolved.

2.8.2 Where the Licensee is a designated public telecommunication licensee under the Order, the exclusion of liability set out in Section 73 of the Order shall also apply.

## **2.9 International Obligations**

2.9.1 The Licensee shall exercise its rights and powers and perform its duties and obligations under this Licence in a manner that is consistent with the Government

of Brunei Darussalam's obligations under any Convention, Agreement, Arrangement or Treaty to which Brunei Darussalam is or shall become a party to.

- 2.9.2 AiTi shall notify the Licensee from time to time of any such Convention, Agreement, Arrangement or Treaty to which Clause 2.9.1 applies for its compliance.

### **3 ROLLOUT**

#### **3.1 Description**

- 3.1.1 The Licensee shall establish, install and maintain in proper working order and in accordance with international standards as may be specified by AiTi from time to time the Infrastructure **[in place]** as described in **Part I of Schedule A**. The Licensee shall not make changes to the Infrastructure, or operate or provide any new infrastructure not described in **Part I of Schedule A** except with the prior written approval of AiTi.
- 3.1.2 Where the Licensee wishes to introduce a new infrastructure or make changes to any existing infrastructure, the Licensee shall provide AiTi with such technical and/or non-technical information in writing as may be required by AiTi within such period as may be specified by AiTi. Any approval given by AiTi under this Clause shall be subject to such terms and conditions that AiTi may, in its sole discretion, impose.
- 3.1.3 Notwithstanding Clause 3.1.1, the Licensee shall not establish install or provide any infrastructure or services that are described in **Part II of Schedule A**, or as stipulated in any applicable code of practice, direction or advisory guidelines that AiTi may issue from time to time under Sections 26, 27 or 28 of the Order. The provision of any such prohibited infrastructure or services by the Licensee, or the contravention of any applicable code of practice, direction or advisory guideline stipulating such prohibition, shall constitute a breach of this Licence that may subject the Licensee to enforcement actions being taken by AiTi against the Licensee. AiTi shall have the discretion to amend **Part II of Schedule A** from time to time without reference to the Licensee.

#### **3.2 Operation**

##### **[Clause to be included for InTi with Allocated Frequency Only]**

- 3.2.1 The Licensee shall ensure that the Infrastructure and equipment comprised therein are operated within the Allocated Frequency Spectrum for the purposes described in **Part III of Schedule A**, and shall at all times comply with all applicable emission standards and technical specifications or requirements that AiTi may from time to time specify. The Licensee shall not operate outside the Allocated Frequency Spectrum, or use it for purposes not described in **Part III of Schedule A** except with the prior written approval of AiTi.

- 3.2.2 The Licensee shall ensure that the Infrastructure and equipment comprised therein that are operated within the Allocated Frequency Spectrum are not used for any unlawful purpose or misused in any way.
- 3.2.3 Notwithstanding Clauses 3.1.1 and 3.2.1, the Licensee shall not use the Allocated Frequency Spectrum for any purpose or activities that are described in **Part II of Schedule A**, or as stipulated in any applicable code of practice, direction or advisory guidelines that AiTi may issue from time to time under Sections 26, 27 or 28 of the Order. The use of the Allocated Frequency Spectrum for any such prohibited purpose or activity or the contravention of any applicable code of practice, direction or advisory guideline stipulated such prohibition, shall constitute a breach of this Licence that may subject the Licensee to enforcement actions being taken by AiTi against the Licensee.
- 3.2.4 The Licensee shall obtain AiTi's prior written approval before making any change to the location, equipment, frequencies, emissions, power, polarisation, aerial characteristics and other technical parameters of any part of the Infrastructure or its equipment.
- 3.2.5 The Licensee shall ensure that the height of the transmitter antenna of a radio-communication station working in the Infrastructure shall not exceed **[50]** metres above mean sea level (AMSL). Where justified, AiTi may grant conditional approval for the Licensee to exceed the prescribed height provided that the Licensee shall take all necessary steps at its own cost, to ensure that the Infrastructure will not cause interference to or receive interference from other telecommunication systems operating within or outside of Brunei Darussalam.
- 3.2.6 The Licensee shall be responsible for obtaining any other required authorisations or approvals from the appropriate regulatory agencies in Brunei Darussalam with respect to the erecting of any physical structure as part of the Licensee's Infrastructure, notwithstanding any approvals that may be granted by AiTi under Clause 3.2.5 above.

### **3.3 Commitment**

- 3.3.1 Without prejudice to any of the Licensee's obligations under this Licence, the Licensee shall abide with its proposals on network rollout, range of infrastructure, quality of service standards, pricing and service provisioning schemes and any other commitments as submitted to AiTi in its licence application.

### **3.4 Equipment Approval**

- 3.4.1 Prior to the operation of the Infrastructure, the Licensee shall in accordance with section 9 of the Order, submit for AiTi's written approval all telecommunication infrastructure, technology and any telecommunication equipment which is part of the Infrastructure or which is to be connected to the Infrastructure.
- 3.4.2 The Licensee shall seek AiTi's prior written approval from time to time for any other telecommunication equipment (including any new technology or change in

any technology deployed) to be used in the operation of the Infrastructure or which is to be connected to the Infrastructure for which the approval has not been granted under Section 9 of the Order, whether such other equipment is in addition to or intended replace the existing equipment or parts thereof.

- 3.4.3 The Licensee shall not undertake or participate in the business of production or provision of any telecommunications equipment without the prior written approval of AiTi.
- 3.4.4 Where the Licensee is called upon to carry out any tests or assessment of any telecommunications equipment for or by any person, such tests shall be carried out only with the prior written consent of AiTi and without prejudice to the provisions of Section 7 of this Licence.
- 3.4.5 The Licensee shall take all reasonable steps to ensure that no information with respect to such telecommunications equipment that has been obtained in the course of or for the purpose of any such test or assessment, shall be disclosed to any person including the Licensee's employees, except:
  - (a) With the consent of AiTi or the producer or supplier of that equipment; or
  - (b) To the extent necessary to enable the Licensee to carry out any such test or assessment and report on it to the person for whom it was carried out.
- 3.4.6 No person engaged in any such test or assessment shall (except to the extent agreed by AiTi) be answerable, in any way, which requires the disclosure of the information referred to in clause 3.4.5, to anyone engaged in the activities of providing telecommunication services or supply of telecommunication equipment.

### **3.5 Universal Service**

#### **[to be included only for PTL]**

- 3.5.1 The Licensee shall establish, install, maintain and operate the Infrastructure and shall provide, through or with the use of the Infrastructure, the ability to provide a Basic Telephone Service to any person in Brunei Darussalam who requests the provision of such service.
- 3.5.2 In this Clause, "Basic Telephone Service" means a plain telephony service provided through a telephone set connected to the public switched telephone network and which service excludes that which is provided through any enhanced or supplementary configuration of the Infrastructure, but includes the capability to support dial-up data access through the telephony service.
- 3.5.3 The Licensee shall take all reasonable steps to provide to any person to whom it provides telecommunication services, full connection by means of the Infrastructure to international telecommunication services, unless AiTi is satisfied that for any of the reasons set out in Clause 2.8 it would be unreasonable for the Licensee to do so.

- 3.5.4 The Licensee shall, in compliance with any directions that AiTi may from time to time issue, provide and maintain public payphone services in Brunei Darussalam.
- 3.5.5 The Licensee shall consult AiTi from time to time about, and endeavour to implement measures to make available or to continue to make available services capable of satisfying the reasonable demands of the disabled (especially persons with a hearing impairment). The Licensee shall, if requested to do so by AiTi, participate in the work of any advisory body for matters affecting such disabled persons.

### **3.6 Universal Service Fund**

- 3.6.1 The Licensee shall contribute towards the Universal Service Provision Fund as provided for under Section 60 of the Order in a manner as directed by AiTi.

## **4 RESOURCE**

### **4.1 Frequency Spectrum**

#### **[Clause to be included for InTi without Allocated Frequency]**

- 4.1.1 The Licensee shall use any frequency spectrum for the operation of the Infrastructure only in accordance with terms and conditions of this Licence.
- 4.1.2 The Licensee shall take all necessary steps to ensure that the use of its Infrastructure is safe and does not cause interference to other existing radio-communication networks operating in the same band or in other bands. The Licensee shall also take appropriate measures to ensure that its Infrastructure is adequately protected from interference that may be caused by networks operating in the same band or in other bands.
- 4.1.3 All telecommunication equipment used by the Licensee shall be type approved to conform to the radio and telecommunication equipment standards that may be specified by AiTi from time to time. The Licensee shall co-operate with AiTi for the purposes of assisting AiTi in coordinating and managing the use of radio frequencies in relation to neighbouring countries, including but not limited to, the provision of information to AiTi and the reduction of emission levels of any radio-communication station and network comprised in the Infrastructure.

### **4.2 Frequency Spectrum**

#### **[Clause to be included for InTi with Allocated Frequency Only]**

- 4.2.1 The Licensee shall take all necessary steps to ensure that the use the Allocated Frequency Spectrum for the purposes provided under this Licence is safe and does not cause interference to other existing radio-communication networks operating in the same band or in other bands. The Licensee shall also take appropriate measures to ensure that its Infrastructure is adequately protected from

interference that may be caused by networks operating in the same band or in other bands.

- 4.2.2 All telecommunication equipment used by the Licensee shall be type approved to conform to the radio and telecommunication equipment standards that may be specified by AiTi from time to time.
- 4.2.3 The Licensee shall co-operate with AiTi for the purposes of assisting AiTi in coordinating and managing the use of radio frequencies in relation to neighbouring countries, including but not limited to, the provision of information to AiTi and the reduction of emission levels of any radio-communication station and network comprised in the Infrastructure.
- 4.2.4 Subject to the Order, the AiTi Order, and this Clause 4.2.4, the use of any part of the Allocated Frequency Spectrum for the purposes of managing interference (including the provision for one or more guard bands) shall be at the discretion of the Licensee.

### **4.3 Disuse**

#### **[Clause to be included for InTi with Allocated Frequency Only]**

- 4.3.1 If AiTi determines that the Licensee has not utilised the Allocated Frequency Spectrum for a continuous period of 2 years, AiTi shall have the right to cancel this Licence and recover the Allocated Frequency Spectrum without any obligation to refund any fees that have been paid by the Licensee to AiTi.

### **4.4 Numbering**

- 4.4.1 The Licensee shall comply with AiTi's codes of practice, directions and advisory guidelines that may be issued from time to time under Sections 26, 27 or 28 of the Order in relation to Brunei's national numbering plan, and number allocation and assignment schemes. The Licensee shall, in its submission to AiTi, justify the use of numbers and shall, subject to payment of the required fees for Golden Numbers, be provided with the necessary numbers to enable the effective and efficient operation of the Infrastructure. The Licensee shall take all necessary steps to ensure that the numbers allocated are efficiently utilised.
- 4.4.2 Any telephone number(s) assigned to the Licensee is the property of AiTi and the Licensee shall have no proprietary right to the telephone number(s) assigned.
- 4.4.3 AiTi reserves the right to alter, reallocate and/or reassign any telephone number previously allocated or assigned to the Licensee at any time, upon written notice to the Licensee. In such instances, AiTi shall not be liable to any person for any loss or inconvenience directly or indirectly attributable to the alteration, reallocation and/or reassignment of such telephone number.

## **4.5 Number Portability**

- 4.5.1 The Licensee shall implement number portability from the commencement of the operation of its Infrastructure.
- 4.5.2 The Licensee shall comply, at its own cost, with AiTi's codes of practice, directions and advisory guidelines that may be issued from time to time under Sections 26, 27 or 28 of the Order in relation to the implementation of number portability.

## **5 COOPERATION**

### **5.1 Civil and Public Bodies**

- 5.1.1 The Licensee shall co-operate with the relevant Government ministries, departments, statutory boards or official agencies (the "Emergency Organisations") in all ways possible for the provision of national security and emergency services.
- 5.1.2 The Licensee shall, where directed by AiTi, participate in any emergency activities or preparations thereof in collaboration with the relevant Emergency Organisations, in accordance with the written law in Brunei Darussalam.
- 5.1.3 The Licensee shall, after consultation with the relevant Emergency Organisations, make plans and other arrangements for the provision or, as the case may be, the rapid restoration of Infrastructure as are practicable and may be reasonably required in national emergencies. The Licensee shall, on the request by any such person as is designated for the purpose in the relevant plans or arrangements, implement those plans or arrangements in so far as it is reasonable and practicable to do so.
- 5.1.4 Nothing in this Clause shall preclude the Licensee from:
- (a) Recovering the costs which it incurs in making or implementing any such plans or arrangements from those on behalf of or in consultation with whom the plans or arrangements are made; or
  - (b) Making the implementation of any plan or arrangement conditional upon the person or persons for which or on whose behalf that plan or arrangement is to be implemented indemnifying the Licensee for all costs incurred as a consequence of the implementation.
- 5.1.5 Nothing in this Clause shall restrain the person or persons referred to in Clause 5.1.4(a) or (b) from the right to obtain the services referred to in this Clause on a competitive basis.
- 5.1.6 Without prejudice to any other obligation under this Licence, the Licensee shall, when notified of any fault or failure of a part of the Infrastructure which causes

any interruption, suspension or restriction of the telecommunication services, provide to the relevant Emergency Organisations priority fault repair service with a view to restoring those Infrastructure as swiftly as practicable and with priority, as far as reasonably practicable, over fault repair services provided by the Licensee to other persons. Such priority fault repair services shall mean a service consisting in such repair, maintenance or adjustment of the Infrastructure as is necessary to restore and maintain a sufficient service, and shall be available for 24 hours a day or for such lesser periods of each day as may be agreed between the Licensee and the person requiring its provision.

## **5.2 Access**

- 5.2.1 The Licensee shall provide to any person licensed by AiTi to provide telecommunication services in Brunei Darussalam, means of access to the Infrastructure.
- 5.2.2 The Licensee may, with the prior written approval of AiTi, impose an access charge upon any person licensed by AiTi to provide telecommunication services in Brunei Darussalam in connection with the use of the Infrastructure.
- 5.2.3 The Licensee shall comply with AiTi's Access and Interconnection Framework, and any codes of practice, directions or advisory guidelines that AiTi may, from time to time, issue to the Licensee under Sections 26, 27 or 28 of the Order, and shall submit to AiTi on a quarterly basis all access agreements entered into with other licensees.

## **5.3 Interconnection**

- 5.3.1 The Licensee shall connect to the Infrastructure on request and at appropriate connection points, which it shall provide for this purpose:
- (c) any equipment approved or exempted from approval by AiTi for connection to the Infrastructure; and
  - (d) any public or private telecommunication infrastructure approved or licensed by AiTi which infrastructure also meet any other requirements, AiTi may from time to time impose.
- 5.3.2 Notwithstanding Clause 5.3.1, the Licensee shall cease to connect or refuse to connect to the Infrastructure any equipment or system that:
- (a) has not been approved, licensed or exempted from approval or licensing by AiTi;
  - (b) no longer meets the requirements for approval or licensing by AiTi, in respect of which AiTi has issued a notice to that effect to the person who has under his control such equipment or system; or
  - (c) in the opinion of AiTi is liable to cause the death of, or personal injury to, any person engaged in operating the Infrastructure or any connected

equipment or system, or materially impair the quality of any telecommunication service provided by means of any licensed system, or damage the property of the Licensee.

- 5.3.3 The terms and conditions for the connection of equipment or systems to the Infrastructure of the Licensee shall be determined by agreement between the Licensee and the owner or operator of the equipment or system except in so far as the conditions are prescribed in the Order or in this Licence. In the event that the parties cannot reach an agreement, the matter shall be determined by AiTi whose decision shall be final. Such agreement shall not contain any restrictive provision unless before the agreement is made, AiTi has expressly consented to the inclusion of such a provision.
- 5.3.4 The Licensee shall permit any person who is licensed to operate a system that is connected to the Infrastructure under a licence that authorises him to provide telecommunication services to others, to provide such services while the systems are connected.
- 5.3.5 The Licensee shall not impose technical or other conditions or employ any arrangements for the connection of equipment or systems to the Infrastructure other than those set by AiTi. In particular, the Licensee shall not, except where AiTi is satisfied that it is reasonable, exercise any Intellectual Property Rights that it owns or is licensed to use in a manner that prevents or inhibits the connection of approved equipment or systems to the Infrastructure. In this Clause, "Intellectual Property Rights" means, without prejudice to its generality, the rights to patents, trade marks, designs, know-how and copyright.
- 5.3.6 The Licensee shall comply with AiTi's Access and Interconnection Framework, and any codes of practice, directions or advisory guidelines that AiTi may, from time to time, issue to the Licensee under Sections 26, 27 or 28 of the Order, and shall submit to AiTi on a quarterly basis all interconnection agreements entered into with other licensees.

#### **5.4 Minimum Interconnection Duties**

- 5.4.1 The Licensee shall comply with the following minimum duties in relation to interconnection with another licensee:
- (a) The Licensee shall have a duty to interconnect with other licensees. The parties shall enter into a written agreement (the "Interconnection Agreement") that captures the terms governing the interconnection relationship between the licensees and include the compensation arrangements. The Interconnection Agreement shall be governed by the laws of Brunei Darussalam;
  - (b) The Licensee, in interconnecting with another licensee, shall take reasonable measures to ensure that the interconnection does not cause physical or technical harm to the other licensee's network;
  - (c) The Licensee shall provide to any other licensee to which it interconnects the necessary information within its possession necessary to allow the

interconnecting licensee to provide accurate and timely billing to its customers;

- (d) The Licensee shall protect from disclosure any confidential or proprietary information provided by another licensee in the course of negotiating or implementing an Interconnection Agreement. The Licensee may use such information only in relation to the Interconnection Agreement. The Licensee shall adopt appropriate procedures to ensure that the information is not used for the development or marketing of other telecommunication services or equipment by the Licensee, its affiliates or other third parties.
- (e) The Licensee shall not discriminate the quality of the interconnection or the availability of any other support services or facilities that it provides to another licensee, and shall ensure that there are sufficient points of interconnection available;
- (f) The Licensee shall make information regarding the physical and logical interfaces of its network publicly available to allow the development and deployment of telecommunication services, value added services, and telecommunication equipment that can interconnect and interoperate with another licensee's network. Any changes shall be made publicly available at least six (6) months before the change if it has a material impact on interconnection arrangements. Such changes may not be made known to any of the licensee's affiliated companies at any time before the intended changes are announced publicly;
- (g) The Licensee shall comply with any mandatory technical standards that may be stipulated by AiTi from time to time;
- (h) The Licensee shall take reasonable steps to allow a customer who chooses to obtain services from another licensee to do so with minimum difficulty. This includes a duty on the Licensee to allow a customer to retain its telephone number or other address information to allow the continued access to the service;
- (i) The Licensee shall submit to AiTi for approval copies of all Interconnection Agreements that it enters into. If the Interconnection Agreements are modified, the revised agreements shall also be submitted to AiTi for approval of the amendments.

## **5.5 Changes**

- 5.5.1 The Licensee shall give notice in writing to AiTi and shall notify all parties affected of any changes it intends to implement in the specification or performance of the Infrastructure which would require changes to any equipment or systems connected to the Infrastructure or which would have the effect of making such connections inoperable. The period of notice given shall be appropriate to the likely impact on the parties affected and on connected equipment or systems and shall be decided in consultation with AiTi.

- 5.5.2 Where AiTi considers that a change in the Infrastructure referred to in Clause 5.5.1 would cause another person licensed to provide telecommunication services in Brunei Darussalam to make major changes in its own systems in order to connect its systems to the Infrastructure, and notifies the Licensee thereof, the Licensee shall obtain the prior written approval of AiTi before implementing such a change, and shall comply with such terms and conditions as AiTi may, in its sole discretion, impose.
- 5.5.3 Any changes proposed by the Licensee must not be a Predatory Network Alteration as provided for in Clause 7.8 below.
- 5.5.4 The Licensee shall prepare and publish in consultation with AiTi a statement of its procedures for consulting, and giving advance notice to, those persons likely to be affected by such changes and shall adhere to those procedures specified in the statement.

## **5.6 Infrastructure Sharing and Deployment**

- 5.6.1 The Licensee shall comply with AiTi's codes of practice, directions and advisory guidelines that may be issued from time to time under Section 26, 27 or 28 of the Order in relation to infrastructure sharing and deployment.
- 5.6.2 Where AiTi considers it necessary for the Licensee to share infrastructure with other telecommunication licensees in designated areas in the national and/or public interest or otherwise, AiTi shall inform the licensees accordingly so that licensees can make the necessary arrangements before submitting their infrastructure sharing plans to AiTi for approval. The Licensee shall share infrastructure whenever and wherever mandated by AiTi in accordance with AiTi's codes of practice, directions and advisory guidelines that may be issued from time to time under Section 26, 27 or 28 of the Order.

## **5.7 Emergency Activities**

- 5.7.1 The Licensee shall, where required by AiTi, participate in any emergency activity or preparation thereof in collaboration with other relevant agencies, organisations and Government ministries and departments, in accordance with the written law in force in Brunei Darussalam.

# **6 ACCOUNTABILITY**

## **6.1 Controls**

- 6.1.1 AiTi reserves the right to establish price control arrangements and Quality of Service Standards for the Infrastructure provided by the Licensee with which the Licensee shall comply.

- 6.1.2 The Licensee shall seek AiTi's written approval before making any adjustments in tariffs as seen in its commercial judgment suited best to promote its objects and to fulfil the conditions of this Licence. AiTi reserves the right to impose tariff caps as may be deemed appropriate. The Licensee shall submit such requests for adjustments to AiTi for approval at least 7 days prior to the launch of the adjustments.
- 6.1.3 AiTi reserves the right to require the Licensee to maintain separate financial data and accounts for the Infrastructure and the Licensee shall submit on request such data and accounts to AiTi for inspection.
- 6.1.4 AiTi reserves the right to require the Licensee to file its schemes of service, including non-price terms and conditions for the provision of Infrastructure and price schemes with AiTi before commercial launch or announcement of such Infrastructure.

## **6.2 Publication**

- 6.2.1 The Licensee shall publish information about the Infrastructure it provides, covering *inter alia*, descriptions and pricing of the Infrastructure available, the terms and conditions thereof, and the provision of fault repair and any other commercial and technical services available.

## **6.3 Confidentiality**

- 6.3.1 The Licensee shall respect and ensure the confidentiality of subscriber information, especially for ex-directory numbers except under the following circumstances:
- (a) where sharing of information with another licensee is necessary to detect, prevent or investigate into fraud;
  - (b) where disclosure is deemed necessary by AiTi or the relevant law enforcement or security agencies to carry out their functions or duties; and
  - (c) where use of subscriber information is in accordance with the applicable codes of practice, directions and advisory guidelines that AiTi may issue from time to time under Sections 26, 27 or 28 of the Order relating to the protection and confidentiality of subscriber information.

## **6.4 Code of Conduct**

- 6.4.1 The Licensee shall within 3 months of the grant of the Licence submit for AiTi's approval a code of conduct that:
- (a) Specifies the persons to whom the Licensee may not disclose information about a customer of the Licensee without prior consent of the customer;

- (b) Regulates the information about any such customer that may be disclosed without his consent; and
- (c) Restricts disclosure of information relating to the testing of equipment in relation to Clauses 3.4.4, 3.4.5 and 3.4.6;

6.4.2 On AiTi's approval of the code of conduct submitted by the Licensee, the Licensee shall take all reasonable steps to ensure that its employees observe the provisions of such code.

## **6.5 Accounting Separation**

6.5.1 The Licensee shall comply with AiTi's codes of practice, directions and advisory guidelines that may be issued from time to time under Section 26, 27 or 28 of the Order in relation to Accounting Separation.

## **6.6 Provision of Information to AiTi**

6.6.1 The Licensee shall provide AiTi with any documents or information within its knowledge, custody or control that AiTi may by notice or direction require for the exercise of its functions and duties under the Order. This includes providing annual and such other reporting as stipulated in **Schedule D**, and as may be amended by AiTi from time to time. The Licensee hereby undertakes to AiTi that any such document or information provided to AiTi shall be true, accurate and complete.

6.6.2 In order to monitor the Licensee's compliance with the conditions of this Licence, AiTi may also direct the Licensee to arrange at the Licensee's own cost a separate and independent audit of its activities. The Licensee shall, at AiTi's request, submit the audited accounts and reports prepared under this condition to AiTi for its inspection and verification.

6.6.3 The Licensee shall notify AiTi regarding any change in the ownership, shareholding and management arrangements of the Licensee (including but not limited to any change in the appointment of the Chairman, Chief Executive Officer, or Directors and other Management Officers) provided to AiTi in its application for the Licence.

6.6.4 The Licensee shall notify AiTi of any joint venture, association, contract or arrangement with a third party that the Licensee enters into within 7 days after the entry into such joint venture, association, contract or arrangement, and furnish AiTi with any supporting documents that AiTi may request for.

6.6.5 The Licensee shall keep in strict confidence any documents or information so required by AiTi pursuant to Clause 6.6 as well as the fact that AiTi has requested such documents and/or information.

6.6.6 AiTi may use and disclose any such document or information provided to AiTi pursuant to Clause 6.6 as AiTi deems fit. Where AiTi proposes to disclose

information obtained pursuant to Clause 6.6 and AiTi considers that the disclosure would result in the release of information concerning the business or commercial or financial affairs of the Licensee which disclosure would or could reasonably be expected to adversely affect the Licensee's lawful business or commercial or financial affairs, AiTi will give the Licensee a reasonable opportunity to make representations on the proposed disclosure before AiTi makes a final decision whether or not to disclose the information.

## **6.7 Call Metering and Billing**

- 6.7.1 The Licensee shall take all reasonable steps to ensure the accuracy and reliability of any charging device used in connection with the Infrastructure, and shall keep such records as may be determined by AiTi to be necessary in relation to any metering device, and for such periods as specified by AiTi.
- 6.7.2 The Licensee shall take appropriate measures to issue bills with periodicity as determined by AiTi in consultation with the Licensee to the subscribers of the service indicating the charges relevant to the service provided to the subscriber.
- 6.7.3 The Licensee shall specify the relevant charge or charges in any quotation or any invoice relating to the provision of its Infrastructure.

## **6.8 Quality of Service**

- 6.8.1 The Licensee shall at all times during the validity period of this Licence operate, maintain and provide good, efficient and continually available Infrastructure in a manner satisfactory to AiTi.
- 6.8.2 Unless a waiver is granted by AiTi, the Licensee shall prepare a customer charter which sets out the minimum standard of services to the Licensee's customers and gives guidance to the employees of the Licensees in their relations and dealings with the Licensee's customers.

## **7 PRACTICES**

### **7.1 Unfair Competitive Practices**

- 7.1.1 The Licensee must not engage in unfair competitive practices. An unfair competitive practice is deemed to be one that deters, or is likely to deter, new entry into the telecommunication market in Brunei Darussalam, or restricts, or is likely to restrict, existing competition in the telecommunication market in Brunei Darussalam for reasons unrelated to the availability, price or quality of the service that a prospective or current operator licensed by AiTi offers or seeks to offer.
- 7.1.2 Unfair competitive practices include, but are not limited to, the following:
  - (a) *False or Misleading Claims.* The Licensee must not make claims or suggestions regarding the availability, price or quality of its

telecommunication service or equipment, or of the telecommunication service or equipment of another licensee, that is not supported by objective evidence, or that is likely to confuse or mislead customers.

- (b) *Degradation of Service Availability or Quality.* The Licensee must not take any action, or induce any other party to take any action, which would have the effect of degrading the availability or quality of another licensee's telecommunication service or equipment, or raising another licensee's costs, without a legitimate business, operational or technical justification.
- (c) *Provision of False or Misleading Information to Competitors.* Notwithstanding that the Licensee is not required to disclose proprietary or commercially sensitive information to their competitors, the Licensee shall not provide information to other licensees that is false or misleading.
- (d) *Interference with Customer or Supplier Relationships.* The Licensee must not seek to induce a customer or supplier to cease doing business with another licensee providing competing telecommunication services or equipment by providing false or misleading information to the customer or supplier.

## **7.2 Undue Preference and Undue Discrimination**

- 7.2.1 The Licensee shall not show undue preference towards, or exercise undue discrimination against any person or class of persons in, *inter alia*, the price and performance characteristics of the Infrastructure provided or the terms and conditions under which the Infrastructure is provided. In particular, the Licensee shall not give any undue preference to, or receive an unfair advantage from, a business carried on by it or its associated or affiliated company, service or person, if AiTi is of the opinion that the Licensee's competitor could be placed at a significant competitive disadvantage or that competition would be prevented or substantially restricted.
- 7.2.2 The Licensee shall not accept any undue preference in, *inter alia*, the price and performance characteristics of any services provided by another licensee that is its associated or affiliated company, service or person, if AiTi is of the opinion that the Licensee's competitor could be placed at a significant competitive disadvantage or that competition would be prevented or substantially restricted.
- 7.2.3 Any question relating to whether any act done or course of conduct pursued by the Licensee amounts to such undue preference or such undue discrimination shall be determined solely by AiTi, but nothing done in any manner by the Licensee shall be regarded as undue preference or undue discrimination if and to the extent that the Licensee is required to do that thing in that manner by or under any provision of this Licence or where the Licensee gives any discount to its large customers, provided that such concessions are extended without discrimination to all customers falling within this category.

### 7.3 Anti-Competitive Arrangements

- 7.3.1 The Licensee shall not enter into any agreement or arrangement, legally enforceable or not, which shall in any way prevent or restrict competition in relation to the operation of the Infrastructure by the Licensee or any other telecommunication infrastructure and/or services licensed by AiTi. Such agreements or arrangements include, but is not limited to, the following:
- (a) Agreements or arrangements with other licensees to fix prices or restrict output, regardless of the levels that may be agreed to.
  - (b) Agreements or arrangements with other licensees to coordinate separate bids for assets, resources or rights allocated by AiTi, or for any input into the Licensee's service or for the provision by the Licensee of any telecommunication service or equipment, regardless of the price levels that may be agreed to.
  - (c) Agreements or arrangements with other licensees not to compete to provide telecommunication services or equipment to specific groups of customers or not to compete in specific areas or geographical regions, regardless of the terms and conditions that may be agreed to.
  - (d) Agreements or arrangements with other licensees to refuse to do business with a specific customer, supplier or competitor.
- 7.3.2 In determining whether an agreement or arrangement prevents or restricts competition, AiTi will not deem as anti-competitive agreements that an ancillary to efficiency-enhancing integration of economic activities, where such agreements are no broader than necessary to achieve the pro-competitive benefit such as, but not limited to, increasing total output or lowering prices.
- 7.3.3 The Licensee shall comply with AiTi's codes of practice, directions and advisory guidelines that may be issued from time to time under Section 26, 27 or 28 of the Order in relation to unfair and anticompetitive practices for telecommunication service providers.
- 7.3.4 The Licensee shall ensure that there are no cross-subsidies between such parts of the Licensee's business as AiTi may identify in consultation with the Licensee.
- 7.3.5 The Licensee shall establish such accounting and reporting arrangements so as to enable the Licensee's finances in relation to different parts of its business to be assessed and reported on separately.
- 7.3.6 The Licensee shall not make it a condition of providing any service, or connecting any other system or equipment to the service, that any person should acquire any equipment from the Licensee or from any other person specified or described by the Licensee, save where the telecommunication service requested cannot otherwise be provided or the equipment requested cannot otherwise be used.

## **7.4 Exclusive Arrangements**

- 7.4.1 The Licensee shall not enter into any agreement or arrangement with any person running an Authorised Overseas System on terms or conditions which unfairly preclude or restrict, to the detriment of the national and/or public interest, the provision of any international telecommunication services by any person licensed by AiTi to provide those services.
- 7.4.2 In this Clause, “Authorised Overseas System” means a system, which is recognised by the Government or any competent authority of a foreign country as authorised to provide telecommunication services by or through that system.
- 7.4.3 The Licensee shall comply with AiTi’s requirements on the international settlement regime and seek AiTi’s written endorsement and/or approval to the arrangements reached with other licensees before implementation.

## **7.5 Contracts with Third Parties**

- 7.5.1 Where the Licensee intends to enter into any joint venture, association, contract or arrangement with a third party, the effect or purported effect of which would be to permit a person who is not originally a party to this Licence to share in the benefits of, or otherwise gain any rights or privileges under this Licence, or which would otherwise result in a breach or circumvention of Clause 1.3.1, the Licensee shall seek AiTi’s written approval for the joint venture, association, contract or arrangement in question, and AiTi’s approval shall be subject to such terms and conditions as AiTi may, in its sole discretion, impose.
- 7.5.2 AiTi may at any time direct the Licensee to effect any changes it deems necessary in the terms and conditions of the joint venture, association, contract or arrangement referred to above.
- 7.5.3 If the Licensee fails to effect the necessary changes referred to in Clause 7.5.2, AiTi may direct the Licensee to terminate any such joint venture, association, contract or arrangement and the Licensee shall comply with such direction within such time as may be specified by AiTi. For the purposes of this Clause, every such joint venture, association, contract or arrangement must include a provision subjecting the joint venture, association, contract or arrangement (as the case may be) to such directions as AiTi may issue from time to time.
- 7.5.4 Nothing in Clause 7.5.1 shall be construed as requiring the Licensee to obtain the written approval of AiTi for the appointment of agents or for the employment of independent contractors or sub-contractors to carry out any works or provide any services which enable the Licensee to discharge its duties and obligations under this Licence provided that the Licensee shall be liable to AiTi for any act, omission, default, neglect or otherwise of the agents, independent contractors or sub-contractors in carrying out any such works or providing any such services.

## 7.6 Agreements that Restrict Competition

- 7.6.1 AiTi may take enforcement action, either on its own motion or pursuant to a third party complaint, against the Licensee if it enters into an agreement with another licensee or unlicensed entity that has the effect of restricting competition in the telecommunication market in Brunei Darussalam. AiTi will assess an agreement on the basis of its likely competitive effects. If the agreement contravenes any of the provisions of this Licence, AiTi may impose financial penalties or other enforcement measures as provided under the Order.
- 7.6.2 In determining the existence of an agreement, AiTi will consider the following:
- (a) Direct evidence of an express agreement, e.g. a signed document;
  - (b) Circumstantial evidence demonstrating the existence of an express agreement;
  - (c) The agreement may be implied if the Licensee coordinates with other licensees their production and pricing decisions to reduce aggregate output and raise market prices. Such agreements will not be implied where the Licensee has done nothing more than make similar output and pricing decisions reflecting an efficient response to changing market conditions. AiTi will only imply an agreement where the Licensee has employed “signalling devices” such as price and output information sharing and these devices have facilitated co-ordinated behaviour. For the purposes of this Clause, an arrangement between a Licensee and an affiliate under the Licensee’s control does not constitute an agreement. This section also does not restrict the ability of the Licensee from entering into an arrangement with another entity in which that other entity acts as a bona fide agent of the Licensee.
- 7.6.3 In the event that there is no evidence of actual market effects because the agreement is relatively recent, AiTi will assess its likely effect on the market. In assessing its likely effect on the market, AiTi will consider the following:
- (a) *Business Purpose of the Agreement.* AiTi will assess the agreement’s likely competitive impact and attempt to determine whether the agreement is likely to lead to reductions in output and increase in the prices of telecommunication services. If the business purpose of the agreement appears to be to increase output and reduce prices, AiTi will conclude, without further analysis, that the agreement is not anti-competitive.
  - (b) *Likelihood of Competitive Harm.* Where the agreement has the potential to result in higher prices or reductions in output of telecommunication services or equipment, AiTi will conduct a more detailed assessment. AiTi will consider whether new entrants into the market would be likely, sufficient and timely enough to deter or counteract any competitive harm and any other factors that help predict the likely competitive effect of the agreement. If the agreement poses no risk of competitive harm, AiTi will conclude that the agreement is not anti-competitive.

- (c) *Efficiencies.* If the agreement has the potential to result in a restriction of output or an increase in prices of telecommunication services and equipment, AiTi will consider whether the agreement is necessary to achieve efficiencies such as the reductions in the cost of developing, producing, marketing and delivering telecommunication services and equipment. If such efficiencies offset the potential anti-competitive effect, and could not reasonably be achieved through measures that reduce competition to a lesser extent, AiTi will conclude that the agreement is not anti-competitive. If such efficiencies do not offset the potential anti-competitive effects, or could reasonably be achieved through measures that reduce competition to a lesser extent, the agreement would be deemed to be anti-competitive.

## 7.7 Pricing Abuses

7.7.1 The Licensee must not price telecommunication services in a manner that is likely to restrict competition. In particular, the Licensee must not engage in the following types of anti-competitive pricing:

- (a) *Predatory Prices.* The Licensee must not engage in anti-competitive predatory price-cutting. A price cut is deemed to be predatory if the following factors are present:
  - (i) The Licensee is selling its services at a price that is less than marginal cost;
  - (ii) There is likelihood that such price cutting will drive rivals from the market or deter future rivals from entering the market; and
  - (iii) Entry barriers are so significant that, after driving rivals from the market or deterring entry, the Licensee can impose an increase in prices sufficient (in amount and duration) to enable it to recoup the full amount of the loss that it incurred during the period of price cutting.
- (b) *Price Squeezes.* The Licensee must not provide an input to another entity (including other licensees and affiliates of the Licensee) at a price that is so high that the other entity could not profitably sell its product if it were required to pass on to its customers the full retail price of the input. Similarly, the Licensee must not obtain an input from an affiliate of the Licensee that has been designated as dominant at a price that is so high that efficient competing non-affiliated licensees could not profitably sell their end-product if they were required to purchase the input at the same price as the Licensee.
- (c) *Cross-subsidisation.* The Licensee must not use revenues from the provision of a tariffed telecommunication service to cross-subsidise the price of other telecommunication services or equipment. To prevent such abuse, the Licensee must comply with any code of practice, directions, or advisory guidelines that may be issued from time to time under Section 26, 27 or 28 of the Order by AiTi requiring accounting separation, the correct allocation of costs between competitive and non-competitive operations, and the use of arm's length transaction between competitive

and non-competitive operations. Similarly, the Licensee shall not accept any cross-subsidisation from an affiliate of the Licensee that has been designated as dominant.

## **7.8 Predatory Network Alteration**

- 7.8.1 The Licensee may not alter the physical or logical interfaces of its network in a manner that imposes significant costs on interconnected licensees in the absence of a legitimate business, operation or technical justification.

## **7.9 Abuse of Market Dominance in a Foreign Market**

- 7.9.1 The Licensee may not use its affiliations with a telecommunication operator or other entity with market dominance in a foreign market or use the market position of its foreign affiliate in a manner that enables it to unreasonably restrict competition in the telecommunication market in Brunei Darussalam.

## **7.10 Spectrum Trading**

### **[Clause to be included for InTi with Allocated Frequency Only]**

- 7.10.1 The Licensee shall not assign, transfer, trade, deal with or otherwise dispose of the whole or any part of the rights, privileges, duties and/or obligations under this Licence to any person or persons, except:
- (a) with the prior written approval of AiTi; and
  - (b) in accordance with the Order, the AiTi Order and the rules and procedures relating to spectrum trading published that may be published by AiTi from time to time.
- 7.10.2 Any such written approval may be given subject to such conditions that AiTi may in its sole discretion impose.
- 7.10.3 No assignment, transfer, trading, dealing or disposal with the whole or any part of the rights, privileges, duties and/or obligations under this Licence shall take effect until the conditions in Clause 7.10.1 are satisfied.
- 7.10.4 The Licensee shall provide AiTi such information about the assignment, transfer, dealing or disposal under Clause 7.10.1 as AiTi may require for the purposes of giving its approval under Clause 7.10.1(a). The Licensee shall also ensure that such other party to the said assignment, transfer, dealing or disposal to provide AiTi with information that AiTi may require.

## **7.11 Spectrum Sharing**

### **[Clause to be included for InTi with Allocated Frequency Only]**

- 7.11.1 The Licensee shall not authorise any person or persons to operate a radio-communication station and/or network within the Allocated Frequency Spectrum

except in accordance with the Order, the AiTi Order and the rules and procedures relating to spectrum sharing that may be published by AiTi from time to time. The Licensee will at all times remain liable for the acts, omissions, defaults and neglects of such persons as if they were the acts, omissions, defaults and neglects of the Licensee.

## **7.12 Consumer Interest**

7.12.1 The Licensee shall give due consideration to any matter which relates to its Infrastructure and which the subject of a representation is made to the Licensee by a body recognised by AiTi as representing the interest of consumers and other users of such Infrastructure.

7.12.2 The Licensee shall, if requested by AiTi or if it sees fit, furnish to AiTi particulars of any matter considered by the Licensee under this Clause or a digest of activities undertaken in any period in pursuance of this Clause.

## **7.13 Customer Service**

7.13.1 The Licensee shall publish a Customer Service Contact, comprising of a contact address, telephone number, facsimile number, and an e-mail address, for the purposes of accepting any customer complaints or other issues in relation to the services provided by the Licensee.

7.13.2 The telephone number must be manned for a minimum of 18 hours every day from the hours of 0600 hrs to 2359 hrs.

7.13.3 For matters submitted to the Customer Service Contact by letter, facsimile or e-mail, the Licensee shall respond within 48 hours of the receipt of the matter.

7.13.4 The Licensee shall provide AiTi with a quarterly summary of the number of matters received, the manner in which each matter was received, the response time for the matter, and the total time taken to resolve and close the matter.

## **8 GENERAL**

### **8.1 Interpretation**

8.1.1 In this Licence, unless the context otherwise requires:

- (a) Words importing the singular or plural shall be deemed to include the plural or singular respectively, and words importing one gender include the other gender and vice versa;
- (b) The headings to the provisions of this Licence are for convenience of reference only and are not part of this Licence and shall not in any way affect the interpretation thereof;

- (c) Unless the context otherwise requires, any word or expression used in this Licence shall have the same meaning as it has in the Order;
- (d) Any reference in this Licence to the Order or the AiTi Order shall include any re-enactment and amendment thereof and any regulations made thereunder;
- (e) Any reference in this Licence to any regulations made under the Order shall include any regulations made under the Order and AiTi Order and their predecessors until such regulations are revoked or repealed by subsidiary legislation made under the Order;
- (f) Any reference in this Licence to a person shall be deemed to include natural and legal persons;
- (g) Any reference to monetary amounts in this Licence shall be deemed to be denominated in Brunei Dollars; and
- (h) Any reference to any codes of practice, directive, advisory guidelines, framework or any other rule, document or written instrument promulgated by AiTi shall include any amendment thereof.

## **8.2 Compliance**

8.2.1 The Licensee shall observe and comply with the Order, the AiTi Order, the International Telecommunication Convention and any other treaty or convention to which Brunei Darussalam is a party, and such other applicable written law in force in Brunei Darussalam.

8.2.2 Nothing in this Licence shall be taken as discharging the Licensee from its obligations to obtain any other licences, permits or approvals that may be required under any written law in force in Brunei Darussalam.

## **8.3 Governing Law**

8.3.1 This Licence shall be governed by and construed according to the laws of Brunei Darussalam.

## **8.4 Service of Notices**

8.4.1 All notices under this Licence shall be in writing and shall be deemed to have been given if sent by hand or pre-paid post or by facsimile to the Licensee's registered address as lodged in the Companies Registry.

## **8.5 Severability**

8.5.1 Every Clause and part thereof shall be construed as a separate and severable provision so that if any Clause and part thereof is held invalid, unenforceable or illegal for any reason, the remainder of the Licence shall remain in full force in every respect.

## **Schedule C**

### **Specific Terms and Conditions**

## **Schedule D**

### **Information to be Provided to AiTi**

The following information shall be provided to AiTi on a regular basis:

#### **Annually**

- Annual report and audited accounts
- Turnover of licensable and related activities

#### **Quarterly**

- Access and Interconnection agreements entered into
- Data and results of tests and surveys conducted to monitor the quality of service provided as required by AiTi
- Summary of Customer Service Contact information
- Quality of service standards met for services provided
- Number of subscribers