

1 April 2014

Network Domestic Interconnection Service Supply Agreement

Digicel (Vanuatu) Limited (DIGICEL)

Telecom Vanuatu Limited (TVL)

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Date: 1 April 2014

PARTIES

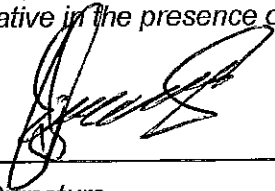
- (1) **DIGICEL (VANUATU) LIMITED**, whose registered office is at Port Vila, Vanuatu (together with its successors and permitted assigns and transferees *Digicel*);
- (2) **TELECOM VANUATU LIMITED**, whose registered office is at Port Vila, Vanuatu (together with its successors and permitted assigns and transferees *TVL*).

THE PARTIES AGREE as follows:

- 1 With effect from the Commencement Date, the terms and conditions of this Agreement, including the following Schedules attached hereto, shall apply.
 - Schedule A (Terms and Conditions)
 - Schedule B (Network Interconnection Operational Procedures)
 - Schedule C (Network Interconnection Technical Specifications)
 - Schedule D (Services)
 - Schedule E (Prices)
 - Schedule F (Hand-over Points)
 - Schedule G (Notice of Dispute)

EXECUTED as an agreement.

SIGNED for and on behalf of **DIGICEL (VANUATU) LIMITED** by an authorised representative in the presence of:

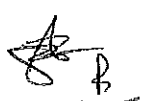


Witness Signature

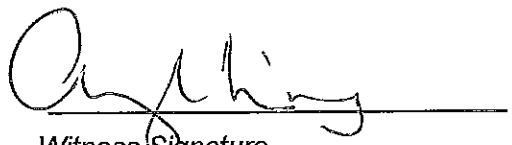
Witness Name: SAJJAD AHMED



Authorised Signatory



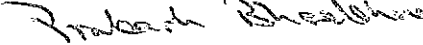
SIGNED for and on behalf of **TELECOM VANUATU LIMITED** by an authorised representative in the presence of:



Witness Signature

Witness Name: CHERYL LING

Authorised Signatory



SCHEDULE A
TERMS AND CONDITIONS

PART A
INTERPRETATION

1 INTERPRETATION

Defined terms

In this Agreement the following terms have the following meanings:

- 1.1 *Act* means this Telecommunications and Radiocommunications Regulation Act No.30 of 2009.
- 1.2 *Agreement* means this agreement (including the Schedules) as amended from time to time.
- 1.3 *Answer Line Signal* means the message signal in the Signalling Format which indicates that a Call has been answered.
- 1.4 *Approved Recipient* means the officer or employee of a Party to whom the other Party discloses Specified Confidential Information for the purposes of **Clause 21**.
- 1.5 *Bill Rate* means the average of the rates (determined after excluding the highest and lowest rates) for funding for a term of 3 months quoted to the party entitled to receive interest for the purposes of which the Bill Rate is to be calculated, at or about 11.00 am on that day by the ANZ Bank in Vanuatu (*the Bank*) and if the Bank does not quote such a rate, then:
 - 1.5.1 in the case where Digicel is entitled to receive the interest, the rate Digicel reasonably determines to be the nearest practicable equivalent; or
 - 1.5.2 in the case where TVL is entitled to receive the interest, the rate TVL reasonably determines to be the nearest practicable equivalent.
- 1.6 *Call* means:
 - 1.6.1 A Call as it is defined in Schedule D of this Agreement; and
 - 1.6.2 such other call as is agreed to be a *Call* by the Parties under this Agreement.
- 1.7 *CCITT/ITU* means the International Telecommunications Union/Telecommunication Standardisation Section (ITU/TS) and its predecessor, the International Telegraph and Telephone Consultative Committee.
- 1.8 *CCITT/ITU Recommendations* means the relevant recommendations of CCITT/ITU.
- 1.9 *CDR* means Call Detail Record.
- 1.10 *Commencement Date* means 1 April 2014.
- 1.11 *Confidential Customer Information* means:
 - 1.11.1 in the case of TVL, all information which TVL provides to Digicel on a confidential basis or which, subject to **Clauses 1.11.3 to 1.11.7** (inclusive), Digicel otherwise holds or obtains, concerning any particular

TVL Customer or any particular person who intends to become a TVL Customer, including (without limitation) information of the fact that a Digicel Customer intends to subscribe for or has subscribed for a TVL End User Service; and

1.11.2 in the case of Digicel, all information which Digicel provides to TVL on a confidential basis or which, subject to **Clauses 1.11.3 to 1.11.7** (inclusive), TVL otherwise holds or obtains, concerning any particular Digicel Customer or any particular person who intends to become a Digicel Customer, including (without limitation) information of the fact that a TVL Customer intends to subscribe for or has subscribed for a Digicel End User Service;

but does not include any such information:

1.11.3 which, in the case of Digicel Confidential Customer Information, is obtained from sources independent of the Digicel Group, including (for the avoidance of doubt and without limitation) information obtained from the relevant Digicel Customer;

1.11.4 which, in the case of TVL Confidential Customer Information, is obtained from sources independent of the TVL Group, including (for the avoidance of doubt and without limitation) information obtained from the relevant TVL Customer;

1.11.5 which in the case of Digicel Confidential Customer Information was known to TVL at the time of receipt or which is or becomes publicly available otherwise than as a result of a breach of an obligation of confidence; or

1.11.6 which in the case of TVL Confidential Customer Information was known to Digicel at the time of receipt or which is or becomes publicly available otherwise than as a result of a breach of an obligation of confidence;

which is Confidential Customer Information by virtue of **Clauses 1.11.1 or 1.11.2** but to which **Clause 1.11.3** or **Clause 1.11.4** subsequently applies; or

1.11.7 which is both contained in and generated from:

- (a) in the case of TVL, TVL's own billing records related to TVL Customers other than billing records relating to TVL Network Interconnection Service; and
- (b) in the case of Digicel, Digicel's own billing records related to Digicel Customers other than billing records relating to Digicel Network Interconnection Service.

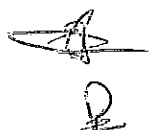
1.12 *Confidential Information* means all information (including, without limitation, the contents of any Materials and Specified Confidential Information) which is confidential or proprietary:

1.12.1 in the case of TVL, to TVL or any member of the TVL Group, including (without limitation):

- (a) information which is confidential or proprietary to a third party and used or disclosed pursuant to or in connection with this Agreement by TVL under licence from such third party; and

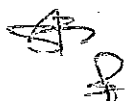
- (b) information which is confidential or proprietary to TVL or any member of the TVL Group which has been obtained by Digicel from any other member of the Digicel Group or from any person on behalf of any other member of the Digicel Group;
- 1.12.2 in the case of Digicel, to Digicel or any member of the Digicel Group, including (without limitation):
- (a) information which is confidential or proprietary to a third party and used or disclosed pursuant to or in connection with this Agreement by Digicel under licence from such third party; and
 - (b) information which is confidential or proprietary to Digicel or any member of the Digicel Group which has been obtained by TVL from any other member of the TVL Group or from any person on behalf of any other member of the TVL Group;
- 1.12.3 to both parties, including (without limitation) the terms and conditions of this Agreement,
- but does not include any such information:
- 1.12.4 which is independently developed by the receiving party outside the scope of this Agreement;
- 1.12.5 which is other confidential or proprietary information obtained from sources independent of either party (other than, for the avoidance of doubt, information obtained from any other member of the Digicel Group, in the case of Digicel, or the TVL Group, in the case of TVL, or from any person on behalf of any other member of that Group);
- 1.12.6 which was publicly available at the time of receipt or the date of this Agreement;
- 1.12.7 which was known to a party at the time of receipt or becomes publicly available after the execution of this Agreement otherwise than as a result of a breach of an obligation of confidence; or
- 1.12.8 required to be released under any applicable law, the regulations of a stock exchange on which a party's (or their parent company's) shares are listed, or order of any court, governmental agency or body having legal power to compel disclosure; or
- 1.12.9 which is Confidential Customer Information or information which would be Confidential Customer Information, but for the operation of **Clauses 1.11.3 to 1.11.7 (inclusive)**.
- 1.13 *Customer* means a TVL Customer or a Digicel Customer, as the context requires.
- 1.14 *Digicel Customer* means a person who has a contractual relationship with Digicel for the use by that person of Digicel End User Service, but does not include the Digicel Group, TVL or the TVL Group.
- 1.15 *Digicel End User* means any end-user of the Digicel End User Service who is entitled to receive the Digicel End User Service, but does not include the Digicel Group, TVL or the TVL Group.
- 1.16 *Digicel End User Service* means any telecommunication service provided by Digicel, which may or may not be used by a Digicel End User.

- 1.17 *Digicel Group* means jointly and severally, Digicel and each and all of its subsidiaries now or from time to time (within the meaning of the Companies Act 2001) and includes any member of the Digicel Group, including Digicel.
- 1.18 *Digicel Network* means the telecommunication system comprising all links, radio, microwave and other transmission media and equipment, switches, software and related items utilised by Digicel and any other members of the Digicel Group to make available and provide Digicel Network Interconnection Service to TVL, but does not include the TVL Network. For the avoidance of doubt, the *Digicel Network* does not include a TVL Hand-over Point or any circuits or equipment of Digicel or the Digicel Group utilised by TVL on the TVL side of any Hand-over Point.
- 1.19 *Digicel Network Interconnection Service* means all or any *Network Interconnection Services* made available or provided by Digicel to TVL, and defined in **Schedule D**.
- 1.20 *Direct Loss* has the meaning set out in **Clause 8.2**.
- 1.21 *Dispute* means any matter (other than a matter to which **Clause 19.9** applies)
- (a) relating to this Agreement about which the parties disagree or
 - (b) are unable to agree where a matter requires their agreement under this Agreement.
- 1.22 *Due Date* means, unless specified elsewhere in this Agreement:
- 1.22.1 thirty (30) days after the day an invoice is received. For the avoidance of doubt the day on which an invoice is received shall count as the first day. and
 - 1.22.2 where any provision of this Agreement provides that payment of any amount is to be made on or by a particular date, that particular date, provided that, if that particular date is not a Working Day, the Due Date shall be the immediately succeeding Working Day.
- 1.23 *End User* means a TVL End User or a Digicel End User, as the context requires.
- 1.24 *End User Service* means TVL End User Service or Digicel End User Service, as the context requires.
- 1.25 *Expiry Date* means the date four (4) years after the Commencement Date, unless earlier terminated in accordance with this Agreement.
- 1.26 *Fixed Number* means any number assigned to fixed telephone services within the National Numbering Plan for Vanuatu and which is listed in Schedule B Procedure 7: Numbering and Number Change Notification.
- 1.27 *Force Majeure* has the meaning set out in **Clause 6.2**.
- 1.28 *Group* means, except as specifically provided in any clause, the TVL Group or the Digicel Group, as the context requires.
- 1.29 *Hand-over Point* means an electrical and physical interface point detailed in Schedule F between the TVL Network and the Digicel Network at which Calls and SMS Messages are, or are to be, handed over from the TVL Network to the Digicel Network, and vice versa.



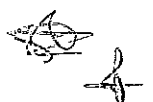
- 1.30 *Intellectual Property* includes trade marks, service marks, inventions, patents, designs, copyrights, know how, trade secrets and all rights and interests or licences to use any of them.
- 1.31 *Interconnect Link* means a circuit or group of circuits which connects to a Hand-over Point, which may include one or more 2Mbit E1 circuit(s) or STM-1 circuit(s) and may include CCITT No. 7 signalling links.
- 1.32 *Invoicing Party* means, in relation to any invoice in respect of any payment due under this Agreement, the party which renders the invoice.
- 1.33 *ITU* means the International Telecommunications Union
- 1.34 *Liaison Committee* means the operational liaison committee established pursuant to **Clause 9**.
- 1.35 *Manifest Error* means:
- 1.35.1 any erroneous duplication of the items charged in;
 - 1.35.2 any error in a calculation shown on;
 - 1.35.3 any error in the total of the amounts shown on;
 - 1.35.4 any erroneous calculation of discounts shown on;
 - 1.35.5 any erroneous calculation of the VAT shown on;
 - 1.35.6 any erroneous inclusion of services not to be provided under this Agreement; or
 - 1.35.7 any erroneous application of an incorrect price to a Call, where the parties are in agreement on the price which should apply to that Call in;
- an invoice rendered by the Invoicing Party, which is apparent on the face of the invoice.
- 1.36 *Materials* means, in relation to either party, each document, instructional material, chart, design drawing and manual which is both:
- 1.36.1 developed by it or a member of its Group or its or their officers, employees, contractors or agents in connection with this Agreement; and
 - 1.36.2 provided to the other party by it or a member of its Group for the purposes of this Agreement.
- 1.37 *Mobile Number* means any number assigned to mobile telephone services within the National Numbering Plan for Vanuatu and which is listed in Schedule B Procedure 7: Numbering and Number Change Notification.
- 1.38 *National Numbering Plan or Numbering Plan* means the Vanuatu National Numbering Plan as notified by the Regulator from time to time.
- 1.39 *Network* means the TVL Network or the Digicel Network, as the context requires.
- 1.40 *Network Interconnection Operational Procedures* means the operational procedures set out in **Schedule B**, as amended from time to time.
- 1.41 *Network Interconnection Service* means TVL Network Interconnection Service or Digicel Network Interconnection Service, as the context requires.

- 1.42 *Network Interconnection Technical Specifications* means the *Network Interconnection Technical Specifications* set out in **Schedule C**, as amended from time to time.
- 1.43 *Network Operations Centre* or *NOC* means the centre to which all factors relevant to the proper functioning of the interconnection (generally of a technical nature) are to be reported. For the avoidance of doubt, the NOC can be the same management or operations centre that TVL or Digicel uses to manage the functioning of its own Network.
- 1.44 *Network Operator* means a network operator (not being Digicel, TVL, or a member of either the Digicel Group or the TVL Group) which has entered into an interconnection agreement with TVL or Digicel for the provision by TVL or Digicel of services which are the same or similar to TVL Network Interconnection Services or Digicel Network Interconnection Services (as applicable) provided by each of Digicel and TVL to the other.
- 1.45 *Network Plan* means a plan agreed between the parties that contains those elements of necessary specific information required to achieve interconnection between the parties. Such information may include but shall not be limited to:
- 1.45.1 a diagram detailing the parties' handover points and the routes between them;
 - 1.45.2 network interface specifications for each party;
 - 1.45.3 capacity and traffic forecasts for the parties;
 - 1.45.4 capacity orders to the extent that they are required;
 - 1.45.5 number ranges for the parties;
 - 1.45.6 contact points for the parties;
 - 1.45.7 planning of new Handover Points to the extent that they are required;
 - 1.45.8 call routing details; and
 - 1.45.9 notification and information relating to any relevant planned Network changes or upgrades.
- 1.46 *Non Payment* means the failure by a party to pay an amount that is due within 30 days of the Due Date for that payment.
- 1.47 *Numbering Information* means the A number of the calling party end user subscriber that originated the traffic:
- 1.47.1 provided in the form of the national significant number as defined by CCITT/ITU Recommendations; and
 - 1.47.2 including any CLIR flags (an indicator provided together with an A-number for the purposes of calling line presentation information which indicates that the A-number is not to be forwarded to the called party) and any other numbering information relating to that traffic, but not including billing name and address;
 - 1.47.3 for calls received by one party from the other party as the result of a call diversion activated by an end user, Numbering information includes the original originating number, known as the C or Z number.



- 1.48 *Outage* means the failure by a party (*the first party*) to provide, in whole or in part, a Network Interconnection Service to the other party (*the second party*) in accordance with this Agreement due to:
- 1.48.1 any health and safety matter which, in the first party's reasonable opinion, requires the first party not to supply the Network Interconnection Service; or
 - 1.48.2 any suspension or restriction of the provision of a Network Interconnection Service by the second party which, in the first party's reasonable opinion, makes the provision, in whole or in part, of the Network Interconnection Service by the first party impossible or impracticable; or
 - 1.48.3 any suspension, restriction, fault or other disruption to the network of a Network Operator which, in the first party's reasonable opinion, makes the provision, in whole or in part, of the Network Interconnection Service by the first party impossible or impracticable; or
 - 1.48.4 any technical or operational matter, or any other circumstance which, in the first party's reasonable opinion, requires the first party not to supply the Network Interconnection Service to manage or protect its Network, including (without limitation):
 - (a) a change to either party's Network;
 - (b) the testing, repair or maintenance of, or any change in, the first party's Network;
 - (c) the testing, repair or maintenance of the second party's Network which gives rise to interference in, or disruption to, the first party's Network;
 - (d) any instability, congestion or other operational problems in the first party's Network in circumstances where attempts by the first party to eliminate the effects by using call management procedures, such as call gapping or selective make-busy, have failed;
 - (e) any emergency situation, such as:
 - (i) immediate danger to the safety of any person;
 - (ii) immediate interference with, disruption to, and/or threat to:
 - (A) either party's Network;
 - (B) the network of a Network Operator; and/or
 - (C) the provision of Network Interconnection Services and/or End User Service; and/or
 - (D) the provision of network interconnection services and/or end user service by a Network Operator;including the protection and/or integrity of a network, network interconnection services and/or End User Service;
 - (f) any event giving rise to danger, interference, disruption and/or a threat of the kind described in **Clause 1.48.4(e)**; and

- (g) any suspension or restriction of the provision of a service by any member of the first party's Group which makes the provision, in whole or in part, of the Network Interconnection Services by the second party impossible or impracticable.
- 1.49 *Paying Party* means, in relation to any invoice in respect of any payment due under this Agreement, the party to whom the invoice is addressed.
- 1.50 *Regulator* means the person or persons appointed by the Government from time to time to regulate the telecommunications sector in Vanuatu in accordance with the Act.
- 1.51 *Release Signal* means the message in the Signalling Format carried from TVL to Digicel or from Digicel to TVL that indicates that a Call has ended and that a connection is no longer established in respect of that Call.
- 1.52 *Schedules* means the schedules to this Agreement as created and/or amended from time to time.
- 1.53 *Services* means the services specified in Schedule D.
- 1.54 *Signalling Format* means CCITT No. 7 signalling (or such other signalling as may be agreed by the parties from time to time).
- 1.55 *SMS Answer Signal* means the message signal in the Signalling Format which indicates that an SMS Message has been delivered to the intended recipient.
- 1.56 *SMS Message* means a Short Message Service Message of up to 160 alphanumeric characters and otherwise in accordance with ETSI GSM Recommendations that can be sent or received (as the context requires) from suitably equipped and configured mobile phones
- 1.57 *Specified Confidential Information* means the Confidential Information described in **Clause 21.3**.
- 1.58 *TVL Customer* means a person who has a contractual relationship with TVL for the use by that person of TVL End User Service, but does not include the TVL Group, Digicel or the Digicel Group.
- 1.59 *TVL End User* means any end-user of the TVL End User Service who is entitled to receive the TVL End User Service, but does not include the TVL Group, Digicel or the Digicel Group.
- 1.60 *TVL End User Service* means any telecommunication service provided by TVL, which is capable of being used by a TVL End User.
- 1.61 *TVL Group* means, jointly and severally, TVL and each and all of its subsidiaries now or from time to time (within the meaning of the Companies Act 1986) and includes any member of the TVL Group, registered and operating in Vanuatu, including TVL.
- 1.62 *TVL Network* means the telecommunication system comprising all links, radio, microwave and other transmission media and equipment, switches, software and related items utilised by TVL and any member of the TVL Group to make available and provide TVL Network Interconnection Service to Digicel, but does not include the Digicel Network. For the avoidance of doubt, the *TVL Network* does not include a Digicel Hand-over Point or any circuits or equipment of TVL or the TVL Group utilised by Digicel on the Digicel side of any Hand-over Point.



- 1.63 *TVL Network Interconnection Service* means all or any *Network Interconnection Services* made available or provided by TVL to Digicel, and defined in **Schedule D**.
- 1.64 *VAT* means Value Added Goods and Services Tax levied under the *Value Added Tax Act 1998*.
- 1.65 *Working Day* means a day other than a Saturday, a Sunday or a statutory holiday in Vanuatu.

General Construction

In this Agreement:

- 1.66 the singular includes the plural and vice versa;
- 1.67 the headings to the clauses, schedules and parts of this Agreement, are included for convenience only and do not constitute a part of this Agreement;
- 1.68 words denoting natural persons only shall include corporations (whether or not having separate legal personality) and vice versa and words denoting one gender shall include every other gender;
- 1.69 a party to this Agreement or another agreement includes its successors and its permitted assignees and transferees;
- 1.70 except as specifically provided in this Agreement, all references in the Schedules to clause numbers shall be read as references to clauses of **Schedule A**;
- 1.71 any reference to any statute, promulgation or regulation shall be deemed to be a reference to that statute, promulgation or regulation as it may from time to time be amended, re-enacted or substituted; and
- 1.72 references to monetary amounts (including Vatu, and \$) are to Vanuatu currency.

PART B
SCOPE OF AGREEMENT

2 SCOPE OF AGREEMENT

- 2.1 Subject to the terms and conditions set out in this Agreement, the parties agree to connect their Networks at trunkside (inter-exchange) level at the Hand-over Points for the purposes of the making available and provision of Network Interconnection Services to each other.
- 2.2 This Agreement sets out the framework for the conduct of the relationship between the parties as network operators whose Networks are connected. Accordingly, this Agreement is intended to apply only to:
- 2.2.1 the interconnection of the TVL Network and the Digicel Network;
 - 2.2.2 the making available and provision of Digicel Network Interconnection Service;
 - 2.2.3 the making available and provision of TVL Network Interconnection Service;
 - 2.2.4 the resolution of certain disagreements or disputes in relation to any matter arising under or in relation to this Agreement.

Provision of Network Interconnection Service

- 2.3 Either party is only obliged to make available and provide a Network Interconnection Service if the terms of provision of that Network Interconnection Service, including the relevant charges, have been agreed or determined in accordance with this Agreement or have otherwise been determined in accordance with the Act.
- 2.4 The terms and conditions applicable to the making available and provision of each Network Interconnection Service are set out or referred to in this Agreement.

However, subject to those terms and conditions:

- 2.4.1 each of Digicel and TVL may use any method of making available and providing such service;
- 2.4.2 each of the Digicel Network and the TVL Network may include and utilise any type of equipment, apparatus, materials, software, circuits and network architecture; and
- 2.4.3 each of Digicel and TVL may connect its Network to any other network.

Interrelationship of Agreement and Schedules

- 2.5 The parties acknowledge that this Agreement (including the Schedules) defines the relationship between the parties concerning the matters referred to in **Clause 2.2** with effect from the Commencement Date. For the purposes of determining any issue of construction arising in respect of this Agreement, unless this Agreement provides otherwise:
- 2.5.1 this Agreement is to be read and construed severally as one agreement with the Schedules;
 - 2.5.2 the order of priority of the Schedules in this Agreement shall be as follows:

- (a) Schedule A
- (b) Schedule D
- (c) Schedule E
- (d) Schedule F
- (e) Schedule C
- (f) Schedule B
- (g) Schedule G

2.5.3 in the event of a conflict between any of the terms of the Schedules the terms of each schedule shall prevail over the other in the order of priority listed above.

2.6 Each party acknowledges and declares that, subject to **Clause 2.7** none of its obligations in this Agreement constitutes a promise conferring benefits on a third party which are intended to create, in respect of the benefit, an obligation enforceable at the suit of a third party.

2.7 **Clause 2.6** does not apply:

2.7.1 to each member of each party's Group (including, in the case of TVL, the TVL Group and in the case of Digicel, the Digicel Group) and its and their officers, employees, contractors or agents; and

2.7.2 to any other person (including a Network Operator (whose network is connected to and with its Network), its subsidiaries now or from time to time and their respective officers, employees, contractors or agents);

where the benefit of a promise is expressly conferred on it or them under this Agreement.

Responsibility to convey certain Calls only

2.8 Neither party is responsible for the conveyance of any Call in the Network of the other party.

2.9 Neither party (the *first party*) is required to convey any Call handed over from the network of the other party where that Call is not originated by an End User of the other party on that other Party's Network.

2.10 Neither party is responsible for the conveyance of any Call where a charge for the conveyance of the Call by that party is not specified in, or has not been agreed or determined pursuant to this Agreement or any lawful determination of the Regulator.

2.11 Except as expressly provided in this Agreement, neither party shall convey transit calls to the other party. For the avoidance of doubt, the carriage of calls to Digicel from TVL or to TVL from Digicel, where those calls originate on a third party network (network operator), including any member of the Digicel Group or the TVL Group, interconnected to either Digicel or TVL is excluded from this agreement. The parties acknowledge that they have entered into a separate agreement for the acceptance and termination of incoming international calls.

Numbering Information

2.12 Each party shall, for all Calls and SMS messages that are handed over by one party to the other party under this Agreement, provide to the other party the Numbering

2.20 If TVL is required to use the services or the property of another member of the TVL Group to perform an obligation under this Agreement, that shall not relieve TVL of the responsibility to perform the obligation.

Conditions for providing Network Interconnection Services

2.21 Neither party (the *first party*) is obliged to provide or continue to provide Network Interconnection Services to the other party (the *second party*) unless:

- 2.21.1 The first party has received evidence reasonably satisfactory to the first party that the second party has a valid telecommunications licence that permits it to provide telecommunications services and operate a telecommunications network and to interconnect with the first party.
- 2.21.2 A Network Plan has been agreed and implemented between the parties.
- 2.21.3 The first party has received evidence reasonably satisfactory to the first party that the second party has made its Network operational and performed its obligations under any testing procedure relating to its Network or to the Network Interconnection Services.
- 2.21.4 The second party operates a telecommunications network that provides telecommunications services to the public in Vanuatu.
- 2.21.5 The first party has received evidence reasonably satisfactory to the first party of the second party's credit worthiness or, if such evidence is not received, then the first party has been delivered security in accordance with Clause 2.22.

2.22 For the purposes of Clause 2.21.5:

2.22.1 if the first party requires the second party to give security to the first party in accordance with clause 2.21.4, the second party shall provide to the first party, the first party's choice of either an unconditional:

- (a) Bank guarantee from a body registered as a registered bank under the Financial Institutions Act [CAP 254] (*a Bank*); or
- (b) letter of credit from a Bank; or
- (c) prepayment or other security agreed by the first party in writing.

2.22.2 the security must be in a form reasonably acceptable to the first party; and

2.22.3 the security must be for an amount specified by the first party which is equivalent to a reasonable estimate of the charges and costs to be incurred by the second party in the first 4 months of this Agreement. If the charges and costs actually incurred by the second party during the first 4 months or in any subsequent 4 months of this Agreement exceed eighty percent (80%) of the amount of security provided, then the first party may request a further security to be provided in order to ensure that the total amount of security represents a reasonable estimate of the total charges and costs to be incurred in the first 4 months or the relevant subsequent 4 month period of the Agreement.

2.23 The obligation set out in clause 2.21 shall only apply for a maximum of three years from the date the parties have first interconnected provided that the second party

has not been in default of any of its interconnection payments to the first party during that period.

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PART C
COMMENCEMENT AND TERM

3 COMMENCEMENT AND TERM

Commencement

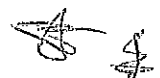
- 3.1 All rights, duties and obligations under this Agreement shall have effect from midnight on the day preceding the Commencement Date.

Term and Further Term

- 3.2 Unless terminated earlier by law, or under **Clause 7.1** or any other provision of this Agreement which allows for early termination, this Agreement shall continue for an initial term (*the term*) expiring at midnight on the Expiry Date
- 3.3 Each party may, by notice given no earlier than four months before the Expiry Date and no later than two months before the Expiry Date, request that:
- 3.3.1 a further agreement be entered into; and
 - 3.3.2 negotiations commence on any and all issues related to services provided under this Agreement.

Forthwith after the notifying party has given notice, the parties shall meet to discuss and negotiate in good faith with a view to agreeing on the new terms and conditions which will apply after the Expiry Date. However, any failure to agree under this **Clause 3.3** shall not be subject to dispute resolution under **Clause 4**, except that, if the parties agree it is appropriate with respect to any particular matter, they shall participate in a mediation in accordance with **Clause 4**. However, there shall be no recourse to arbitration under this agreement.

- 3.4 If the parties agree on new terms and conditions prior to 60 Working Days after the Expiry Date, then no later than 15 Working Days after agreement is reached on those new terms and conditions, the parties may meet and agree the amount to be paid one to the other to place the parties in the same position as they would have been had the new agreed terms and conditions applied from and including the day after the Expiry Date. Agreement as to the amount to be paid may also provide that the party owing money to the other shall within 10 Working Days from the date of such agreement pay the sum owing, together with interest at the Bill Rate as at the Expiry Date plus 1 percent, on the amounts outstanding calculated on a daily basis from and including the dates when such amounts first would have become owing (had the new terms and conditions applied) to but excluding the date of actual payment. For the avoidance of doubt, this Clause 0 does not apply if the parties agree on new terms and conditions later than 60 Working Days after the Expiry Date.

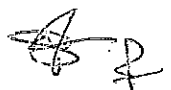


PART D

DISPUTE RESOLUTION

4 DISPUTE RESOLUTION

- 4.1 Subject to the provisions of the Telecommunications Act 2005 and any rights of the parties contained therein this **Clause 4** applies to any Dispute.
- 4.2 Either party may at any time give notice describing a Dispute and invoking the procedures set out in the rest of this clause. In order to invoke the procedures set out in this clause such a notice shall be substantially in the form at Schedule H.
- 4.3 If notice under **Clause 4.2** is given, then:
- 4.3.1 during a maximum conciliation period of 20 Working Days from the date the notice was given, the parties must attempt in good faith to negotiate a resolution of the Dispute at senior management level;
 - 4.3.2 at any time during the negotiation period, either party may give 2 Working Days notice requiring a meeting, specifying a time and place for the meeting (which will be held in Port Vila, unless otherwise agreed by the parties) and designating its representative with authority to resolve the dispute.;
 - 4.3.3 the other party must give 1 Working Day's notice before the meeting designating its representative with authority to resolve the Dispute;
 - 4.3.4 the authorised representatives must meet at the specified time and place and as many times as necessary during the negotiation period to attempt in good faith to resolve the Dispute;
 - 4.3.5 If the Dispute is not resolved within the first 10 Working Days of the conciliation period, either party may refer the dispute to a joint committee of both parties' respective chief executive officers or alternates appointed by them. The chief executive officers or appointed alternates shall use their reasonable endeavours to settle or otherwise resolve the Dispute as expeditiously as possible, but in any event within a period of 10 Working Days of the matter being referred to them;
 - 4.3.6 unless otherwise agreed in writing, if the Dispute is not resolved in the 20 Working Day conciliation period referred to at clause 4.3.1, then the parties may agree to refer the Dispute to mediation;
 - 4.3.7 unless otherwise agreed in writing, the then current model mediation agreement issued by LEADR New Zealand Inc must be used and mediation must be completed within 20 Working Days of the parties agreeing to refer the Dispute to mediation. The parties must endeavour to appoint a single mediator but, if they are unable to agree upon a single mediator, then the Dispute may be referred to arbitration; and
 - 4.3.8 unless otherwise agreed in writing, neither party may refer a Dispute to arbitration before the end of the conciliation period and, if applicable, the mediation period.
- 4.4 These arbitration procedures apply if a Dispute has not been resolved by the end of the conciliation period and, if applicable, the mediation period. Either party may then give



notice referring any part of the Dispute to arbitration. The parties agree that this notice will represent a submission by the parties of the Dispute to arbitration and each party agrees to confirm this submission if requested by the other party. Unless otherwise agreed in writing:

- 4.4.1 the parties must endeavour to appoint a single arbitrator who has expertise in telecommunications and interconnection issues. If they are unable to agree upon a single arbitrator, each party must appoint an arbitrator with such expertise within 10 Working Days of the notice being given;
 - 4.4.2 if two arbitrators are appointed, the two arbitrators must appoint a third arbitrator within a further 10 Working Days. If the two arbitrators appointed cannot agree the appointment of a third arbitrator within the further 10 working days then either party may apply to the President of the Vanuatu Law Society to appoint the third arbitrator for the purposes of this clause;
 - 4.4.3 the arbitrator (or arbitrators as the case may be) must adopt a procedure which, in the arbitrator's opinion, is the most simple and expeditious procedure possible in the circumstances and shall endeavour to complete the arbitration within 4 months of the arbitrator's appointment (or such lesser period as is appropriate);
 - 4.4.4 the arbitrator may determine the dispute without a hearing unless either party gives notice requiring one, in which case the arbitrator must treat that as a material consideration in assessing costs;
 - 4.4.5 the arbitrator may with the prior agreement of the parties appoint an expert to assist him in the determination of any Dispute, The parties shall bear the costs of such expert equally and may not object to the identity of the expert;
 - 4.4.6 the arbitrator must not adopt inquisitorial processes;
 - 4.4.7 unless otherwise agreed by the parties, the arbitration must take place in Port Vila;
 - 4.4.8 the arbitrator must determine the Dispute under Vanuatu law;
 - 4.4.9 the arbitration award shall, except in the case of a manifest error, be final and binding; and
 - 4.4.10 either party may appeal to the Supreme Court on any question of law arising from an award.
- 4.5 Neither party may use, other than to attempt to resolve the Dispute, any information disclosed by the other in the course of negotiation, mediation or arbitration under the above procedures. Any such information remains the property of the party supplying it and remains confidential to that party. Disclosure in the course of negotiation, mediation or arbitration under the above procedures is not a waiver of confidentiality.
- 4.6 Neither party may disclose any such information to anyone other than an adviser who has entered into a deed undertaking:
- 4.6.1 not to disclose any of the information, or any analysis of the information, other than to the parties, a mediator, the arbitrator or a court, except as compelled by law; and



4.6.2 to return all material on which such information is recorded on completion of the adviser's services.

4.7 For the avoidance of doubt, subject to the provisions of clause 5, the Parties shall continue to meet their obligations under the Agreement pending the resolution of a Dispute.



PART E

SUSPENSION, FORCE MAJEURE, TERMINATION AND LIABILITY

5 SUSPENSION OR RESTRICTION OF NETWORK INTERCONNECTION SERVICES

- 5.1 Either party (*the suspending party*) may suspend (in whole or in part) or restrict the provision of a Network Interconnection Service where:
- 5.1.1 under **Clause 7.1.1**, the suspending party may terminate this Agreement (without prejudice to any such right of termination); or
 - 5.1.2 there has been Non Payment by the other party; or
 - 5.1.3 this Agreement, including a relevant Network Interconnection Operational Procedure or Network Interconnection Technical Specification, provides for suspension or restriction of that Network Interconnection Service, in which case the suspending party may only suspend in accordance with and to the extent permitted by the Agreement, procedure or specification.
- 5.2 In suspending or restricting the provision of a Network Interconnection Service under **Clause 5.1.1**, the suspending party will only take steps reasonably required to effect that suspension or restriction.
- 5.3 If the suspending party suspends or restricts a Network Interconnection Service under **Clause 5.1.3**, **Clause 5.4** or **Clause 5.6**, the suspension or restriction of that Network Interconnection Service will be to the minimum extent practicable to limit any disruption to the other party and/or the other party's End User Services caused by that suspension or restriction.
- 5.4 If the suspending party suspends or restricts the provision of a Network Interconnection Service pursuant to **Clause 5.1.3**, (in each case *the initial act*), either party may suspend or restrict the making available and provision of any other Network Interconnection Service (*the other service*) to the extent (and only to the extent) that it is not possible or practicable to make available and provide the other service as a direct or indirect result of the initial act.
- 5.5 No suspension or restriction of a Network Interconnection Service under **Clause 5.1.1** shall take place until the suspending party has notified the other party.

Outages

- 5.6 For the avoidance of doubt, in the event of an Outage, a party may suspend or restrict a Network Interconnection Service in whole or in part, and the suspension or restriction will be governed by the relevant provisions of this Agreement, the Network Interconnection Operational Procedures and the Network Interconnection Technical Specifications concerning Outages.

Withdrawal of End User Services

- 5.7 Either party may withdraw as part of its Network Interconnection Services the provision of a particular type of End User Service where the first party is withdrawing that particular type of service from all its Customers. The first party shall give the other party the same notice that the first party gives its Customers in respect of the withdrawal of that service

Call Barring

- 5.8 It is acknowledged by TVL that Digicel may bar any or all Calls originated by TVL Customers subject always to one or more of the following applying:
- 5.8.1 A Digicel Customer has requested that certain types of Calls (for example, nuisance calls or reverse charge calls) be barred; and/or
 - 5.8.2 Digicel has good reason to suspect that the TVL Customer has committed fraud, engaged in unacceptable use (according to fair usage policies), damaged, spam or engaged in any other activity which would be detrimental to Digicel's network, personnel or Customers or increase the chances of Digicel being liable for any action. .
- 5.9 It is acknowledged by Digicel that TVL may bar any or all Calls originated by Digicel Customers subject always to one or more of the following applying:
- 5.9.1 A TVL Customer has requested that certain types of Calls (for example, nuisance calls or reverse charge calls) be barred; and/or
 - 5.9.2 TVL has good reason to suspect that the Digicel Customer has committed fraud, engaged in unacceptable use (according to fair usage policies), damaged, spam or engaged in any other activity which would be detrimental to Digicel's network, personnel or Customers or increase the chances of TVL being liable for any action..

6 FORCE MAJEURE

- 6.1 Notwithstanding any other provisions of this Agreement, but subject to the other provisions of this clause, if either party (*the party claiming suspension*) fails to observe or perform any of its obligations under this Agreement (other than an obligation to make payment to the other party), and such failure shall have been occasioned by reason of Force Majeure, such failure shall be deemed not to be a breach of such obligation.
- 6.2 For these purposes, *Force Majeure* means any:
- 6.2.1 act of God;
 - 6.2.2 confiscation or expropriation;
 - 6.2.3 embargo;
 - 6.2.4 public mains electrical supply failure;
 - 6.2.5 fire, flood, cyclone or storm;
 - 6.2.6 explosion or nuclear accident;
 - 6.2.7 sabotage, revolution, riot, terrorism, act of war (whether declared or not) or warlike operations;
 - 6.2.8 requirement or restriction of governmental authorities:
 - (a) by which, or as a result of which, it is illegal for a party to observe or perform an obligation under this Agreement; or
 - (b) which frustrates the observance or performance of that obligation;
 - 6.2.9 earthquake, land slide, tsunami or volcanic eruption;
 - 6.2.10 epidemic or quarantine restriction;



- 6.2.11 other event similar to those described in **Clauses 6.2.2 to 6.2.7** (inclusive), **6.2.9** and **6.2.10**;
- 6.2.12 strike, lockout, work stoppage or other labour hindrance;
- 6.2.13 failure of a third party (other than a member of the Digicel Group, in the case of Digicel claiming suspension, or a member of the TVL Group, in the case of TVL claiming suspension) to provide goods or services; or
- 6.2.14 an act or omission of the other party or any Customers of the other party, where those Customers are acting in their capacity as Customers;

beyond the reasonable control of the party claiming suspension.

6.3 The party claiming suspension shall not be entitled to the benefit of the provisions of **Clause 6.1** under any or all of the following circumstances:

- 6.3.1 to the extent that the failure was caused by, or reasonably could have been prevented if it were not for, the contributory negligence of the party claiming suspension;
- 6.3.2 to the extent that the failure was caused by, or reasonably could have been prevented if it were not for, a failure or omission of the party claiming suspension, and such party has failed to mitigate or remedy the event relied upon, and to resume the observance or performance of the particular obligation, with reasonable dispatch;
- 6.3.3 the party claiming suspension has failed to mitigate or remedy the event relied upon, and to resume the observance or performance of the particular obligation, with reasonable dispatch;
- 6.3.4 if the failure was caused by lack of funds of the party claiming suspension or its Group;
- 6.3.5 unless, as soon as possible after the happening of the event relied upon or as soon as possible after determining that the event was in the nature of Force Majeure and would affect the ability of the party claiming suspension to observe or perform the particular obligation, the party claiming suspension shall have served on the other party notice to the effect that it is unable by reason of Force Majeure (the nature of which shall be specified in the notice) to observe or perform the particular obligation (the nature of which shall also be specified in the notice); or
- 6.3.6 if, and to the extent that, the particular obligation may be observed or performed notwithstanding the Force Majeure.

6.4 The party claiming suspension shall:

- 6.4.1 immediately use all reasonable endeavours to remedy the Force Majeure;
- 6.4.2 serve notice to the other party of the event and the likely effect of the event as soon as reasonably practicable after it becomes aware of the event; and
- 6.4.3 serve notice on the other party, as soon as possible after the Force Majeure shall have been remedied, to the effect that the same has

been remedied and that the party claiming suspension has resumed, or is then in a position to resume, the observance or performance of the particular obligation.

6.5 Notwithstanding anything to the contrary in this **Clause 6** expressed or implied:

- 6.5.1 the settlement of strikes, lockouts, work stoppages and other labour hindrances shall be entirely within the discretion of the party claiming suspension;
- 6.5.2 the party claiming suspension may make settlement at such time and on such terms and conditions as it may deem to be advisable; and
- 6.5.3 no delay in making such settlement shall deprive the party claiming suspension of the benefit of **Clause 6.1**.

6.6 Either party (*the notifying party*), where they are not the party claiming suspension, shall have the right to terminate part or all of this Agreement to the extent only that it is affected by reason of Force Majeure, upon 40 Working Days' prior notice served on the other party if the party claiming suspension under **Clause 6.1** has been unable to substantially observe or perform a material obligation under this Agreement by reason of Force Majeure (as claimed by the party claiming suspension) and such inability has continued for a continuous period of 130 Working Days **PROVIDED THAT** the notifying party shall not be entitled to give such termination notice unless and until it has negotiated or used reasonable endeavours to negotiate in good faith with the other party to remedy the Force Majeure relied upon or to amend the terms of this Agreement to enable this Agreement to remain in full force and effect, notwithstanding such inability to observe or perform.

7 EARLY TERMINATION

7.1 This Agreement may be terminated immediately by a party (*the terminating party*) serving notice on the other party (*the other party*). Such notice shall be served under **Clause 24 of this Agreement**, shall be identified as a notice of termination, and shall only be given in the event that:

- 7.1.1 (**for unremedied material breaches**) the other party has committed a material breach of this Agreement and in the case of that material breach:
 - (a) the terminating party has given a notice to the other party specifying the material breach and requiring remedy of that breach;
 - (b) the other party has not remedied that breach within 40 Working Days of the date of receipt of the relevant notice; and
 - (c) the terminating party is not in dispute (excluding any vexatious dispute) with the other party in relation to that breach,
- 7.1.2 (**for repeated material breaches**) the other party has committed (in the aggregate) 4 (four) recorded material breaches of any of this Agreement in any 12 month period whether or not those breaches have been remedied provided that where in the case of each material breach:
 - (a) the terminating party has given a notice to the other party specifying details of the material breach and requiring remedy of that breach ;

- (b) the terminating party is not in dispute (excluding any vexatious dispute) with the other party in relation to that breach,
- 7.1.3 distress, attachment or execution is levied or enforced on or against a substantial part of the assets of the other party and is not discharged or stayed within 60 Working Days;
- 7.1.4 the other party:
 - (a) is put into (and remains in) liquidation (other than a voluntary liquidation for the purposes of reconstruction or amalgamation approved in writing by the terminating party, such approval not to be unreasonably withheld);
 - (b) is wound up or dissolved in circumstances where it is not reconstituted;
 - (c) enters into (and remains in) a scheme of arrangement with its creditors or any class thereof;
 - (d) is placed (and remains) under official management or made (and remains) subject to statutory management under the Companies Act 1986; or
 - (e) suffers the appointment of a receiver or manager of a substantial part of its assets and the receiver or manager remains in office for 60 Working Days; or
- 7.1.5 the other party is required by law and has failed to obtain and maintain a licence, permit or other form of official authorisation which is required by the other party in order for it to provide or acquire lawfully the other party's Network Interconnection Services and/or End User Services, or the other party fails to maintain such licence, permit or other official authorisation.

Disconnection and Removals

- 7.2 On termination of this Agreement under **Clause 7.1**, either party may carry out disconnection works and removal of its equipment from the other party's premises. The party that did not terminate this Agreement shall pay to the terminating party the terminating party's reasonable costs for and in respect of such disconnection and removal of equipment. Either party may, after giving the other party reasonable notice and reasonable opportunity to remove its equipment, disconnect and remove the other party's equipment from its premises and the non-terminating party must pay the terminating party's reasonable costs of such disconnection and removal of equipment.

No Waiver

- 7.3 Subject to **Clause 7.4**, termination of this Agreement shall not operate as a waiver of any breach by a party of any of the provisions of this Agreement, and shall be without prejudice to any:
 - 7.3.1 rights, liabilities or obligations of either party which have accrued up to the date of such termination; and
 - 7.3.2 of **Clauses 4, 7, 8, 19, 20, 21, 23, 26, 28, 29, or 30**, and **Clause 6.7 of Schedule B**, which shall continue in full force and effect.
- 7.4 Notwithstanding the termination of this Agreement, any sums payable by either party to the other pursuant to this Agreement at termination shall be paid in the same manner as if this Agreement had not terminated.

Return of Specified Confidential Information

- 7.5 On termination of this Agreement, each party shall return to the other all Specified Confidential Information which the other has provided to that party.

Intellectual Property Licences

- 7.6 On termination of this Agreement, all Intellectual Property licences granted pursuant to **Clause 20.1** in respect of this Agreement shall be cancelled.

8 LIABILITY

- 8.1 Except as provided in **Clauses 8.2, 8.6 and 29.1**, under no circumstances will either party (*the first party*) or its Group (for the purposes of **Clause 8**, in the case of TVL, Group means the TVL Group and in the case of Digicel, Group means the Digicel Group), or any of their respective officers, employees, contractors or agents, be liable in contract, in tort (including but not limited to negligence), in equity, for breach of statutory duty, or otherwise to compensate the other party (*the second party*) for any loss, injury, liability, damage, costs or expense arising directly or indirectly from any of the following, in the course of or out of the provision, operation, servicing or termination of services or the performance or non-performance of obligations by the first party or its Group, or any of their respective officers, employees, contractors or agents, under or in relation to this Agreement:
- 8.1.1 any act, omission or delay of the first party or its Group, or any of their respective officers, employees, contractors or agents;
 - 8.1.2 any act, omission or delay in respect of the making available, continued availability, provision, use or termination of the first party's Network Interconnection Services;
 - 8.1.3 the failure by the first party or its Group, or any of their respective officers, employees, contractors or agents to connect the first party's Network to the second party's Network or to make available, continue to make available or provide the first party's Network Interconnection Services;
 - 8.1.4 any failure of the first party's Network Interconnection Services;
 - 8.1.5 any failure of anything which is part of, or associated with, the first party's Network Interconnection Services;
 - 8.1.6 any interception, distortion or interruption of any communication or attempted communication (including but not limited to any Call) using the first party's Network Interconnection Services; or
 - 8.1.7 subject to **Clause 8.2.3**, any act or omission of any Customer of the first party or its Group and any other third party for whom the first party or its Group is not responsible.
- 8.2 Notwithstanding **Clause 8.1**, but subject to all other provisions of this **Clause 8**, the first party does not by this Agreement exclude liability:
- 8.2.1 for Direct Loss suffered by the second party as a result of the wilful misconduct (including wilful misconduct causing breach) of the first party or its Group, or any of their respective officers, employees, contractors or agents, in each case in the course of their engagement by the first party;



- 8.2.2 for Direct Loss suffered by the second party as a result of the gross negligence of the first party or its Group, or any of their respective officers, employees, contractors or agents, in each case in the course of their engagement by the first party, (for which purpose, *gross negligence* is any conscious or voluntary act or omission, which results in serious injury or damage by a person who was aware of a clear and present threat or danger that such injury or damage would occur);
- 8.2.3 for physical damage to the second party's property occurring in the course of the use, provision, operation, servicing or termination of the first party's Network Interconnection Services that is attributable, directly or indirectly and in whole or in part, to:
- (a) the negligence of the first party or its Group, or any of their respective officers, employees, contractors or agents in each case in the course of their engagement by the first party; or
 - (b) the acts or omissions of a Customer of the first party in the course of making use of the End User Services provided by or on behalf of the first party;
- 8.2.4 to indemnify the second party under **Clauses Error! Reference source not found., 8.13, 12.8 and 21.15** or any other express indemnity, from time to time, under this Agreement; or
- 8.2.5 under **Clause 5.5.3 of Schedule B**;

but only to the extent that the liability arises in the course of or out of the provision, operation, servicing or termination of services or the performance or non-performance of obligations by the first party or its Group, or any of their respective officers, employees, contractors or agents, in each case in the course of their engagement by the first party, under or in relation to this Agreement.

For the purposes of **Clauses 8.2.1 and 8.2.2** *Direct Loss* means:

- 8.2.6 the revenues:
- (a) which would be directly attributable to:
 - (i) each service which could not reasonably be provided by the second party (*the relevant service*); or, as the case may be,
 - (ii) a part of a service which could not reasonably be provided by the second party (*the relevant part of a service*);
 because of the wilful misconduct or the gross negligence; and
 - (b) which the second party would reasonably expect to gain (but which the second party did not in fact gain) from the relevant service or the relevant part of a service, as the case may be (but not other services or other parts of services) for the period during which the wilful misconduct or gross negligence directly affected the relevant service or the relevant part of a service, as the case may be;

less the costs and expenses that would reasonably be expected to have been incurred by the second party (but which the second party did not in fact incur) in providing the relevant service (or the relevant part of a service, as the case may be) during that period; together with

8.2.7 any costs and expenses which the second party has reasonably incurred in mitigating such wilful misconduct or gross negligence; less

8.2.8 any revenues:

- (a) which the second party gained as a result of any mitigation by the second party of the wilful misconduct or gross negligence; and
- (b) which would not have been gained by the second party except for the mitigation by the second party of the wilful misconduct or gross negligence.

For the purposes of **Clauses 8.2.6, 8.2.7 and 8.2.8**, the certificate of:

8.2.9 two directors, one director and one senior executive, or two senior executives of the second party; or, at the option of the second party or at the reasonable request of the first party,

8.2.10 a reputable firm of chartered accountants:

- (a) selected by the second party; and
- (b) independent of both the first and second parties;

regarding the amount of *Direct Loss* is to be prima facie evidence of the amount of such Direct Loss. The certificate shall:

8.2.11 set out the assumptions (if any) on the basis of which the certificate is given, but shall otherwise be unqualified; and

8.2.12 include a statement that the calculation of the amount of Direct Loss has been made in accordance with the relevant provisions of this Agreement and International Financial and Reporting Standards.

The parties acknowledge that, given the confidential nature of the information on which the certificate is based, the certificate will not provide details of that information or details of the means of calculating the amount of Direct Loss. However, the certificate will provide a general explanation of the calculation of the amount of such Direct Loss, which is sufficient to inform the first party in broad terms of how **Clauses 8.2.6, 8.2.7 and 8.2.8** were applied.

For the avoidance of doubt, **Clause 8.2** is capable of application in the event of an Outage, or suspension or restriction of a Network Interconnection Service under **Clause Error! Reference source not found.**

8.3 In any event, under no circumstances (except to the extent necessary to give effect to **Clauses 8.2.1 and 8.2.2**) will the first party or its Group, or any of their respective officers, employees, contractors or agents be liable to the second party in contract, in tort (including but not limited to negligence), in equity, for breach of statutory duty, or otherwise for loss of profits, business or anticipated savings or for any indirect or consequential loss whatever arising in the course of or out of the use, provision, operation, servicing or termination of services or the performance or non-performance of obligations by the first party or its Group, or any of their respective officers, employees, contractors or agents, under or in relation to this Agreement, notwithstanding that the first party or its Group, or any of their respective officers, employees, contractors or agents have been advised of the likelihood of such losses.

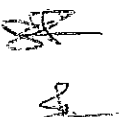
8.4 If for any reason the first party, its Group and/or any of their respective officers, employees, contractors and/or agents is or are liable to the second party in contract, in

tort (including but not limited to negligence), in equity, for breach of statutory duty, or otherwise, the combined maximum liability of the first party, its Group and their respective officers, employees, contractors and agents to the second party arising in the course of or out of the use, provision, operation, servicing or termination of services or the performance or non-performance of obligations by the first party or its Group, and/or any of their respective officers, employees, contractors or agents under or in relation to this Agreement shall be:

8.4.1 200 million Vatu in respect of any one event or related series of events;
and

8.4.2 in any 12 month period, 400 million Vatu irrespective of the number of events,

- 8.5 Each limitation or exclusion of this **Clause 8** and each protection given to the first party or its Group, or any of their respective officers, employees, contractors or agents by any provision of this **Clause 8** is to be construed as a separate limitation, exclusion or protection applying and surviving even if for any reason any of the other provisions is held inapplicable in any circumstances.
- 8.6 Nothing in this **Clause 8** shall exclude liability of the first party to pay when due the charges, interest or other amounts specified to be payable to the second party under this Agreement.
- 8.7 Where any person observes or performs from time to time in whole or in part, as agent or contractor of the first party, any of the obligations of the first party under this Agreement (any such other person in this **Clause 8.7** called the *Other Person*), the following provisions shall apply:
- 8.7.1 the observance or performance of any of the first party's obligations by the *Other Person* shall be consideration for the agreement of the second party that the *Other Person* shall have the benefit of the rights, exemptions, exclusions, limitations, defences and immunities of whatsoever nature contained in this Agreement which are applicable to the first party under this Agreement;
- 8.7.2 the first party is or shall be deemed to be contracting for the benefit of the rights, exemptions, exclusions, limitations, defences and immunities referred to in **Clause 8.7.1** for the *Other Person* as agent for the *Other Person*; and
- 8.7.3 the *Other Person* shall be entitled to the benefit of those rights, exemptions, exclusions, limitations, defences and immunities, and the second party acknowledges that this promise is intended to create an obligation enforceable at the suit of the *Other Person*, whether by way of defence or otherwise.
- 8.8 In no event shall the first party or its Group, or any of their respective officers, employees, contractors or agents be liable to the second party in contract, in tort (including but not limited to negligence), in equity, for breach of statutory duty, or otherwise in respect of any event or related series of events where the combined amount of the loss incurred by the second party arising in the course of or out of the provision, operation, servicing or termination of services or the performance or non-performance of obligations by the first party or its Group, and/or any of their respective



officers, employees, contractors or agents under or in relation to this Agreement in respect of that event or related series of events is less than 50,000 Vatu.

8.9 The second party shall use its reasonable endeavours to ensure that a provision shall (to the extent that it is not now included) be included in:

8.9.1 each contract with a Customer of the second party for the provision of its End User Service which excludes (to the maximum extent permitted by law) any liability of:

- (a) the first party, its Group, and their respective officers, employees, contractors and agents; and
- (b) any Network Operator (whose network is connected to and with the first party's Network), its subsidiaries now and from time to time and their respective officers, employees, contractors and agents;

arising directly or indirectly from or in connection with the second party's End User Service;

8.9.2 each contract with any Network Operator (where the Network Operator's network is connected to and with the second party's Network) which excludes (to the maximum extent permitted by law) any liability of the first party, its Group, and their respective officers, employees, contractors and agents arising directly or indirectly from service provided by the second party to the Network Operator; and

8.9.3 each customer contract of any Network Operator (where the Network Operator's network is connected to and with the second party's Network) which excludes (to the maximum extent permitted by law) any liability of the first party, its Group, and their respective officers, employees, contractors and agents arising directly or indirectly from service provided by the Network Operator to its customer.

8.10 The second party agrees that under no circumstances will any Network Operator (whose network is connected to and with the first party's Network), or its subsidiaries now or from time to time, or any of their respective officers, employees, contractors or agents, be liable to compensate the second party for any loss, injury, liability, damage, costs or expense arising directly or indirectly from the provision by the first party of a Network Interconnection Service that includes a component provided to the first party by that Network Operator.

Intellectual Property Indemnities

8.11 Each party (in **Clauses 8.11-8.14**, the *first party*) indemnifies and saves harmless the other party (in **Clauses 8.11-8.14**, the *second party*), its Group, and their respective officers, employees, contractors or agents from loss, damage, liability, costs or expense which may be suffered or incurred by the second party, its Group, and/or any of their respective officers, employees, contractors or agents, arising directly or indirectly from any actual or alleged infringement by the second party, its Group, and/or any of their respective officers, employees, contractors or agents of Intellectual Property rights of a third party, where, pursuant to this Agreement:

8.11.1 such Intellectual Property has been furnished or licensed by the first party; or



- 8.11.2 a licence in respect of such Intellectual Property has been procured by the first party.

Where the first party has notified the second party in advance of providing the material or subsequently agrees with the second party the terms and conditions:

- 8.11.3 on which such Intellectual Property is furnished or licensed by the first party; or
- 8.11.4 of the licence in respect of such Intellectual Property which is procured by the first party;

the first party will only be required to indemnify the second party, its Group and their respective officers, employees, contractors or agents under this **Clause 8.11** if the second party, its Group and their respective officers, employees, contractors or agents, have used the relevant Intellectual Property in compliance with the terms and conditions so notified or agreed.

- 8.12 The first party shall render all reasonable assistance to and shall co-operate with the second party for the purpose of defending or otherwise in connection with any actions, proceedings, claims or demands in respect of any such actual or alleged infringement which are brought against the second party, its Group and/or any of their respective officers, employees, contractors, agents or customers. The first party may participate at its own expense in the defence of any such action, proceeding, claim or demand. If it so elects within a reasonable time after receipt of the notice referred to below, the first party may assume the defence of that action, proceeding, claim or demand with counsel chosen by it and reasonably acceptable to the second party; if so:

- 8.12.1 the first party is not liable for any fees and expenses of counsel for the second party incurred later in connection with that action, proceeding, claim or demand; and
- 8.12.2 the second party will render all reasonable assistance to and shall co-operate with the first party for that purpose.

The first party is not liable with respect to any action, proceeding, claim or demand settled without its written consent. The second party shall notify the first party as soon as practicably possible after the date on which any such actions, proceedings, claims or demands become known to the second party.

- 8.13 The second party indemnifies and saves harmless the first party, its Group, and their respective officers, employees, contractors or agents from loss, damage, liability, costs or expense which may be suffered or incurred by the first party, its Group, and/or any of their respective officers, employees, contractors or agents, arising directly or indirectly from any actual or alleged infringement by the second party, its Group and/or any of their respective officers, employees, contractors or agents of Intellectual Property rights of a third party, where, pursuant to this Agreement:

- 8.13.1 such Intellectual Property is furnished or licensed by the first party; or
- 8.13.2 a licence in respect of such Intellectual Property is procured by the first party;

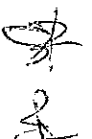
and the second party, its Group and/or any of their respective officers, employees, contractors or agents are not in compliance with the terms and conditions:

- 8.13.3 on which such Intellectual Property is furnished or licensed by the first party; or

8.13.4 of the licence in respect of such Intellectual Property which is procured by the first party;

which, in each case, have been notified in advance of providing the material to the second party by the first party or subsequently agreed by the parties.

8.14 The second party shall render all reasonable assistance to and shall co-operate with the first party for the purposes of defending or otherwise in connection with any actions, proceedings, claims or demands in respect of any such actual or alleged infringement which are brought against the first party, its Group and/or their respective officers, employees, contractors, agents or customers.



PART F

RELATIONSHIP AND NETWORK MANAGEMENT

9 LIAISON COMMITTEE

Role of Liaison Committee

- 9.1 The parties acknowledge that during the term of this Agreement they shall be required to liaise on and resolve bilateral technical network operational issues which arise from time to time regarding:
- 9.1.1 the provision of services, including service levels, under this Agreement;
 - 9.1.2 the operation and connection of their respective Networks; and
 - 9.1.3 any Outages that may occur.

(the *Operational Issues*).

- 9.2 In recognition of this, the parties shall establish a Liaison Committee:

- 9.2.1 to liaise on, and to provide a forum for discussion of, Operational Issues; and
- 9.2.2 to discuss and make recommendations on changes to the Network Interconnection Operational Procedures under **Clause 10.3** and to the Network Interconnection Technical Specifications under **Clause 16.7**.

Constitution of Liaison Committee

- 9.3 The Liaison Committee shall consist only of one or more (but not more than three) suitably qualified personnel appointed by each party from time to time (on a permanent or temporary basis), and advised to the other party by name or position as being that party's representatives on the Liaison Committee.
- 9.4 The Liaison Committee may regulate its own meetings and procedures, **PROVIDED THAT:**
- 9.4.1 meetings of the Liaison Committee (either in person, or by audio or audio and visual communication) shall be held:
 - (a) at least every 6 months or more frequently as the Liaison Committee shall determine; and
 - (b) at the written request of a member of the Liaison Committee, such request to set out the issues which the member wishes to be discussed by the Liaison Committee;
 - 9.4.2 meetings of the Liaison Committee shall be hosted alternately by each party;
 - 9.4.3 at least five Working Days' notice of a meeting is given by the party hosting the meeting to each member of the Liaison Committee, together with written advice of the matters to be discussed at the meeting. However, this notice requirement may be waived with the unanimous consent of the members of the Liaison Committee;



- 9.4.4 each meeting of the Liaison Committee shall be chaired by a representative nominated by TVL or Digicel (on an alternating basis); and
- 9.4.5 the Liaison Committee shall record, circulate and keep the agreed outcomes of each meeting that it holds.
- 9.5 The role of the Liaison Committee is to consider and to deal with operational issues or issues arising out of the day to day operation of this Agreement. This includes, but is not limited to, issues arising under Clauses 14, 15 and 16.2 and clauses 2.5, 3.5 and 4.5 of Schedule B to this Agreement.

10 OPERATIONAL PROCEDURES

Network Interconnection Operational Procedures

- 10.1 The parties shall establish and maintain a document entitled *Network Interconnection Operational Procedures*, recording details of agreed operational procedures, which may include, without limitation, procedures covering:
- 10.1.1 liaison between the parties' respective operations centres referred to in Clause 1.1 of the Network Interconnection Operational Procedures;
 - 10.1.2 handling of Outages including notification of planned and unplanned Outages which affect a party's Network Interconnection Service;
 - 10.1.3 to the extent that such testing is not covered by this Agreement, appropriate testing by each party to localise and isolate faults in its own Network, or for such other purposes as may be agreed between the parties;
 - 10.1.4 details of forecasting required under **Clause 15**;
 - 10.1.5 detailed arrangements for access by each party to the other party's premises under **Clause 12**;
 - 10.1.6 signalling routes;
 - 10.1.7 CIC numbering;
 - 10.1.8 provision of network interconnection diagrams of both parties and related routes;
 - 10.1.9 details of service levels;
 - 10.1.10 notification of software and hardware changes proposed for either party's Network which may impact on that party's provision of Network Interconnection Service;
 - 10.1.11 management of abnormal and/or disruptive traffic, with a view to minimising any detrimental effects of such calling on each party's Network; and
 - 10.1.12 facilitation of tracing of malicious calls which originate in one party's Network and terminate in the other party's Network.
- 10.2 The Network Interconnection Operational Procedures as at the date of this Agreement are set out in **Schedule B**. That document, as amended from time to time in accordance with this Agreement, shall form part of this Agreement.



Changes to Network Interconnection Operational Procedures

- 10.3 Each party shall review the Network Interconnection Operational Procedures on a regular basis, and shall refer any concerns it may have regarding, or any requests for amendment to, the Network Interconnection Operational Procedures to the Liaison Committee.
- 10.4 Any matters referred to the Liaison Committee under **Clause 10.3** shall be discussed by the Liaison Committee which may determine that an amendment to the Network Interconnection Operational Procedures is appropriate and make recommendations, in accordance with the following provisions:
- 10.4.1 if all the members of the Liaison Committee reach unanimous agreement that an amendment is appropriate, and on the details of that amendment, then the Liaison Committee shall produce a written recommendation to that effect, and send a copy of that recommendation to each of the parties. Each party shall consider the recommendation and respond in writing to the Liaison Committee, advising whether it agrees or disagrees with the recommendation. If both parties agree with the recommendation, then the recommendation shall be implemented by amending the Network Interconnection Operational Procedures, or taking such other action as the parties may agree; or
 - 10.4.2 if all the members of the Liaison Committee reach unanimous agreement that an amendment is appropriate, but cannot agree on the details of that amendment, or do not reach unanimous agreement that an amendment is appropriate, or if the parties do not reach agreement with respect to any recommendation of the Liaison Committee or any other matter related to an amendment, the parties may agree to participate in negotiation and mediation in accordance with **Clause 4**. However, there shall be no recourse to arbitration.

11 ARRANGING HAND-OVER POINTS

Location of Hand-over Points

- 11.1 The Parties agree that the Hand-over Point will be located at the premises specified in Schedule F.
- 11.2 Each Party shall make premises and facilities available for the installation of the Hand-over Points at the relevant locations specified in Schedule F.
- 11.3 The parties may agree to locate Hand-over Points on premises other than in accordance with this **Clause Error! Reference source not found.**, or to make any other mutually acceptable Hand-over Point arrangements.
- 11.4 The parties must, on an ongoing basis, co-operate with each other and use all reasonable endeavours to agree on the Call routes and other technical arrangements which need to be put in place to enable each party to meet its obligations and exercise its rights under this Agreement.

Changes to Hand-over Points

- 11.5 Where either party (in this **Clause 11.5** and in **Clause 11.6**, the *first party*) intends to change its Hand-over Point arrangements by installing a new Hand-over Point, changing the location of one of its Hand-over Points, substituting one of its Hand-over Points with

another Hand-over Point, decommissioning one of its Hand-over Points (in the case of decommissioning a Hand-over Point, **Clauses 11.5.4 and 11.5.5** will not apply) or making any other change to the then existing arrangements relating to one of its Hand-over Points:

- 11.5.1 it must give reasonable notice to the other party (in this **Clause 11.5** and in **Clause 11.6**, the *other party*) of the intended change and the date by which it intends to make those changes. What will constitute reasonable notice under this clause may be discussed at Liaison Committee meetings and determined by the parties;
- 11.5.2 it must provide whatever information the other party reasonably requests in order for the other party to ascertain and do the things it needs to do in order to accommodate the intended change;
- 11.5.3 as soon as is reasonably practicable after receiving the requested information, the other party must give notice of whether or not it agrees to accommodate the intended change (such agreement not to be unreasonably withheld) and, if so, setting out the things it considers it will need to do to accommodate the intended change and when it estimates those things will have been done;
- 11.5.4 as soon as the other party considers it has done everything necessary to the point that the new or changed Hand-over Point is ready for joint testing, the other party must give notice requesting joint testing to begin. The parties must begin joint testing within 2 Working Days after that notice is given and must use reasonable endeavours to complete joint testing within 5 Working Days of the day joint testing begins; and
- 11.5.5 the new or changed Hand-over Point is deemed to be available from the date by which the first party requested all things to have been done to accommodate the intended change, or the date on which joint testing is successfully completed, whichever is later.

This **Clause 11.5** does not limit each party's forecasting obligations under **Clause 15**.

11.6 The first party is to bear its costs and all of the other party's reasonable costs associated with the change in Hand-over Point arrangements.

12 ACCESS TO HAND-OVER POINTS

12.1 Each party (in this **Clause Error! Reference source not found.**, the *provider*) must make available to the other (in this **Clause Error! Reference source not found.**, the *user*) all such:

- 12.1.1 premises, access, facilities and services in relation to each of the user's Hand-over Points on the provider's premises;
- 12.1.2 access from the street front to the premises in which each Hand-over Point of the user is located to enable the user to construct and place wires, cables, casings or other equipment;
- 12.1.3 consents from other people;
- 12.1.4 facilities and services on the provider's premises; and
- 12.1.5 such other reasonable assistance,



as the user reasonably requires to accommodate the user's Hand-over Point and enable all equipment required to be both located in close proximity and connected to the user's Hand-over Point for the user to provide or receive Network Interconnection Services under this Agreement, to be safely and securely accommodated and installed to reasonable standards, connected to the rest of the user's Network, inspected, tested, repaired, modified, maintained, worked on and removed as and when reasonably required by the user. The provider must comply with all applicable statutory requirements in meeting its obligations under this clause.

- 12.2 The provider grants the user all licences necessary for the user to carry out the activities contemplated by **Clause 12.1**, and it is mutually agreed between the provider and the user that any access or space for the purposes of Clause 12.1 shall be subject to the provider's reasonable charges for such access or space.
- 12.3 Each party may at any time give notice of its reasonable requirements as a user under this clause.
- 12.4 In meeting its obligations as a provider, or carrying out the activities contemplated by **Clause 12.1** as a user, neither party may maintain, repair or interfere with the other party's equipment or interfere with the provision of Network Interconnection Services except with the consent of the other party or any authorised contractor or agent of the other party and only to the extent necessary to meet its own obligations under this Agreement.
- 12.5 The provider must not cause or allow any nuisance or unreasonable impediment to the user to exist or occur in any premises to which the user reasonably requires access under this clause.
- 12.6 The user shall comply with the reasonable health and safety and security procedures issued by the provider.
- 12.7 In the previous sub clauses of this **Clause 12**, reference to a user means the user, or the user's authorised personnel, contractors or agents (who must always carry appropriate identification), as the context requires.
- 12.8 Each party indemnifies the other against all loss suffered and liability incurred by the other party arising from any delay or failure by the first party to meet an obligation under this Clause 12.

13 INTERCONNECT LINKS

Uni-directional Interconnect Links

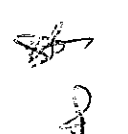
- 13.1 Except where the parties otherwise agree, all Interconnect Links will be uni-directional links.

Provision of Interconnect Links

- 13.2 Each party shall be responsible for arranging the provision of Interconnection Links for the purposes of carrying interconnection traffic from its network to the other party's network. For the avoidance of doubt, the provision of Interconnection Links is not an interconnection Service for the purposes of this Agreement.

Dedicated Interconnect Links

- 13.3 The parties will allocate dedicated traffic trunk routes for domestic Calls and SMS Messages.



Review of Interconnect Links arrangements

- 13.4 The parties will review the provisioning of Interconnect Links, and the responsibility for each party to provision an Interconnect Link, by the second anniversary of the Commencement Date. They will give reasonable consideration to a request from the other party to negotiate the adoption of an alternative method for the provisioning of Interconnect Links, if the adoption of such alternative method would not be to the detriment of the party to whom the request is made.

Need for new Interconnect Links

- 13.5 The Liaison Committee will be responsible for identifying when new Interconnect Links will be required between two points. In doing so, they will take into account any forecasts provided by one party to the other in accordance with clause 5.3 of the Network Interconnection Operational Procedures in Schedule B to this Agreement.

Responsibility for costs of provisioning

- 13.6 Responsibility for provisioning Interconnect Links under this **Clause 13** includes bearing the costs of installing those Interconnect Links and responsibility for maintaining and decommissioning those Interconnect Links.

Use of a third party

- 13.7 Where this **Clause 13** imposes an obligation on either party (the provisioning party) to provision any Interconnect Links, the provisioning party may provision those Interconnect Links itself or it may procure the other party to this Agreement or a third party to provision those Interconnect Links on its behalf. For the avoidance of doubt, any failure by the third party to provision those Interconnect Links in accordance with the requirements set out in this **Clause 13** (other than as a result of an act or omission of the other party) shall constitute a breach by the provisioning party of its obligations under this **Clause 13**.

14 PROTECTION OF NETWORKS

Restriction of certain actions in relation to Networks

- 14.1 Except as contemplated under the terms of this Agreement, each party is to use its reasonable endeavours to ensure that it does not, in connection with the performance or observance of its obligations under this Agreement, do or permit to be done or omit or permit the omission of any matter or thing in relation to its Network which will:
- 14.1.1 cause damage to the other party's Network or any other network connected with it;
 - 14.1.2 except as permitted under this Agreement, result in:
 - (a) interference with; or
 - (b) modification of the operation of;the other party's Network or any other network connected with it (except that any radiofrequency interference will be dealt with in accordance with the provisions of the Telecommunications Promulgation 2008); or
 - 14.1.3 interfere with the reasonable enjoyment or use:
 - (a) of any of the other party's End User Services by any person; or

- (b) by any person of any other network which is connected to the other party's Network.

Sabotage

14.2 The parties shall co-operate with each other and adopt reasonable precautions in accordance with their respective usual procedures to prevent acts of sabotage to:

14.2.1 the TVL Network; and

14.2.2 the Digicel Network;

by their respective officers, employees, contractors, agents, customers and other third parties.

Fraudulent use

14.3 The parties shall co-operate to eliminate fraudulent use of either party's End User Services by End Users and Customers insofar as such fraudulent use has arisen as a result of the connection of the parties' respective Networks, and the provision of Network Interconnection Service by each party to the other under this Agreement.

Safety

14.4 Without limiting anything in **Clauses 14.5, 14.6, 16.3, 16.5 and 16.6**, each party shall take all necessary and prudent steps and comply with all statutory obligations to ensure that the performance and observance of its obligations under and the implementation of this Agreement will not endanger the health or safety of any persons including, without limitation, the other party's officers, employees, contractors, agents and End Users and in particular, without limitation, each party shall be responsible for the safe operation of its own Network.

Standards and Quality

14.5 Each party will:

14.5.1 use its reasonable endeavours to manage, and will co-operate with the other in managing, its own Network in a manner or use of End User Services that minimises disruptions to the other party's Network; and

14.5.2 use its reasonable endeavours to ensure that the quality of Calls delivered to or accepted from the other party's Network is maintained.

14.6 Except where otherwise specified in this Agreement, each party (*the first party*) shall provide Network Interconnection Service to the other party of a quality comparable to the same or similar network service provided by the first party to its Customers and to any other member of the Group to which it belongs. As a minimum, the parties shall use their best endeavours to ensure that this service shall comply with the performance criteria and quality standards in **Schedule C**.

14.7 Where a Call may eventually be transmitted to an international network, the parties shall use reasonable endeavours to ensure that they comply with the principles and requirements of any applicable agreements between the relevant party and overseas networks, as notified by each party to the other from time to time.

Outage Preplanning and Joint Network Design

14.8 The parties acknowledge that it is in each party's interest to minimise the disruption caused by Outages and to make each party's Network as available as possible to the other for Call acceptance and delivery.

- 14.9 Where the parties agree that joint pre-planning would be useful in reducing the effect of a network node or transmission Outage on the affected party's Network, the Liaison Committee will meet and discuss and the parties will use reasonable endeavours to develop and agree on a pre-plan that could be invoked if the identified Outages were to occur.
- 14.10 Where the parties agree that co-operation through joint network design would be useful in reducing the effect of a network node or transmission Outage on the affected party's Network, the parties will meet and discuss and endeavour to develop and agree on a network design that could be implemented between the parties.

Continuance Planning

- 14.11 The parties acknowledge that in the event of a natural disaster which results in large scale destruction of one or both parties' Networks it is in both parties' interest to co-operate to restore a level of service to emergency service providers and other rescue services in the destruction area.
- 14.12 At the request of a party (*the first party*), the other party shall meet with the first party and discuss and use reasonable endeavours to develop and agree on a disaster continuance plan, covering joint co-operation for the restoration of a level of service to emergency service providers and other rescue services in the destruction area.

Services in the Event of an Emergency

- 14.13 In the event that:

- 14.13.1 TVL is unable to provide a substantial part of TVL Network Interconnection Service; or
- 14.13.2 Digicel is unable to provide a substantial part of Digicel Network Interconnection Service;

(the party with such inability in this **Clause 14.13** called *the Affected Party*) and such inability has been caused by an act of God or other natural disaster which has given rise to the declaration of a state of national or regional civil defence emergency, then TVL (in the case where the Affected Party is Digicel) and Digicel (in the case where the Affected Party is TVL), shall use reasonable endeavours to assist the Affected Party in providing temporary services to enable the Affected Party to provide services to its Customers, any such assistance to be on terms and conditions and charges to be agreed between the parties. Nothing in this **Clause 14.13** shall oblige TVL or Digicel (as the case may be) (*the Assisting Party*) to assist the Affected Party where the assistance would diminish the Assisting Party's normal level of service to its Customers.

15 FORECASTS OF FUTURE NETWORK REQUIREMENTS

- 15.1 Each party will supply to the other the forecasts required by the Network Interconnection Operational Procedures.
- 15.2 Forecasts supplied by one party to the other under **Clause 15.1** shall be prepared and supplied in accordance with this Agreement, including the Network Interconnection Operational Procedures.
- 15.3 Each party acknowledges the importance of forecasts in providing Network Interconnection Service, and to that end, will take all reasonable care to provide forecasts which are as accurate as possible. However, the parties further acknowledge:



- 15.3.1 that the sole purpose of the forecasts described in **Clause 15.1** is for each party to make the other party aware of the likely demands for the other party's Network Interconnection Service and enable the other party to plan for the provision of such service accordingly; and
- 15.3.2 that any forecast under this **Clause 15** is indicative only and is not binding on the party giving the forecast. The forecasting party does not represent or warrant that any forecast is or will be true, accurate or correct.

16 NETWORK INTERCONNECTION TECHNICAL SPECIFICATIONS

Network Interconnection Technical Specifications

- 16.1 The parties shall establish and maintain a document entitled *Network Interconnection Technical Specifications*, recording details of the technical requirements which the parties have agreed. The Network Interconnection Technical Specifications contain specifications agreed by the parties that are appropriate to the operation of their respective Networks and the provision of Network Interconnection Services by each party to the other.
- 16.2 The Network Interconnection Technical Specifications as at the date of this Agreement are set out in **Schedule C**. That document, as amended from time to time in accordance with this Agreement, shall form part of this Agreement.

Compliance with Network Interconnection Technical Specifications

- 16.3 The parties shall use their reasonable endeavours to comply with the relevant Network Interconnection Technical Specifications. In particular, each party shall use reasonable endeavours to ensure it does not connect anything to the other party's Network at a Hand-over Point, nor deliver or accept Calls at the Hand-over Point, except in accordance with the relevant Network Interconnection Technical Specifications. The parties shall co-operate in a bona fide manner towards achieving compliance with the applicable Network Interconnection Technical Specifications in the connection of their respective Networks, and the delivery and acceptance of Calls.
- 16.4 Each party shall undertake testing, in accordance with a testing schedule agreed between the parties, to determine compliance with the Network Interconnection Technical Specifications. Unless otherwise agreed, such testing should be undertaken:
 - 16.4.1 where a Network Interconnection Technical Specification is implemented for the first time; and
 - 16.4.2 where an agreed change is made to a Network Interconnection Technical Specification;and may occur at any other time agreed between the parties.
- 16.5 Where the parties have agreed that no compliance testing is required prior to the implementation or the change referred to in **Clauses 16.4.1** or **16.4.2**, each party whose Network is affected by such an event shall (to the extent its Network is so affected) certify to the other party (prior to implementation or change) that the first party's Network complies with the Network Interconnection Technical Specifications to the extent required under this Agreement in the form they will take following the implementation or change. For the avoidance of doubt, no such prior certification is required where the parties have agreed to undertake and have successfully completed compliance testing.



16.6 Each party shall use reasonable endeavours to ensure that during the term of this Agreement its Network continues to comply with the Network Interconnection Technical Specifications.

Managing the Network Interconnection Technical Specifications

16.7 Each party shall refer any issues it may have regarding, or any requests for amendment to, the Network Interconnection Technical Specifications, to the Liaison Committee.

16.8 Any matters referred to the Liaison Committee under **Clause 16.7** shall be discussed by the Liaison Committee which may determine that an amendment to the Network Interconnection Technical Specifications is appropriate and make recommendations. The provisions of **Clauses 10.4.1** and **10.4.2** shall apply as if the references to "Network Interconnection Operational Procedures" were references to "Network Interconnection Technical Specifications" and otherwise shall be read *mutatis mutandis*.

17 NETWORK CHANGES

17.1 In the event that one party (*the notifying party*):

17.1.1 is required to make a change to its Network:

- (a) by reason of a fault condition or other trouble in its Network; or
- (b) in order to comply with **Clauses 14.5, 14.6, 14.7** and **16.3**; or

17.1.2 wishes to make a change to its Network where:

- (a) the change will cause minimal inconvenience or cost to the other party (*the other party*); or
- (b) the notifying party reasonably believes the change is in both parties' mutual interest;

and the change to the notifying party's Network would make it necessary:

17.1.3 for a change to be made to the requirements of the Network Interconnection Technical Specifications; and

17.1.4 for changes to be made to the Network of the other party;

the notifying party shall serve notice on the other party requesting the change. Such notice shall set out:

17.1.5 any relevant details of the required or desired changes to the notifying party's Network;

17.1.6 the preferred timing of such changes;

17.1.7 where **Clause 17.1.1** applies, the urgency of the condition and the risks to the effective continued operation of its Network in delaying the changes.

17.2 On receipt of such notice by the other party, the parties shall refer any issues with respect to the implementation of the changes which the notifying party has requested (including any changes to the Network Interconnection Technical Specifications and the need for testing) to the Liaison Committee, which will discuss the issues and where it determines appropriate, make recommendations. Any such implementation shall be on terms and conditions agreed by the parties.

PART G
CHARGING AND PAYMENTS

18 CHARGING PRINCIPLES

- 18.1 The charges payable by Digicel to TVL and by TVL to Digicel for their respective services provided under this Agreement are as set out in this Agreement.
- 18.2 Except as otherwise specifically provided in this Agreement, each of Digicel and TVL shall arrange for all charging of and setting charges for its own Customers.

Discounts

- 18.3 Where this Agreement specifies a charge to apply to a service, no reduction, rebate, saving, bonus or discount of any kind, including, without limitation, any call promotion offers or plans shall apply, unless expressly provided otherwise in this Agreement.

VAT

- 18.4 All charges set out in this Agreement are exclusive of VAT and, to the extent that charges are payable under this Agreement by the parties, and to the extent that any VAT is payable on such charges the VAT on such charges will be invoiced to and payable by the parties in the same way as the charges themselves under **Clause 19**.

19 PAYMENT OF CHARGES

- 19.1 Each party is to use reasonable endeavours to provide the other party with an invoice specifying the charges payable by the Paying Party for services provided by the Invoicing Party on or before the 15th of each month for the period to the last day of the previous calendar month.
- 19.2 The quality of billing of services under this Agreement by the Invoicing Party shall be to a standard which is comparable to the quality of the billing provided by the Invoicing Party to its major customers and Network Operators in respect of comparable services. Without limiting the foregoing, all charges and costs payable by the Paying Party, when invoiced to the Paying Party, shall include reasonable information that is sufficient to enable the Paying Party to check the accuracy of the amount charged.
- 19.3 Each party is to co-operate with the other on billing and invoicing matters, including:
- 19.3.1 the information to be provided to each other with respect to an invoice;
 - 19.3.2 the methods by which that information is provided; and
 - 19.3.3 the need to meet from time to time to resolve billing disputes.

Due Date

- 19.4 Subject to **Clause 19.7**, all amounts invoiced by the Invoicing Party to the Paying Party under this Agreement shall be due and payable on or before the Due Date of the relevant invoice.

Payment

- 19.5 Subject to **Clauses 19.7** and **19.16**, all charges and other amounts payable by the Paying Party under this Agreement (including any amount which the Paying Party disputes or intends to dispute pursuant to **Clause 19.12**) shall be paid by the Paying Party to the Invoicing Party, at the place or to a bank account nominated from time to time by the Invoicing Party, all payments to be in vatu and (except to the extent required by law) free of any deductions, set off or withholding on account of any amount.

19.6 Acknowledging that the interests of the parties and their respective Customers require that:

- 19.6.1 as far as reasonably practicable, services under this Agreement be continuously available, and when in use, continuous and fault-free; and
- 19.6.2 subject to **Clauses 19.7** and **19.16**, payments for such services be made without deduction, set off or withholding on account of any amount;

the parties agree that, in the event of any dispute about the validity or enforceability of this Agreement or of its implementation (in whole or in part), each party will continue to perform its obligations in accordance with the terms of this Agreement until a court of competent jurisdiction (or the arbitrator of an arbitration under **Clause 4**) determines that this Agreement or its implementation (in whole or in part), is invalid or unenforceable.

Manifest Error in Invoice

19.7 If the Paying Party:

- 19.7.1 believes on reasonable grounds that there is a Manifest Error in an invoice provided by the Invoicing Party which has resulted in the Invoicing Party overcharging the Paying Party in that invoice; and
- 19.7.2 has on or before the Due Date, served on the Invoicing Party a notice of Manifest Error, (setting out in the notice details of the relevant invoice and the reasonable grounds in support of the Paying Party's view that the Manifest Error exists),

then the Paying Party shall be entitled to withhold payment to the Invoicing Party of the amount by which, in the reasonable opinion of the Paying Party, the Invoicing Party may have overcharged the Paying Party in the invoice as a result of the Manifest Error. The remainder of the amounts charged in the invoice will be paid by the Paying Party on or before the Due Date in the normal manner. The amount withheld may be withheld until such time as the Invoicing Party and the Paying Party have settled between them in accordance with the disputes procedure set out in **Clause 19.9**, whether or not there is a Manifest Error in the invoice and, if there is, the amount of it and the amount properly payable on that invoice after correcting it. Following the giving of any notice under **Clause 19.7.2**, the parties must use reasonable endeavours to settle any claim of Manifest Error.

19.8 If the parties do not settle any claim of Manifest Error within 20 Working Days after the due date for payment of the invoice, either party may give notice referring the matter directly to an independent telecommunications accounting expert (*the Expert*) to be finally resolved and, unless otherwise agreed in writing:

- 19.8.1 the parties must endeavour to appoint a single Expert. If, within 5 Working Days of the notice under this **Clause 19.8** being given, the parties are unable to agree on a single Expert, the Expert will be appointed by the Regulator;
- 19.8.2 the Expert must adopt a procedure which, in the Expert's opinion, is the most simple and expeditious procedure possible in the circumstances;
- 19.8.3 the carriers will provide the Expert with any information that the Expert reasonably requires;

19.8.4 the Expert must use reasonable endeavours to make a decision on the claim of an Manifest Error within 30 Working Days of appointment; and

19.8.5 the costs of the Expert will be paid as follows:

- (a) if the Expert decides that there is no Manifest Error or, as a result of a Manifest Error the amount of the invoice is increased after correction, then the Paying Party will pay the costs of the Expert;
- (b) if the Expert decides that there is a Manifest Error and the amount of the invoice is reduced by 5% or less after correction, then the Paying Party and the Invoicing Party will equally share and pay the costs of the Expert; and
- (c) if the Expert decides that there is a Manifest Error and the amount of the invoice is reduced by more than 5% after correction, then the Invoicing Party will pay the costs of the Expert.

19.9 If it is agreed by the parties or found by the Expert that there was a Manifest Error in the invoice, then if:

19.9.1 the amount by which the Paying Party was overcharged in the invoice as a result of the Manifest Error is less than the amount withheld by the Paying Party, the Paying Party shall forthwith pay to the Invoicing Party the amount of the difference, and shall pay to the Invoicing Party interest on a daily basis at the Bill Rate (as at the Due Date of the invoice) plus 1 percent per annum on the amount of the difference for the period from and including the Due Date to but excluding the date of payment of the amount of the difference, such interest to be paid contemporaneously with the amount of the difference;

19.9.2 the amount by which the Paying Party was overcharged in the invoice as a result of the Manifest Error is equal to the amount withheld by the Paying Party, the Paying Party shall retain the amount withheld;

19.9.3 the amount by which the Paying Party was overcharged in the invoice as a result of the Manifest Error is greater than the amount withheld by the Paying Party, then the Invoicing Party shall forthwith refund to the Paying Party the amount of the difference and shall pay to the Paying Party interest on a daily basis at the Bill Rate (as at the date on which the overpayment was made by the Paying Party) plus 1 percent per annum on that refunded amount for the period from and including the date on which the overpayment was made by the Paying Party to but excluding the date of payment of the refunded amount, such interest to be paid contemporaneously with the payment of the refunded amount.

19.10 If it is agreed by the parties or found by the Expert that there was not a Manifest Error in the relevant invoice, then the Paying Party shall forthwith pay in full the amount withheld and shall pay to the Invoicing Party interest at the Bill Rate (as at the Due Date) plus 1 percent per annum for the period from and including the date of the invoice to but excluding the date of payment of the amount withheld, such interest to be paid contemporaneously with the amount withheld. Nothing in this Clause 19.10 shall prevent the Paying Party from claiming an amount in accordance with Clause 19.11, if


the Paying Party has reasonable cause to believe that the invoice contains a billing error which is not a Manifest Error.

Settling Other Invoicing Disputes

- 19.11 If the Paying Party has a claim in respect of the accuracy or correctness of an invoice issued by the Invoicing Party (other than any claim in respect of a Manifest Error which has been made under **Clause 19.7**), the Paying Party shall, no later than 6 months after the Due Date of the invoice which it disputes, serve notice on the Invoicing Party setting out details of the relevant invoice, the disputed amount and the grounds for the dispute together with supporting evidence. All disputes under this **Clause Error! Reference source not found.** must be bona fide disputes for which the Paying Party has reasonable cause to believe that there has been a billing error. For the avoidance of doubt, **Clauses 19.7 to 19.10** do not apply to any notice given under this **Clause 19.11**, and **Clauses 19.12 and 19.13** do not apply to any notice given under **Clause 19.7.2**.
- 19.12 The Invoicing Party and the Paying Party will use their reasonable endeavours to settle promptly any claim of which the Invoicing Party is notified under **Clause 19.11**. Failing resolution within 40 Working Days of the date of the service of the notice under **Clause 19.11**, either party may serve notice on the other that it wishes the dispute to be arbitrated and the dispute shall be referred directly to arbitration in accordance with **Clause 4**, on the expiry of 10 Working Days from the date of service of such notice (without the need for prior negotiation). The terms of reference of such an arbitration shall be agreed between the parties but shall relate only to that claim or dispute.
- 19.13 If a claim under **Clause 19.11** is resolved in favour of the Paying Party, then the Invoicing Party will forthwith refund to the Paying Party:
- 19.13.1 the disputed amount, or so much of it as the resolution of the dispute dictates should be refunded; and
 - 19.13.2 interest on a daily basis at the Bill Rate applied pro-rata (as at the date on which the overpayment was made by the Paying Party) plus 1% per annum on the refunded amount referred to in **Clause 19.13.1** for the period from and including the date on which the overpayment was made by the Paying Party to but excluding the date of payment of the refunded amount, such interest to be paid contemporaneously with the payment of the refunded amount.
- 19.14 For the avoidance of doubt, any invoices that are subject to a dispute under **Clause 19.11** remain payable in full by the Due Date notwithstanding the existence of a dispute.

Charges Omitted from Invoices

- 19.15 Nothing in this Agreement or in the terms of any invoice or statement shall prejudice the Invoicing Party's right to charge the Paying Party for any services or other amount due under this Agreement, the charges or costs for which should have been included within earlier invoices or statements but which were omitted. This right shall be limited to a period of 6 months from the date of the provision of the relevant service or the date any other amount was due to be paid, after which no charge may be made for that service or other amount. This **Clause 19.15** shall survive termination of this Agreement.
- 19.16 The Invoicing Party may at the direction of the Paying Party apply any amounts payable under **Clauses 19.9.3 and 19.13** as a credit towards other charges payable by the Paying Party under this Agreement.



Late Payment

19.17 Where:

- 19.17.1 an amount due from the Paying Party to the Invoicing Party under this Agreement remains unpaid after the Due Date of the relevant invoice and that amount is not one to which clauses 19.9.1, 19.10 or 19.12 applies; or
- 19.17.2 an amount due from the Paying Party to the Invoicing Party under Clauses 19.9.1, 19.10 or 19.12 remains unpaid on the sixth Working Day after the date of resolution of the dispute;
- 19.17.3 then the Paying Party shall be liable to pay to the Invoicing Party interest on a daily basis on that amount at the Bill Rate (as at the Due Date or the date 6 Working Days after the date of resolution of the dispute, as the case may be) plus 5 percent per annum applied pro rata, subject to the maximum interest permitted by law, such interest to be charged: in the case of interest payable in respect of amounts unpaid to which Clause 19.17.1 applies, from and including the Due Date of the relevant invoice to but excluding the date of payment of the amount due, such interest to be paid contemporaneously with the payment of the amount due;
- 19.17.4 in the case of interest payable in respect of amounts unpaid to which Clause 19.17.1 applies, from and including the sixth Working Day after the date of resolution of a dispute, from and including the sixth Working Day after the date of resolution of the dispute to but excluding the date of payment of the amount due, such interest to be paid contemporaneously with the payment of the amount due.

19.18 Where an amount due from the Invoicing Party to the Paying Party under Clauses 19.9.3 or 19.13 remains unpaid on the sixth Working Day after the date of resolution of the dispute, then the Invoicing Party shall be liable to pay to the Paying Party interest on that amount at the Bill Rate (as at the date 6 Working Days after the date of resolution of the dispute) plus 5 percent per annum applied pro rata, subject to the maximum interest permitted by law, such interest to be charged on a daily basis from and including the date 6 Working Days after the date of the resolution of the dispute until, but excluding the date the amount due is paid, such interest to be paid contemporaneously with the payment of the amount due.

19.19 The Paying Party shall continue to be liable to pay for any charges incurred between the time of termination of any service of the Invoicing Party and the actual discontinuance of the service of the Invoicing Party.

19.20 Nothing in Clause 8 shall limit or exclude Digicel's or TVL's liability to pay interest to the other under this Clause 19 should such a liability arise.

19.21 The parties record that the interest payable under this Clause 19 constitutes liquidated damages and that the interest rate formulae set out in this Clause 19 represent a genuine forecast of the approximate loss a party may suffer as the result of non-payment after taking into account the complexity of each party's business.

PART H

INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIAL INFORMATION

20 INTELLECTUAL PROPERTY RIGHTS

20.1 Unless the parties otherwise agree in writing:

20.1.1 all Intellectual Property which originates from, or is owned or developed by, a Group shall remain in the ownership of that Group; and

20.1.2 where Intellectual Property is owned or has been developed by a Group for the purposes of observing or performing obligations under this Agreement, then the other Group shall have a non-exclusive royalty-free licence to use such Intellectual Property for the purposes of the observance or performance of obligations under this Agreement, until such time as this Agreement is terminated.

20.2 Nothing in this Agreement shall confer or be deemed to confer on a Group any rights or interests in or licences to use or to permit or cause use to be made of the Intellectual Property of the other Group, except as expressly provided in this **Clause 20**.

20.3 It shall be the responsibility of each party to ensure that it (at its own cost) obtains any necessary consents or licences in relation to Intellectual Property used in its Network that may be required to enable the other party to observe or perform its obligations under this Agreement.

21 CONFIDENTIAL INFORMATION AND PRIVACY

21.1 For the purposes of this **Clause 21**, the party:

21.1.1 owning or supplying Confidential Information shall be called *the Supplying Party*; and

21.1.2 receiving Confidential Information shall be called *the Receiving Party*;

and either expression shall include all members of the relevant party's Group.

Confidential Information

21.2 The Receiving Party will, in respect of Confidential Information received from the Supplying Party or of which the Receiving Party otherwise becomes aware through its implementation or operation of this Agreement:

21.2.1 adopt (if necessary) and maintain procedures adequate to protect the Confidential Information;

21.2.2 hold the Confidential Information in confidence with the same degree of care with which it holds its own confidential and proprietary information, unless the Supplying Party approves in writing the release of the Confidential Information by the Receiving Party;

21.2.3 ensure that neither it nor any of its officers, employees, contractors or agents who receive the Confidential Information discloses or causes or permits to be disclosed, without the prior written consent of the Supplying Party, the Confidential Information or any part of it to any person other than to:

(a) the Receiving Party's professional advisers; or

- (b) those of the Receiving Party's officers, employees, contractors or agents directly concerned in the implementation or operation of this Agreement (but not to any such contractors or agents that are also Network Operators, unless that contractor or agent has entered into an agreement with the Supplying Party (in a form reasonably satisfactory to the Supplying Party) that imposes an obligation of confidentiality on that contractor or agent with respect to the Confidential Information),

and will advise the Supplying Party from time to time on request of the professional advisers, contractors and agents who are or may be recipients of Confidential Information.

- 21.2.4 not make use of, or cause or permit use to be made of, the Confidential Information or any part of it in any manner whatsoever other than as necessary for the implementation or operation of this Agreement;
- 21.2.5 enter into such other agreements as the Supplying Party may reasonably require regarding any part of the Confidential Information which is disclosed by the Supplying Party under licence from a third party; and
- 21.2.6 at the Supplying Party's request, use reasonable endeavours to cause any person to whom the Confidential Information is disclosed in accordance with **Clause 21.2.3** (other than the officers and employees of the Receiving Party) to provide a written undertaking to the Supplying Party, in terms reasonably acceptable to the Supplying Party, to receive and preserve in confidence the Confidential Information.

For the avoidance of doubt, the parties agree that if an officer, employee, contractor or agent of the Receiving Party discloses or uses Confidential Information other than as permitted by **Clauses 21.2.3 and 21.2.4**, then the Receiving Party shall be responsible for that use or disclosure as if the use or disclosure had been made by the Receiving Party itself.

Specified Confidential Information

- 21.3 The Supplying Party may notify the Receiving Party, from time to time, that it wishes to disclose Confidential Information relating to a request for a new service or to such other matters as may from time to time be agreed (*Specified Confidential Information*) only to a predetermined officer or employee of the Receiving Party.
- 21.4 The parties will meet to discuss and negotiate in good faith to identify and determine the Approved Recipient to whom the Supplying Party should disclose the Specified Confidential Information.
- 21.5 The Supplying Party will not unreasonably withhold its agreement to the appointment of an officer or employee proposed by the Receiving Party to become the Approved Recipient. The parties recognise that:
 - 21.5.1 the Approved Recipient will need to possess the appropriate skills, expertise and knowledge to use, evaluate, understand, respond to and/or act in respect of (as the case may be) the Specified Confidential Information; and



- 21.5.2 officers and employees of the Receiving Party (and in particular, officers and senior employees) often engage in multiple roles or functions, which traverse divisional lines within the Receiving Party.

In determining who are Approved Recipients, each party is to take into account:

- 21.5.3 the necessity for persons with the appropriate skills, expertise, knowledge and level of responsibility to have access to Specified Confidential Information in the light of the decision to be made;
- 21.5.4 the use to which the Specified Confidential Information is properly put, having regard to the nature of the Specified Confidential Information.

21.6 The Receiving Party will use all reasonable endeavours to procure the Approved Recipient to sign an undertaking (*the Undertaking*) concerning the Specified Confidential Information, including the matters described in **Clauses 21.6.1 to 21.6.6** (inclusive) and to be prepared by the Supplying Party. If the Approved Recipient refuses to sign the Undertaking, he or she will no longer constitute an *Approved Recipient* and the parties will appoint another Approved Recipient, under **Clause 21.4**. The Undertaking shall include:

- 21.6.1 a brief description of the nature of the Specified Confidential Information and the purpose of its disclosure, with sufficient detail to identify clearly such nature and purpose;
- 21.6.2 a statement that information which is disclosed orally in the future within the parameters described pursuant to **Clause 21.6.1** will constitute Specified Confidential Information;
- 21.6.3 covenants from the Approved Recipient to protect and hold in confidence all Specified Confidential Information, not to use Specified Confidential Information for improper purposes, and only to release Specified Confidential Information with the prior written consent of the Supplying Party;
- 21.6.4 an obligation to revert to the Supplying Party if giving effect to the purpose of disclosure requires wider disclosure, at any time;
- 21.6.5 the address for service of the Approved Recipient; and
- 21.6.6 a review and release mechanism to apply once Specified Confidential Information no longer necessitates special safeguards, or ceases to be Confidential Information.

21.7 Following delivery by the Receiving Party to the Supplying Party of the Undertaking, the Supplying Party will deliver the Specified Confidential Information to the Approved Recipient:

- 21.7.1 by personal delivery at the address specified by the Approved Recipient in the Undertaking, clearly designated in writing (by the Supplying Party) as *Specified Confidential Information*; and/or
- 21.7.2 orally, if it is designated (by the Supplying Party) orally (and has previously been designated (by the Supplying Party) in writing by reference to the subject matter and features of the information) as *Specified Confidential Information*.

- 21.8 On request in writing from the Supplying Party received by the Receiving Party, if, and as soon as, it is practicable to do so, the Receiving Party will return to the Supplying Party (and/or procure the return to the Supplying Party of) all Specified Confidential Information which the Supplying Party has provided to the Receiving Party.
- 21.9 The provisions of **Clauses 21.3 to 21.8** (inclusive) prevail over the provisions of **Clause 21.2**, to the extent of any inconsistency. For the avoidance of doubt, any breach by the Approved Recipient of his or her obligations described in **Clause 21.6** will be deemed to be a breach by the Receiving Party.

21.10 If the Receiving Party is:

- 21.10.1 requested by any court or governmental, regulatory or like body to disclose any Confidential Information; or
- 21.10.2 required to disclose any information, pursuant to any law or order of any court, governmental agency or body having legal power to compel disclosure, which would otherwise constitute Confidential Information;

the Receiving Party shall:

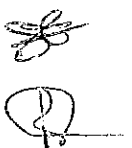
- 21.10.3 immediately on receipt of a request or requisition, notify the Supplying Party accordingly; and
- 21.10.4 if the request is non-binding (if required to do so by the Supplying Party) at the cost of the Supplying Party, render all reasonable assistance to, and co-operate with, the Supplying Party in opposing that request or requirement; and
- 21.10.5 if the request or requisition is binding (if required to do so by the Supplying Party) at the cost of the Supplying Party, render all reasonable assistance to, and co-operate with, the Supplying Party in opposing that request or requirement, but may disclose the Confidential Information to the extent it is bound to do so in that request or requisition.

Confidential Customer Information

21.11 Subject to **Clause 21.12**:

- 21.11.1 each party agrees to use all reasonable care to ensure that, to the extent that it obtains any Confidential Customer Information of the other, such information shall not be used by it for any purpose other than the purpose for which such information is provided; and
- 21.11.2 for the purposes of **Clause 21.11.1** and **21.12** *the use of Confidential Customer Information for sales or marketing purposes* means the use of such information in a manner designed to prevent or encourage:
- (a) the transfer of a Customer from one party to the other; or
- (b) the subscription to a service offered by a party (whether or not that service is offered by the other party).

21.12 The parties acknowledge that, in certain circumstances, members of their respective staffs engage in multiple roles or functions, which traverse divisional lines within their respective entities. A party shall not be deemed to have failed to take all reasonable care not to use Confidential Customer Information for sales and marketing purposes merely because Confidential Customer Information may



in some circumstances be available to a person who has multiple roles or functions (one of which is sales or marketing) for purposes other than sales or marketing. Nevertheless, nothing in this **Clause 21.12** derogates from, or releases a party from its absolute obligation to use all reasonable care under, **Clause 21.11**.

21.13 The parties acknowledge that **Clause 21.11** is not intended to prevent a member of a Party's Group from using any information about one of that party's Customers (who may also be a Customer of the other party) which is generated solely within the first party's own records relating to its own services provided directly to that Customer.

Injunctive relief

21.14 Each party acknowledges that its breach of any of the provisions of **Clause 21** may cause the other party (and any third party which has given the other party a licence to use or disclose any Confidential Information for the purposes of this Agreement) irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of **Clause 21** in addition to any other remedies that may be available.

Indemnity

21.15 The Receiving Party hereby agrees to indemnify and hold the Supplying Party harmless from all loss, damage, liability, costs or expense which may be suffered or incurred by the Supplying Party arising out of a breach by the Receiving Party of any of the provisions of **Clause 21**.

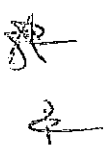
Informing officers and employees

21.16 In relation to Confidential Information, Confidential Customer Information and Specified Confidential Information, each party is to establish (if necessary), maintain and strictly enforce procedures for informing all of its officers and employees of that party's obligations under this **Clause 21** (including, for the avoidance of doubt, informing officers and employees engaged in multiple roles or functions of obligations under **Clause 21.11.1**). Each party confirms that it has established procedures in this regard. For the avoidance of doubt, a party may discharge its obligation under this **Clause 21.16** by implementing its usual procedures in this regard.

Customer Privacy

21.17 Each party acknowledges that, in order to preserve the privacy of persons who are its Customers, the provision of any information by it to the other party relating to its Customers is subject to the Act.

21.18 The parties agree to meet together from time to time following the promulgation of any regulation, code of practice or standard under the Act to agree upon procedures to ensure to the maximum extent possible their compliance with that regulation, code of practice or standard in the performance of their obligations under this Agreement. However, the parties agree that before any information about a Customer of one party is provided to the other party, the other party must ensure that all necessary Customer consents have been obtained and if requested the consent or evidence establishing the existence of consent will be made available to the first party.



PART I

NUMBERING AND CALLER IDENTIFICATION

22 NUMBERING

22.1 Except as expressly provided in this Agreement, this Agreement shall not in itself confer on either party any right, interest or title in any numbers or codes additional to the existing rights, interest and title (if any) of that party and shall not affect any such existing rights, interest or title.

22.2 In the management of numbering arrangements for their respective networks, the parties shall comply with the Numbering Plan.

Activation and Deactivation of Numbers

22.3 Except as set out in **Clause 22.4**, neither party is required to activate or deactivate any number or code in its Network, or to route Calls to such number or code.

22.4 Either party (in this **Clause 22.4**, *the requesting party*) may request the other party (in this **Clause 22.4**, *the other party*) to activate or deactivate any Fixed Number or any Mobile Number in its Network, and/or route Calls to that number in accordance with this Agreement and the other party shall promptly comply with that request, provided that:

- (a) the number is allocated to the requesting party under the Numbering Plan;
- (b) the other party (acting reasonably) is satisfied that routing Calls to that number to the requesting party in accordance with this Agreement does not conflict with any agreement that the other party has with any person (including, for the avoidance of doubt, any agreement with any wholesale customer of the requesting party to whom that number was previously allocated). Where there may be such conflict, the other party will use its reasonable endeavours to agree all necessary amendments to its agreement with that person to resolve the conflict; and
- (c) all technical, operational and billing issues raised by either party (acting reasonably) are resolved. The parties will use their reasonable endeavours to resolve any such issues within 10 Working Days of the request from the requesting party.

CALLER IDENTIFICATION

22.5 Each Party shall use the numbers allocated by the Regulator in accordance with the National Numbering Plan and shall communicate same to the other Party.

22.6 The Digicel and TVL number ranges shall be detailed in Schedule B Procedure 7: Numbering and Number Change Notification.

22.7

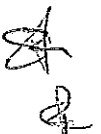
(a) The Parties shall generate and convey to each other's System, the Calling Line Identity (CLI) information or Automatic Number Identification (ANI) associated with all Calls passed between their respective Systems. This CLI information shall be consistent with the National Numbering Plan. In the absence of the correct CLI or ANI information either party reserves the right not to convey such calls.



(b) Each party shall configure a dedicated trunk route within the interconnect link for the sole use of exchanging interconnect traffic which does not contain correct CLI information or has missing CLI information. Each party (the sending party) shall conduct appropriate A number analysis to identify this traffic class at source and ensure that such traffic is only carried on the dedicated "incorrect CLI" trunk route between the respective networks.

(c) The non supply of CLI data or the supply of incorrect or false CLI data will be considered as a network signalling fault. The receiving party reserve the right to declare an unscheduled outage in accordance with procedure 3 in schedule B with the associated rights to suspend the interconnect service until full signalling is restored and correct CLI presentation is reinstated or made available.

22.8 In the event that a call arrives in either party's network from a user in the other party's network that has a diversion set, the termination requesting or originating operator shall ensure that both the CLI information from the user originating the call, in addition to the CLI information of the diverting number is provided to the receiving network. (Both the A and Z or C numbers will be provided).



PART J
MISCELLANEOUS

23 ASSIGNMENT

- 23.1 A party must not assign or transfer its rights or obligations under this Agreement, without the prior written consent of the other party, such consent not to be unreasonably withheld.
- 23.2 A party may encumber its rights or obligations under this Agreement without the consent of the other party, if the encumbrance is in favour of a reputable financial institution and the encumbrance is granted as security for financial accommodation provided by that financial institution to the party in the ordinary course of that financial institution's business.

24 NOTICES

24.1 Subject to:

- 24.1.1 **Clause 1.5** of the Network Interconnection Operational Procedures, which sets out specific provisions for the serving or giving of notices under the Network Interconnection Operational Procedures;

any notice required to be served upon a party or given to a party shall be in writing and shall be deemed to have been served or given:

- 24.1.2 as soon as the same is personally delivered to the address set out below (or such other address as a party may notify to the other by notice);
- 24.1.3 4 Working Days following the posting of the same by prepaid registered mail to such address;
- 24.1.4 immediately if transmission by facsimile is effected to the facsimile number set out below (or such other facsimile number as a party may notify to the other by notice); or
- 24.1.5 immediately if transmission is effected by such other electronic medium as the parties may from time to time agree in accordance with **Clause 25.1** to such place, number or code as a party may notify to the other by notice;

PROVIDED THAT if transmission by facsimile or other electronic means is effected after 5.00 pm on a Working Day (in the place of receipt) or any time on a day other than a Working Day, then such notice shall be deemed to be given the next Working Day (in the place of receipt) following the facsimile or electronic transmission.

Digicel

Digicel (Vanuatu) Limited
Port Vila
Vanuatu

Attention: The Chief Executive Officer

Telephone: +678 555 5002



TVL

Telecom Vanuatu Limited

Port Vila

Vanuatu

Attention: The Chief Executive Officer

Telephone:

Facsimile:

A notice in writing and served or given in accordance with **Clauses 24.1.2 to 24.1.5** (inclusive) (including the proviso to **Clause 24.1**) shall be deemed to be sufficiently served or given for the purposes of the Network Interconnection Operational Procedures, notwithstanding that it does not comply with the specific provisions of **Clause 1.5** of the Network Interconnection Operational Procedures.

25 AMENDMENT

- 25.1 Subject to **Clause 25.2**, no variation, modification or waiver of any provisions of this Agreement shall be of any force or effect unless the same is in writing signed by the parties.
- 25.2 **Clause 25.1** shall not apply with respect to any provision of this Agreement which allows a party unilaterally to make a change to charges or other terms and conditions.

26 OWNERSHIP

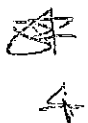
Subject to those provisions of this Agreement which allow a party to use the other party's Network Interconnection Services provided by the other party, this Agreement does not pass any right, title or interest in or to the other party's Network Interconnection Services or the other party's Network to the first party or its Group.

27 NO PARTNERSHIP ETC

- 27.1 Nothing in this Agreement or in the relationship between the parties is to be construed as:
- 27.1.1 creating a partnership between the parties; or
 - 27.1.2 giving to either party the right, or subjecting it to the liability, of a partner.
- 27.2 The parties declare that it is not the intention of either party to:
- 27.2.1 enter into a joint venture with the other; or
 - 27.2.2 constitute a party or its Group an agent or fiduciary of the other party or its Group.

28 REMEDIES AND WAIVERS

- 28.1 Except as otherwise provided in this Agreement, no failure to exercise, and no delay in exercising a right of a party under this Agreement operates as a waiver of that right.
- 28.2 A single or partial exercise of a right does not preclude another or a further exercise of that right or an exercise of another right.
- 28.3 No waiver by a party of its rights under this Agreement is effective unless it is in writing and signed by that party.



29 SAVINGS

29.1 Nothing in this Agreement (including **Clause 8**) shall:

29.1.1 limit the right of a party:

(a) to enforce this Agreement by seeking an order for specific performance;
or

(b) to apply for an injunction;
in an arbitration under **Clause 4**; or

(c) to apply for an interim injunction in any court of competent jurisdiction;

29.1.2 exclude any liability of a party arising under a statute from which it is prohibited by law to exclude liability, to the extent of such prohibition;

29.1.3 exclude any liability of a party under, or limit or affect the application of, the Act; or

29.1.4 exclude any liability of a party to pay costs (if any) in any court proceedings, arbitration or mediation.

29.2 Without limiting anything in **Clause 4**, where a party has more than one cause of action in arbitration arising out of the same:

29.2.1 event;

29.2.2 transaction;

29.2.3 event and transaction;

29.2.4 series of events;

29.2.5 series of transactions; or

29.2.6 series of events and series of transactions;

the party with the causes of action shall, to the fullest extent practicable, combine all such causes of action so that they may be heard and resolved at the same time.

30 SEVERABILITY

30.1 If a court of competent jurisdiction or the arbitrator of an arbitration under **Clause 4** shall determine that any provision of this Agreement is invalid under any applicable statute or rule of law:

30.1.1 it shall be deemed to be omitted only to the extent that the same shall be in violation of such statute or rule of law and shall be enforced to the maximum extent possible; and

30.1.2 either party may (on notice to the other) require the other party to use reasonable endeavours to negotiate an amendment to the whole or any part of this Agreement and as the first party reasonably considers necessary in view of the invalidity. Any failure to agree an amendment shall not be subject to dispute resolution under **Clause 4**, except that if the parties agree it is appropriate with respect to any particular matter, the parties may agree to participate in a mediation in accordance with **Clause 4**. However, there shall be no recourse to arbitration.



31 GOVERNING LAW

31.1 This Agreement is made in Vanuatu and shall be governed in all respects by and construed in accordance with the laws of Vanuatu. Subject to clauses 4 and 19, each party submits to the exclusive jurisdiction of the courts of Vanuatu.

32 ENTIRE AGREEMENT

32.1 This Agreement, entered into freely by the respective parties (who have been independently legally advised), contain the entire final understanding and agreement of the parties with respect to the subject matter expressly referred to in this Agreement; and, with respect to such subject matter, this Agreement shall prevail over all previous agreements, understandings or commitments between the parties, and representations and warranties made by either party, whether oral or written.

33 COUNTERPARTS

33.1 This Agreement may be signed in one or more counterparts, each of which will be deemed an original, but all of which counterparts together will constitute one and the same instrument.



SCHEDULE B

NETWORK INTERCONNECTION OPERATIONAL PROCEDURES

NETWORK INTERCONNECTION OPERATIONAL PROCEDURE 1: OPERATIONAL LIAISON

1.1 Operations Centres

The Network Interconnection Operational Procedures and obligations described in this **Schedule B** are to be administered and carried out by:

- 1.1.1 TVL at the TVL Network Operations Centre; and
- 1.1.2 Digicel at the Digicel Network Operations Centre,
(the *Operations Centres*).

1.2 Operational help desk

Each party is to:

- 1.2.1 provide the other party with an operational help desk function at all times;
- 1.2.2 notify the other party of the current location and contact telephone number of that operational help desk; and
- 1.2.3 through its operational help desk, provide to the other party:
 - (a) a reception point for logging fault reports and enquiries;
 - (b) fault progress tracking and reporting;
 - (c) Outage notice tracking; and
 - (d) direct contact, as required, between the parties' specialist operations groups.

1.3 Availability

Each party is to use reasonable endeavours to ensure that its Operations Centre is staffed twenty-four (24) hours per day with appropriate persons capable of fulfilling that party's obligations under **Clauses 1 and 2** of this Schedule. Each Party is to use reasonable endeavours to ensure that a person who is capable of fulfilling that party's obligations under **Clauses 1 and 2** of this **Schedule B** is available by telephone at all other times and that the contact details for that person are notified to the other party.

1.4 Escalation procedures

- 1.4.1 If any matter requiring resolution or agreement under a Network Interconnection Operational Procedure is not resolved or agreed to promptly in accordance with that Network Interconnection Operational Procedure, then it is to be referred on the basis of a peer to peer communication, to:
 - (a) in the case of TVL, as per the Escalation List below, and



Escalation Level	Position	Contact Details
1 st Level	On-Call / Call Out NOC Technician	TVL Call Center +678 7781111
2 nd Level	Chief Technology Officer	Cedric Cauvel +678 7788744 Cedric.cauvel@tvl.net.au
4 th 3 rd Level	Chief Executive Officer	Prakash Beekhoo +678 7722580 Prakash.bheekhoo@tvl.net.vu

(b) in the case of Digicel, as per the Escalation List below.

Escalation Level	Position	Contact Details
1 st Level	On-Call / Call Out NOC Technician	Digicel NOC Engineers Primary: +679 7015403 Secondary: +679 7003425 Fiji_NOC_Engineers@digicelgroup.com
2 nd Level	Chief Technical Officer	Sajjad Ahmed +6785555200 Sajjad.ahmed@digicelgroup.com
3 rd Level	Chief Executive Officer	Simon Fraser +6785555002 Simon.fraser@digicelgroup.com

1.4.2 Each party is to notify the other party of the current names and contact telephone numbers of its staff members holding these positions by no more than 5 working days from internal change.

1.5 Notices

1.5.1 Any notice required to be served or given under this Network Interconnection Operational Procedure may be served or given at the other party's Operations Centre.

1.5.2 Notices required under this Network Interconnection Operational Procedure may be given orally or via email. A party giving oral notice is to confirm the terms of that notice by facsimile or email as soon as practicable.

1.5.3 Each party is to acknowledge in writing the receipt of each written notice or confirming facsimile or email.

- 1.5.4 Each party is to provide the other party with a reference number for each notice which is given or received.
- 1.5.5 For the purposes of this clause, notices may be served via email to the following addresses:

Digicel

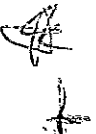
Email: Sajjad.ahmed@digicelgroup.com

Attention: Chief Technical Officer

TVL

Email: cedric.cauvel@tvf.net.vu

Attention: Chief Technical Officer



NETWORK INTERCONNECTION OPERATIONAL PROCEDURE 2: PLANNED OUTAGES

2 Application of this procedure

2.1 This Network Interconnection Operational Procedure shall apply in circumstances where a party has planned for an Outage to occur. This Network Interconnection Operational Procedure does not apply where a party exercises its right to suspend or restrict the supply of a Network Interconnection Service under **Clause 5.1.1** or **Clause 5.4** of Schedule A.

2.2 Obligation to notify

Each party (the *Responsible Party*) is:

2.2.1 to give as much notice as practicable, preferably at least 5 Working Days, to the other party (the *Affected Party*) of an event or circumstance which:

- (a) is planned to occur, in the Responsible Party's Network; and
- (b) will, or could reasonably be anticipated to, directly or indirectly result in an Outage.

2.3 Content of the notice

2.3.1 Each notice of a potential Outage under **Clause 2.2.1** of this Schedule is to state in reasonable detail:

- (a) each event or circumstance which will, or could reasonably be anticipated to, result in the Outage;
- (b) the proposed or anticipated extent, date, time and duration of the Outage;
- (c) each Network Interconnection Service which would, or could reasonably, be affected by the Outage;
- (d) the restoration plan for each affected Network Interconnection Service (if relevant), including any necessary testing;
- (e) any proposed contingency measures or pre-plans for the Outage (if relevant); and
- (f) the contact names and telephone numbers of the Responsible Party's operational staff dealing with the Outage.

2.4 Agreement on the terms of an Outage

2.4.1 If the Responsible Party gives notice of an Outage under **Clause 2.2.1** of this Schedule, then the parties are to discuss the terms of that notice to the extent, and as soon as practicable, with a view to the parties agreeing on:

- (a) the extent, date, time and duration of the Outage;
- (b) the restoration plan for each affected Network Interconnection Service (if relevant), including any necessary testing; and
- (c) any proposed contingency measures or pre-plans for the Outage (if relevant).

2.4.2 If the Responsible Party gives prior notice of an Outage, and the Responsible Party can control:

- (a) whether the Outage occurs; or
- (b) when the Outage occurs,

the Responsible Party is to the extent practicable to prevent or delay the occurrence of the Outage until the parties have agreed on the terms of the notice under **Clause 2.4.1** of this Schedule. The Affected Party is not unreasonably to withhold its agreement to those terms.

- 2.4.3 If any of the terms agreed on by the parties under this **Clause 2.4** of this Schedule differ from the terms of the Outage notice, the Responsible Party is to give the Affected Party, as soon as practicable, a revised Outage notice which reflects the parties' agreement.

2.5 Liaison

- 2.5.1 The Responsible Party is to liaise with the Affected Party on a continuous basis at least at every 60 minutes interval during the Outage to enable the Affected Party to familiarise itself fully with the matters contained in an Outage notice.
- 2.5.2 The Responsible Party is to provide any additional information reasonably requested by the Affected Party in relation to an Outage.

2.6 Obligations of the Responsible Party

If an Outage occurs, the Responsible Party is:

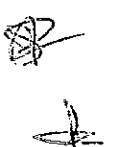
- 2.6.1 to comply with the terms of the notice that have been agreed to by the parties under **Clause 2.4** of this Schedule; or
- 2.6.2 if the terms of the notice have not been agreed by the parties under **Clause 2.4** of this Schedule, to treat the restoration of each affected Network Interconnection Service as urgent.

2.7 Changes to Outage notice:

- 2.7.1 If at any stage during the Network Interconnection Service restoration process the Responsible Party considers, on reasonable grounds, that:
 - (a) the duration of the Outage will exceed, or has exceeded, the period specified in the notice; or
 - (b) any other term of the notice is no longer appropriate or applicable, then, to the extent practicable:
 - (c) the Responsible Party is immediately to notify the Affected Party; and
 - (d) the Responsible Party is as soon as practicable to give the Affected Party a revised notice for the Outage.
- 2.7.2 As soon as practicable after the Responsible Party has notified the Affected Party under this **Clause 2.7**, the parties are to review jointly the need to revise, or implement, any contingency measures.

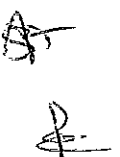
2.8 Minimisation of Outages

The parties recognise the desirability of working together to minimise the occurrence of any Outage.



2.9 Monthly reconciliation

Promptly after the end of each month, each party is to notify the Liaison Committee of each planned Outage (whether experienced as the Responsible Party or the Affected Party) that occurred in that month.



NETWORK INTERCONNECTION OPERATIONAL PROCEDURE 3: UNPLANNED OUTAGES

3.1 Application of this procedure

This Network Interconnection Operational Procedure shall apply to unplanned Outages, except in circumstances where any such Outage occurs as a result of Force Majeure.

3.2 Obligation to notify

Each party (the *Responsible Party*) is:

- 3.2.1 to give as much notice as practicable to the other party (the *Affected Party*) of any event or circumstance which:
- (a) has occurred, or could reasonably occur, in the Responsible Party's Network; and
 - (b) will, or could reasonably be anticipated to, directly or indirectly result in an Outage; or
- 3.2.2 if it is not practicable to give prior notice of the Outage, to use its reasonable endeavours to notify the Affected Party within 15 minutes of becoming aware of the Outage.

3.3 Content of the notice

- 3.3.1 Each notice of a potential Outage under **Clause 3.2.1** of this Schedule is to state in reasonable detail:
- (a) each event or circumstance which will, or could reasonably be anticipated to, result in the Outage;
 - (b) the anticipated extent, date, time and duration of the Outage;
 - (c) each Network Interconnection Service which would, or could reasonably, be affected by the Outage;
 - (d) the restoration plan for each affected Network Interconnection Service (if relevant), including any necessary testing;
 - (e) any proposed contingency measures or pre-plans for the Outage (if relevant); and
 - (f) the contact names and telephone numbers of the Responsible Party's operational staff dealing with the Outage.
- 3.3.2 Each notice of the occurrence of an Outage under **Clause 3.2.2** of this Schedule is to state in reasonable detail:
- (a) each event or circumstance which caused or contributed to the Outage;
 - (b) the likely duration of the Outage;
 - (c) the extent to which each affected Network Interconnection Service has failed;
 - (d) the restoration plan for each affected Network Interconnection Service (if relevant), including any necessary testing;
 - (e) any proposed contingency measures or pre-plans which will apply to the Outage (if relevant); and

- (f) the contact names and telephone numbers of the Responsible Party's operational staff dealing with the Outage.

3.4 Agreement on the terms of an Outage

3.4.1 If the Responsible Party gives notice of an Outage under **Clause 3.2.1** of this Schedule, then the parties are to discuss the terms of that notice to the extent, and as soon as, practicable, with a view to the parties agreeing on:

- (a) the extent, date, time and duration of the Outage;
- (b) the restoration plan for each affected Network Interconnection Service (if relevant), including any necessary testing; and
- (c) any proposed contingency measures or pre-plans for the Outage (if relevant).

3.4.2 If the Responsible Party gives prior notice of an Outage, and the Responsible Party can control:

- (a) whether the Outage occurs; or
- (b) when the Outage occurs,

the Responsible Party is to the extent practicable to prevent or delay the occurrence of the Outage until the parties have agreed on the terms of the notice under **Clause 3.4.1** of this Schedule. The Affected Party is not unreasonably to withhold its agreement to those terms.

3.4.3 If the Responsible Party gives notice of an Outage under **Clause 3.2.2** of this Schedule, then the parties are to discuss the terms of that notice as soon as practicable, with a view to the parties agreeing on, if relevant:

- (a) the restoration plan for each affected Network Interconnection Service, including any necessary testing; and
- (b) the proposed contingency measures or pre-plans for the Outage.

3.4.4 If any of the terms agreed on by the parties under this **Clause 3.4** of this Schedule differ from the terms of the Outage notice, the Responsible Party is to give the Affected Party, as soon as practicable, a revised Outage notice which reflects the parties' agreement.

3.5 Liaison

3.5.1 The Responsible Party is to liaise with the Affected Party on a continuous basis at least at every 60 minutes interval during the Outage to enable the Affected Party to familiarise itself fully with the matters contained in an Outage notice.

3.5.2 The Responsible Party is to provide any additional information reasonably requested by the Affected Party in relation to an Outage.

3.6 Obligations of the Responsible Party

If an Outage occurs, the Responsible Party is:

3.6.1 to comply with the terms of the notice that have been agreed to by the parties under **Clause 3.4** of this Schedule; or

3.6.2 if the terms of the notice have not been agreed by the parties under **Clause 3.4** of this Schedule, to treat the restoration of each affected Network Interconnection Service as urgent.

3.7 Changes to Outage notice:

3.7.1 If at any stage during the Network Interconnection Service restoration process the Responsible Party considers, on reasonable grounds, that:

- (a) the duration of the Outage will exceed, or has exceeded, the period specified in the notice; or
- (b) any other term of the notice is no longer appropriate or applicable, then, to the extent practicable:
 - (a) the Responsible Party is immediately to notify the Affected Party; and
 - (b) the Responsible Party is as soon as practicable to give the Affected Party a revised notice for the Outage.

3.7.2 As soon as practicable after the Responsible Party has notified the Affected Party under this **Clause 3.7**, the parties are to review jointly the need to revise, or implement, any contingency measures.

3.8 Minimisation of Outages

The parties recognise the desirability of working together to minimise the extent and impact of any unplanned Outage.

3.9 Restoration

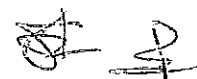
3.9.1 In the case of an Outage under **Clause 3.2.2** of this Schedule, the Responsible Party is to notify the Affected Party, as soon as practicable, of the restoration of each affected Network Interconnection Service, stating:

- (a) the time and date of the restoration of that Network Interconnection Service;
- (b) whether that Network Interconnection Service is being provided by way of contingency measures or permanent repair;
- (c) the reason for the failure of that Network Interconnection Service (if not previously notified); and
- (d) if the Network Interconnection Service is restored by way of contingency measures, whether or not further Network Interconnection Service failures arising from the permanent-repair process are anticipated.

3.9.2 If restoration of a Network Interconnection Service takes place progressively over a period of hours or days, then the Responsible Party is to give the Affected Party notice of each significant intermediate restoration increment.

3.10 Monthly reconciliation

Promptly after the end of each month, each party is to notify the Liaison Committee of each unplanned Outage (whether experienced as the Responsible Party or the Affected Party) that occurred in that month.



NETWORK INTERCONNECTION OPERATIONAL PROCEDURE 4: OPERATIONAL TESTING

4.1 Continuity of service

Each party is to execute operational testing in accordance with its standard procedures:

- 4.1.1 to identify any fault or other event or circumstance in the other party's Network which has caused or could cause an Outage; and
- 4.1.2 to confirm, as far as reasonably practicable, that each Network Interconnection Service supplied by that party is continuously available and fault free.

4.2 Defined testing procedures

If the terms of provision of any Network Interconnection Service include a procedure for the testing and commissioning of that Network Interconnection Service, or other specific testing procedure, the parties are to carry out that procedure.

4.3 Flood-call testing

Neither party may undertake flood-call testing without obtaining the prior written consent of the other party. The other party is not to withhold consent unreasonably.

4.4 Joint testing

4.4.1 If:

- (a) joint testing is required under this Agreement (including, for the avoidance of doubt, a requirement for compliance testing under **Clause 16.4 of Schedule A**); or
- (b) a party considers, on reasonable grounds, that joint testing is required; that party shall give written notice to the other party stating, in reasonable detail the reason for, and purpose of, the testing, and its proposals for:
 - (c) the date, time and expected duration of the testing;
 - (d) the locations where the testing is to be carried out;
 - (e) which party is responsible for what part of the testing;
 - (f) the Network elements to be tested;
 - (g) any Network configuration changes required to facilitate the testing; and
 - (h) which party is responsible for collating the results of the testing.

4.4.2 The parties are then to discuss the notice as soon as practicable (preferably within 2 Working Days), in order to agree:

- (a) whether, in the case where joint testing is not required, joint testing is necessary; and
- (b) if so, or if joint testing is required, the details of the joint testing (including any agreed charges).

4.4.3 The parties shall execute joint testing in accordance with any agreed arrangements.

4.5 Co-operation and assistance

4.5.1 Each party will, on request by the other party, use its reasonable endeavours:

- (a) to liaise with;
- (b) to co-operate with; and
- (c) to assist,

the other party, when the other party is undertaking testing.

4.5.2 Each party, when undertaking testing, is to use its reasonable endeavours to minimise any adverse effect on the other party.

4.6 Quality control

Each party is to use its reasonable endeavours to ensure that those elements of testing under its control will comply with quality control procedures that are appropriate for testing in the telecommunications industry or such other standards as may be agreed between the parties.

NETWORK INTERCONNECTION OPERATIONAL PROCEDURE 5: FORECASTING

5.1 Provision of traffic forecasts

5.1.1 TVL shall provide Digicel with forecasts in respect of the following:

- (a) TVL Calls; and
- (b) any other matter agreed between the parties.

5.1.2 Digicel shall provide TVL with forecasts in respect of the following:

- (a) Digicel Calls; and
- (b) any other matter agreed between the parties.

5.2 Content of traffic forecasts

The exact content of traffic forecasts will depend on the requirements of the relevant Network Interconnection Service and any specific requirements set out in relation to that Network Interconnection Service, but in general will cover:

5.2.1 forecasts for each Hand-over Point, covering the forecasting party's existing Call routes, and any changes to Call routing envisaged by that party during the forecast period, including:

- (a) peak calling times, busy-hour traffic volume and number of call attempts on routes; and
- (b) traffic in Erlangs and number of traffic circuits required for the total traffic volume forecast in each direction, based on the switching architecture and design grade of the service agreed by both parties and a GOS of 0.1% for trunk routes; and

5.2.2 Where applicable forecasts for each Hand-over Point, covering CCITT No. 7 signalling, including:

- (a) call related signalling, measured in message signalling units (MSUs) and octets per second, for each set of signalling links; and
- (b) non-call related signalling, measured in message signalling units (MSUs) and octets per second, for each set of signalling links; and
- (c) the number of sets of signalling links required, including the number of signalling circuits in each set of signalling links requested by the forecasting party.

5.3 Interconnect Link forecasts

5.3.1 Within one month of receipt of the call traffic forecasts described in Clause 5.1 of this Schedule (the *traffic forecasts*) the parties shall meet to discuss, with a view to forecasting, future requirements for Interconnect Links (including routing arrangements) appropriate to carry the traffic contemplated by the traffic forecasts.

5.3.2 In making the forecasts the parties shall have regard to the need to ensure that each party is able to meet its obligations for all Network Interconnection Services provided under the Agreement.

5.3.3 The forecasts shall be based on average utilization over 60 days and may include, without limitation, forecasts of:

- (a) increases in the number of Interconnect Links;
- (b) the decommissioning of Interconnect Links;
- (c) the redistribution of call traffic over different routes.

5.4 Forecast period

5.4.1 Forecasts described in **Clauses 5.1 and 5.3** of this Schedule shall be supplied six monthly during the term of this Agreement, or as reasonably requested by either party, and shall cover:

- (a) the twelve month period commencing on, in the case of the first twelve monthly forecasts, the Commencement Date or, for any subsequent twelve monthly forecasts, the date six months after the date of the last forecast or, for any other forecasts reasonably requested by either party, the date of the forecasts; and
- (b) (as far as possible) each of the succeeding twelve months.

5.4.2 Each twelve monthly forecast shall specifically give the forecast for the December covered by the forecast, or the forecast for the month in the forecast period with the highest volume, if that month is not December (or if the forecast period does not include a December).

5.4.3 The parties may also agree to provide each other with 12-24 or 36 month forecasts.

5.5 Response

A party that receives a forecast is, within 14 Working Days of receipt of the forecast, to indicate to the other party any variations to the forecast which it reasonably considers to be appropriate, based on its own traffic studies and experience. Any differences in forecasts shall be discussed and the parties shall use all reasonable efforts to resolve any differences.

5.6 Forecast updates

5.6.1 Each party shall promptly notify the other party of any material changes to forecasts supplied that occur at any time during a forecast period.

5.6.2 In particular should either party become aware of any event or circumstance which is likely to cause interconnect traffic on any designated route to rise:

- (a) on a short-term or long-term basis; or
- (b) during periods outside the designated "busy hour";

beyond the level previously forecast for busy-hour traffic in the most recent forecast to the other party, then that party is promptly to notify the other party of the circumstances and likely extent of the increase.

5.7 Changes in number of Interconnect Links

5.7.1 Any changes in the number of Interconnect Links provided under this Agreement shall be agreed between the parties and shall be based on traffic forecasts provided in accordance with **Clauses 5.1 to 5.6** inclusive of this Schedule.

5.7.2 In making any changes to the number of Interconnect Links, the parties shall have regard to the need to ensure that each party is able to meet its obligations for all Network Interconnection Services provided under the Agreement.



NETWORK INTERCONNECTION OPERATIONAL PROCEDURE 6: ACCESS AND SAFETY

6.1 Request for access

6.1.1 Subject to **Clause 6.1.2** of this Schedule, where either party (in **Clauses 6.1.1, 6.1.2** and **6.1.3**, *the first party*) is entitled to access to the other party's premises under this Agreement:

- (a) the first party is to give the other party at least 24 hours' notice of access, stating:
 - (i) the name of the relevant authorised officer, employee, contractor or agent who is to have access; and
 - (ii) the anticipated date and time of access; and
- (b) the other party is to provide access at all reasonable hours in accordance with the notice.

6.1.2 If the first party, on reasonable grounds, requires urgent access to the other party's premises to fulfil its obligations under this Agreement:

- (a) the first party is to give as much notice as practicable to the other party, stating:
 - (i) the name of the relevant authorised officer, employee, contractor or agent who is to have access; and
 - (ii) the anticipated date and time of access; and
- (b) the other party is to use its reasonable endeavours to ensure access is provided at all times, as required.

6.1.3 The appointment by the first party of its authorised officer, employee, contractor or agent under **Clause 6.1.1(a)** or **Clause 6.1.2(a)** of this Schedule shall be evidenced by a means of identification which shall be agreed between the parties.

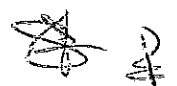
6.2 Consents

Each party is, at its own expense, to obtain each consent required from any third party in respect of access to, and use of, its premises, services and facilities by the other party in accordance with this Agreement.

6.3 Restricted access

Each party may restrict or impose conditions on access to its premises, services and facilities if it considers, on reasonable grounds, that such restriction or condition is necessary:

- 6.3.1 to safeguard the integrity and operation of its Network;
- 6.3.2 to protect against any security risk to its business; or
- 6.3.3 to comply with any law.



6.4 Compliance with security procedures

- 6.4.1 Each party is to comply with the other party's reasonable security clearance procedures when accessing the other party's premises, equipment, services and facilities.
- 6.4.2 Each party is to ensure that each of its officers, employees, contractors or agents accessing the other party's premises also complies with those reasonable security clearance procedures.

6.5 Removal without authority

- 6.5.1 Each party (in **Clauses 6.5.1** and **6.5.2**, *the first party*) is responsible for any equipment of the other party's Group on the first party's premises that is:
- (a) lost (other than as a result of fault on the part of the other party);
 - (b) removed without the authority of the other party; or
 - (c) destroyed or wholly or partially damaged (other than as a result of fault on the part of the other party, fair wear and tear or Force Majeure).
- 6.5.2 The first party is responsible for any equipment of the other party or any third party on the other party's premises that is:
- (a) removed by any of the first party's, or any member of its Group's, officers, employees, contractors or agents without the authority of the other party; or
 - (b) destroyed or wholly or partially damaged by any of those persons.
- 6.5.3 Where a party is responsible for equipment under this **Clause 6.5**, the party shall:
- (a) in the event of loss, removal without authority or destruction of or irreparable damage to that equipment pay to the other party within 15 Working Days of written demand the replacement value of the equipment (whether or not the equipment is equipment of a third party); or
 - (b) in the event of reparable damage to that equipment reimburse the other party (whether or not that equipment is equipment of a third party), within 15 Working Days of written demand, for the cost of repair of that equipment on those premises,

provided that where the equipment which has been lost, removed, destroyed or damaged is the property of a third party, and the other party suffers no direct loss, the responsible party shall not be required to make any payment under this **Clause 6.5.3**.

6.6 Alterations to premises

- 6.6.1 Each party (in **Clauses 6.6.1** and **6.6.2**, *the first party*) is not, without the consent in writing of the other party, to make or permit to be made any alterations to the whole or any part of its premises, equipment, services or facilities which may adversely affect the other party's equipment on those premises.
- 6.6.2 The other party is not to withhold consent unreasonably. However, consent may be conditional on the first party:

- (a) taking reasonable measures satisfactory to the other party to protect the equipment of the other party's Group during the course of those alterations; or
- (b) paying any of the reasonable charges which the other party incurs in moving any of the equipment of the other party's Group as a result of those alterations.

6.7 Security Interest

6.7.1 Each of Digicel and TVL acknowledge that, at any time:

- (a) certain telecommunications related equipment and software of the Digicel Group (including all goods and intangibles described or referred to in this Agreement or in the relevant records maintained by (or other relevant documents produced by) Digicel, on the basis that such record or other document is deemed to be incorporated into, and form part of, this Agreement) may be held on TVL's premises; and
- (b) certain telecommunications related equipment and software of the TVL Group (including all goods and intangibles described or referred to in this Agreement or in the relevant records maintained by (or other relevant documents produced by) TVL, on the basis that such record or other document is deemed to be incorporated into, and form part of, this Agreement) may be held on Digicel's premises,

in each case on the terms of this Agreement.

6.7.2 Each of Digicel and TVL further acknowledge that:

- (a) whilst any such property of the TVL Group is located on Digicel's premises it will at all times remain the property of the TVL Group; and
- (b) whilst any such property of the Digicel Group is located on TVL's premises it will at all times remain the property of the Digicel Group.

6.7.3 Each of Digicel and TVL agree that for the purposes of the *Companies Act 1986* the situation described in **Clause 6.7.1** creates:

- (a) a security interest in favour of Digicel in all property described in **Clause 6.7.1(a)**; and
- (b) a security interest in favour of TVL in all property described in **Clause 6.7.1(b)**.

6.7.4 Each of Digicel and TVL consent to the other party registering a charge, at its own cost, to record the security interest of that party described in **Clause 6.7.3**. Each of Digicel and TVL agree to do all things reasonably necessary (including providing all relevant information) in order to allow the other party to register and maintain such a charge.

6.7.5 Each of Digicel and TVL agree that it will not:

- (a) Create, permit or allow to subsist in the property of the other party described in **Clause 6.7.1** any security interest that ranks equally with, or in priority to, the other party's security interest in that property; or
- (b) transfer or dispose of, or permit the transfer or disposal of, any of the other party's security interest in that property.

6.7.6 For the avoidance of doubt, this clause does not create:

- (a) a security interest given by TVL in favour of Digicel in any of the TVL Group's own property; or
- (b) a security interest given by Digicel in favour of TVL in any of the Digicel Group's own property.

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NETWORK INTERCONNECTION OPERATIONAL PROCEDURE 7: NUMBERING CHANGE NOTIFICATION

7.1 Numbering notification

Each party shall provide the other party with details of numbering changes in the first party's Network which may have an impact on the other party's Network, or the performance of the other party's obligations under this Agreement, including but not limited to:

- 7.1.1 full details of any number ranges which are to be activated or deactivated in the first party's Network and which relate to one or more Network Interconnection Services;
- 7.1.2 changes in the length or structure of numbers used in the first party's Network.

Notification under this Clause 7.1 shall be given to the other party as early as practicable, and shall set out the date on which such changes will occur.

7.2 Number ranges which have been allocated to and are in use by TVL as of the date of this Agreement

Fixed

22-xxx

23-xxx

24-xxx

25-xxx

26-xxx

27-xxx

28-xxx

29-xxx

30-xxx

36-xxx

37-xxx

380-xx

381-xx

382-xx

383-xx

384-xx

385-xx


386-xx

387-xx

388-xx

484-xx

485-xx

 4

486-xx

487-xx

488-xx

489-xx

88-xxx

Mobile

70-71xxxxx

73-76xxxxx

77-xxxxx

7.3 Number ranges which have been allocated to and are in use by Digicel as of the date of this Agreement

Fixed

33-xxx

35-xxx

Mobile

53x - xxxx

54x - xxxx

55x - xxxx

56x - xxxx

572 xxxx to 575 xxxx

59x - xxxx



SCHEDULE C
NETWORK INTERCONNECTION TECHNICAL SPECIFICATIONS

General

- 1.1 The recommendations made by the International Telecommunication Union (ITU) for Common Channel Signalling System Number 7 (CCS 7) (*Recommendations*) provide the framework for adherence to the standards contained therein. The parties are committed to conform, wherever practical, with the ITU-T and ETSI GSM/3GPP Recommendations or any Recommendations that supersede, amend or revise the ITU-T and ETSI GSM/3GPP Recommendations from time to time. The present form of reference will be the ITU-T Recommendations, as published in the ITU-T Blue Book (the Recommendations endorsed by the 1988 Plenary Assembly) and the Grey Book Recommendation Q.767, as amended by the White Papers (published subsequent to the 1992 Plenary Session).

Notwithstanding the above Recommendations, for Calls that are originated in one Network and terminated in another, the Originating Party's Network will be entitled to block backward signals that modify the originating tariff structure. Such backward signals will be discarded and the Call will be force released.

Safety (Dangerous Voltages)

- 1.1.1 In order to protect personnel and equipment on both sides of the interface, it is necessary to provide protection against the transmission of dangerous voltages across the interface (see 1.2).

For equipment which uses or generates excessive voltages, a barrier shall be provided to protect the interface from those voltages.

Physical Interface

- 1.2 The physical interface between the Networks shall be 120 Ohm balanced termination provided by means of a screened cable, or an optical interface (eg. CS-PS or CS-CF), or as otherwise agreed by the Parties.

Electrical Interface

- 1.3.1 Input and Output

The interface shall conform to ITU-T Recommendation G.703 for E1 or G.709 for STM1.

- 1.3.2 Attenuation

The attenuation of the interconnecting cable (including any digital distribution frame or interconnecting equipment) shall comply with G.703 for an E1 interface, or G.709 for an STM1 interface.

- 1.3.3 Interference

Both input ports shall tolerate, without error, interference from a non-synchronous standard test signal (ITU-T Recommendation O.151) at a level 18dB lower than the wanted signal.

1.3.4 Multiplex Characteristics

The multiplex structure shall be in accordance with ITU-T Recommendation G.732, and Recommendations G.704 and G.705 and Q.501 - Q.517 for operation involving digital exchanges.

Signalling

1.4 Chapter 5 of Recommendation G.732 applies.

1.4.1 Signalling Protocol

The signalling protocol between the Networks will be based on CCS No 7 ISDN User Part (ISUP) as defined in the ITU-T Blue Book Recommendations, modified with country specific options as defined by both Digicel and TVL.

1.4.2 General CCS 7 Principles

The principle of minimum visibility in respect of the Destination Point Codes (DPCs) shall apply between Digicel and TVL.

Only connection-oriented signalling shall initially be allowed between the Parties.

The CCS 7 network shall only be implemented with associated mode of signalling.

CRC4 will only be used end to end over links after mutual agreement between the Parties involved.

1.4.3 Wander and Jitter

Maximum jitter at output ports immediately preceding digital switching as per ITU-T Recommendation G.823 (1984) paragraph 2 shall apply.

Jitter and wander tolerance at input ports will be as per ITU-T Recommendation G.823 (1984) for 2Mbit/s links on the Primary Digital Hierarchy (PDH) network and for links provided on copper cables with regenerators. It should be noted that the ports should be able to tolerate a frequency offset greater than 50ppm.

1.4.4 Time Slot Zero

Chapter 2 of Recommendation G.732 applies.

1.4.5 Fault Conditions and Consequent Actions

The Parties shall implement the provisions of Recommendations G.732, Q.501 to Q.517.

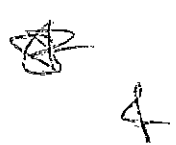
1.4.6 Channel Time Slot Encoding

CHANNEL TIME SLOTS

The 64 kbit/s channel time slots comprising the 2048 kbit/s stream shall carry "A" law encoded information as defined in Recommendation G.711.

IDLE CHANNEL BIT PATTERN

The idle channel bit pattern in both directions shall be 01010100 (MSB at left hand end) in accordance with paragraph 2.4.6 of Recommendation Q.503 when the interface is between digital exchanges.



Synchronisation

- 1.5 The synchronisation of the Mobile Switching Centres (MSCs) will be achieved by having a connection to two Digital Primary Switching Units (DPSUs) or, as an alternative if two direct links are not available, to one DPSU and any other MSC.

In the event of both bit streams failing, an internal source meeting ITU-T Recommendation G.811 shall become the worker.

CCS 7 Signalling Links

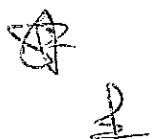
- 1.6 Signalling link pairs in a combined link set will be operated in a load share mode, with no single signalling link operated at greater than 30% of its theoretical message capacity under normal conditions and 60% under overload conditions.

A 64 Kbit/s signalling link will be engineered to offer, in each direction, a normal traffic load of up to 96 ISUP messages per second for trunk signalling and an overload traffic load of up to 192 ISUP messages assuming an average message length of 25 octets shall apply.

All signalling will be passed over timeslot 1 on any particular Pulse Code Modulation (PCM). Any links not carrying signalling shall still not use timeslot 1.

Service Levels Table

Activity	Service Level	Comments and Service Credits
Service Availability - - Interconnection Links	Links will be 100% non blocking	Comment: This service level applies to both Digicel and TVL. The intent is that because it is in both parties interest to maintain unrestricted access to each other's networks, both parties will ensure that sufficient capacity exists between the two networks to transport all interconnect traffic between each network.
Outage	Each party will provide the other party at least 24 hours notice of any	



advice	<p>planned outage that may affect the other party's customers.</p> <p>Each party will use its best endeavours to provide the other party with the earliest notification of any unplanned outage that may affect the other party's customers.</p>	
Call Completion Rates	<p>Measurement of call completion rates, excluding planned outages, measured each month. ASR for "interconnection" calls: 60%</p>	<p>Comment: ASR is defined as calls ending with release code 16, Normal call clearing.</p> <p>Comment – ASRs for TVL Calls and Digicel Calls are included for planning and information purposes only.</p>



SCHEDULE D
SERVICES

This schedule defines the services provided by the parties in respect to Network Interconnection Services:

1. The Network Interconnection Services to be provided by Digicel to TVL are:
 - 1.1. Call Termination in the Digicel Network;
 - 1.2. SMS Termination in the Digicel Network;
2. The Network Interconnection Services to be provided by TVL to Digicel are:
 - 2.1. Call Termination in the TVL Network;
 - 2.2. SMS Termination in the TVL Network;

INTERPRETATION

In this Schedule, unless the context otherwise requires, words and expressions defined or construed in the Agreement, and not otherwise defined or construed in this Schedule, have the same meanings as defined or construed in the Agreement when used in this Schedule. In addition:

Call means:

- (a) a signal or series of signals generally falling within the audio bandwidth of 300 Hz to 3400 Hz or signals contained within a standard digital CCITT/ITU 64 kBits channel, conveyed from the Digicel Network to the TVL Network or vice versa, whether or not that signal or series of signals is so conveyed to effect actual communication between the originator and the intended recipient of the signal or signals; but does not include CCITT No. 7 MTP or ISUP messages including (without limitation) messages relating to set up, answer or release of an associated call including calling or called numbers; and
- (b) where the number dialled by the calling party is either a Digicel Mobile Number, or a Digicel Fixed Number or a TVL Mobile Number or a TVL Fixed Number as the context requires;

Call Termination in the Digicel Network means:

- (a) acceptance of TVL Calls handed over from the TVL Network to the Digicel Network for which a Digicel Fixed Number or a Digicel Mobile Number is provided, and delivery or offer of delivery of each such TVL Call to the Digicel Designated Destination in respect of that TVL Call; and
- (b) transmission of an Answer Line Signal to the TVL Network in respect of TVL Calls handed over from the TVL Network to the Digicel Network in terms of this Agreement and answered by the called party or by some other means,

where TVL has, for each TVL Call handed over from the TVL Network to the Digicel Network, transmitted the line, information or control signals in the Signalling Format that relate to the establishment of that TVL Call, including details in the Signalling Format of the valid Digicel Fixed Number or Digicel Mobile Number called.

Call Termination in the TVL Network means:

- (a) acceptance of Digicel Calls handed over from the Digicel Network to the TVL Network for which a TVL Fixed Number or an TVL Mobile Number is provided, and delivery or offer of delivery of each such Digicel Call to the TVL Designated Destination in respect of that Digicel Call; and
- (b) transmission of an Answer Line Signal to the Digicel Network in respect of Digicel Calls handed over from the Digicel Network to the TVL Network in terms of this Agreement and answered by the called party or by some other means,

where Digicel has, for each Digicel Call handed over from the Digicel Network to the TVL Network, transmitted the line, information or control signals in the Signalling Format that relate to the establishment of that Digicel Call, including details in the Signalling Format of the valid TVL Fixed Number or TVL Mobile Number called;

Chargeable Digicel Fixed Call means any Digicel Call to a TVL Fixed Number giving rise to the transmission of an Answer Line Signal provided that no Digicel Call with a Duration of less than two seconds will be a Chargeable Digicel Fixed Call;

Chargeable Digicel Mobile Call means any Digicel Call to a TVL Mobile Number giving rise to the transmission of an Answer Line Signal provided that no Digicel Call with a Duration of less than two seconds will be a Chargeable Digicel Mobile Call;

Chargeable Digicel SMS Message means: any Digicel SMS Message giving rise to the transmission of an SMS Answer Signal;

Chargeable TVL Fixed Call means any TVL Call to a Digicel Fixed Number giving rise to the transmission of an Answer Line Signal provided that no TVL Call with a Duration of less than two seconds will be a Chargeable TVL Fixed Call;

Chargeable TVL Mobile Call means any TVL Call to a Digicel Mobile Number giving rise to the transmission of an Answer Line Signal provided that no TVL Call with a Duration of less than two seconds will be a Chargeable TVL Mobile Call;

Chargeable TVL SMS Message means: any TVL SMS Message giving rise to the transmission of an SMS Answer Signal;

Digicel Call means: any Call made by a Digicel End User that is handed over from the Digicel Network to the TVL Network for delivery to a TVL Designated Destination in the TVL Network;

Digicel Designated Destination means the point in the Digicel Network to which the Digicel Fixed Number or Mobile Number provided in respect of a TVL Call or TVL SMS Message (as the context requires) has been allocated by Digicel, disregarding any call forwarding or like functionality or service that may have been invoked by an End User, TVL, Digicel or a Network Operator which, in the case of a TVL Call, results in that TVL Call being routed to another point in the Digicel Network or to any other network (including the TVL Network) from which the Answer Line Signal in respect of that TVL Call emanates);

Digicel SMS Message means: any SMS Message handed over from the Digicel Network to the TVL Network for delivery to a TVL Designated Destination in the TVL Network;

Duration means the period determined in accordance with methodologies:

- (a) employed by TVL or Digicel as the case may be in determining the actual duration of calls for the purposes of calculating the charges paid by other persons; and
- (b) which have been established having regard to:
 - (i) when an Answer Line Signal for a Digicel Call is detected by TVL in respect of that Digicel Call or an Answer Line Signal for a TVL Call is detected by Digicel in respect of that TVL Call as the case may be; and
 - (ii) when a Release Signal for that Digicel Call is detected by TVL in respect of that Digicel Call or a Release Signal for that TVL Call is detected by Digicel in respect of that TVL Call as the case may be;

SMS Termination in the Digicel Network means:

- (a) acceptance of all TVL SMS Messages handed over from the TVL Network to the Digicel Network for which a Digicel Mobile Number is provided, and delivery or offer of delivery of each such TVL SMS Message to the Digicel Designated Destination in respect of that TVL SMS Message; and



- (b) transmission of an SMS Answer Line Signal to the TVL Network in respect of each TVL SMS Message handed over from the TVL Network to the Digicel Network in terms of this Agreement and received by the called party,

where TVL has, for each TVL SMS Message handed over from the TVL Network to the Digicel Network, transmitted the line, information or control signals in the Signalling Format that relate to the transmission of the SMS Message, including details in the Signalling Format of the valid Digicel Mobile Number called;

SMS Termination in the TVL Network means:

- (a) acceptance of all Digicel SMS Messages handed over from the Digicel Network to the TVL Network for which a TVL Mobile Number is provided, and delivery or offer of delivery of each such Digicel SMS Message to the TVL Designated Destination in respect of that Digicel SMS Message; and
- (b) transmission of an SMS Answer Line Signal to the Digicel Network in respect of each Digicel SMS Message handed over from the Digicel Network to the TVL Network in terms of this Agreement and received by the called party,

where TVL has, for each Digicel SMS Message handed over from the Digicel Network to the TVL Network, transmitted the line, information or control signals in the Signalling Format that relate to the transmission of the SMS Message, including details in the Signalling Format of the valid TVL Mobile Number called;

TVL Call means any Call made by a TVL End User that is handed over from the TVL Network to the Digicel Network for delivery to a Digicel Designated Destination in the Digicel Network;

TVL Designated Destination means the point in the TVL Network to which the TVL Fixed Number or TVL Mobile Number provided in respect of a Digicel Call or the TVL Mobile Number provided in respect of a Digicel SMS Message (as the context requires) has been allocated by TVL, disregarding any call forwarding or like functionality or service that may have been invoked by an End User, Digicel, TVL or a Network Operator which, in the case of a Digicel Call, results in that Digicel Call being routed to another point in the TVL Network or to any other network (including the Digicel Network) from which the Answer Line Signal in respect of that Digicel Call emanates);

TVL SMS Message means: any SMS Message handed over from the TVL Network to the Digicel Network for delivery to a Digicel Designated Destination in the Digicel Network.

SCHEDULE E

CHARGES

The charges for the Network Interconnection Service to be provided under this Agreement, and which each party agrees to pay, are as follows:

Type of Chargeable Network Interconnection Service		Chargeable Network Interconnection Service rate	
(a)	All Chargeable Digicel Fixed Calls and all Chargeable TVL Fixed Calls	During the period from the Commencement Date up to but not including 26 June 2016	3.3
(b)	All Chargeable Digicel Mobile Calls and all Chargeable TVL Mobile Calls	During the period from the Commencement Date up to but not including 26 June 2014	6.5
		During the period from 26 June 2014 up to but not including 26 February 2015	6.3
		During the period from 26 February 2015 up to but not including 26 October 2015	6.1
		During the period from 26 October 2015 up to but not including 26 June 2016	5.9
(c)	All Chargeable Digicel SMS Messages and all Chargeable TVL SMS Messages	No charge, (i.e. "bill and keep)". The bill and keep arrangement referred to in this Schedule has been established on the basis of the pre-existing relationship and circumstances existing between the parties in relation to text message termination.	

Notes:

1. All charges are in Vatu.
2. All charges referred to in (a) and (b) accrue on a per second basis being $1/60^{\text{th}}$ of the per-minute charge payable for each second of the Duration of the Chargeable Mobile Call and Chargeable Fixed Call.
3. For the avoidance of doubt, Chargeable Mobile Calls and Chargeable Fixed Calls will be charged for the full period of the Call.
4. The pricing in this Schedule, other than the price for the provision of SMS termination in either the TVL Network or the Digicel Network, applies during the period from the Commencement Date up to but not including 26 June 2016. The parties will, no later than 26 April 2016, commence negotiations to review the prices, other than the price for the provision of SMS termination in either the TVL Network or the Digicel Network, to apply from 26 June 2016 up until the Expiry Date.
 - (a) If either party wishes changes to be made to the pricing in this Schedule that would apply from 26 June 2016 until the Expiry Date, they will notify the other party (with a copy to the Regulator).
 - (b) This notice may be given no earlier than 26 February 2016 and no later than 26 April 2016. If no such notice is given by either party then the prices that are in force on 25 June 2016 shall remain in full force and effect until the Expiry Date.
 - (c) If such a notice is given by one of the parties then the parties shall then enter into negotiations in good faith with a view to reaching agreement on any such changes.
 - (d) If the parties have not reached agreement on any such changes within 20 working days of commencement of those negotiations, then either party may refer the dispute to the Regulator for determination in accordance with the Act.
 - (e) The Regulator shall use best endeavours to complete the determination within 40 Working Days of notice of the dispute.
 - (f) For the avoidance of doubt, in the event that new prices are not agreed by 26 June 2016, the parties shall continue to settle their interconnection payments under this Agreement at the rates that were in force on 25 June 2016 unless and until the parties agree to apply different rates or the rates are otherwise lawfully determined by the Regulator.
 - (g) For the further avoidance of doubt, the bill and keep arrangement for the provision of SMS termination in either the TVL Network or the Digicel Network shall remain in force from the Commencement Date up until the Expiry Date.



SCHEDULE F

HANDOVER POINTS

Digicel Handover Point: Fibre cable connected to DDF at Digicel Switch Room,
Digicel Head Office, Ellouk Plateau, Port Vila

TVL Handover Point: TVL's OPTICAL MULTIPLEXER at Digicel Switch Room,
Digicel Head Office, Ellouk Plateau, Port Villa

Handwritten marks, possibly initials or a signature, located in the bottom right corner of the page.

SCHEDULE G

NOTICE OF DISPUTE PURSUANT TO CLAUSE 4 OF THE
INTERCONNECTION AGREEMENT

To: [X]

From: [X] ("Complainant")

Pursuant to the Interconnection Agreement signed between Digicel (Vanuatu) Limited and Telecom Vanuatu Limited on [date] 2014 ("**Interconnection Agreement**"), the Complainant gives notice that it is invoking the dispute resolution procedures in clause 4 of Schedule A of the Interconnection Agreement.

The substance of the complaint the subject of this Notice is as follows:

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Signed
Duly authorised officer of the Complainant

Dated

