



ACCESS REFERENCE DOCUMENT (ARD)

Issued pursuant to the Malaysian Communications and Multimedia Commission Determination on Access List, (Determination No. 1 of 2005) as varied by Variation To Commission Determination on Access List (Determination No. 1 of 2005), Determination No. 1 of 2009), the Malaysian Communications and Multimedia Commission Determination On Mandatory Standard On Access, Determination No. 2 of 2005 as varied by the Variation To The Commission Determination On Mandatory Standard On Access, (Determination No. 2 of 2005) (Determination No. 2 of 2009) and the Malaysian Communication and Multimedia Commission Determination on the Mandatory Standard on Access Pricing, Determination No. 1 of 2012 and the Commission Determination on the Access List, Determination No. 2 of 2015.

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(With effect from 1st Dec 2015)

Access Reference Document

CHAPTER 1 – INTRODUCTION, BACKGROUND AND SCOPE

1.1 Introduction

1.1.1 This Access Reference is made by Advanced Research Communication Sdn Bhd (Company No: 1077334-H), a Company incorporated under the Laws of Malaysia and having its registered office at 5411-E, 2nd Floor, Jalan Kuala Krai, 15050 Kota Bharu, Kelantan pursuant to Section 5.3.2 of the Mandatory Standard on Access (MSA).

1.1.2 This Access Reference Document is hereby referred to as Advanced Research Communication's ARD.

1.2 Background

1.2.1 Following the issuance of Malaysian Communications and Multimedia Commission Determination on Access List, (Determination No. 1 of 2005) as varied by Variation To Commission Determination on Access List (Determination No. 1 of 2005), Determination No. 1 of 2009), the Malaysian Communications and Multimedia Commission Determination On Mandatory Standard On Access, Determination No. 2 of 2005 as varied by the Variation To The Commission Determination On Mandatory Standard On Access, (Determination No. 2 of 2005) (Determination No. 2 of 2009) and the Malaysian Communication and Multimedia Commission Determination on the Mandatory Standard on Access Pricing, Determination No. 1 of 2012 and the Commission Determination on the Access List, Determination No. 2 of 2015.

1.2.2 MSA Determination Obligations

a) The MSA Determination deals with access to network Facilities Services included in the Access List and sets out the obligations that apply to Access Seekers concerning various access issues which include:

- (i) Disclosure obligations;
- (ii) Negotiation obligations;
- (iii) Content obligations;

b) Disclosure obligations are as set out in Section 5.3 of the MSA Determination

- c) Negotiation obligations are as set out in Section 5.3 of the MSA Determination
- d) Content obligations are as set out in Section 5.5 of the MSA Determination

1.3 Scope of Advanced Research Communication's ARD

1.3.1 Advanced Research Communication is a licensed individual network facilities and service provider under the Act. Pursuant to the licence, Advanced Research Communication may offer network facilities, services within Malaysia.

1.3.2 Pursuant to Section 5.3.2 of the MSA Determination, Advanced Research Communication is obliged to prepare and maintain an **Access Reference Document** in relation to network facilities on the Access List which Advanced Research Communication provides to itself or third parties.

1.3.3 Advanced Research Communication's ARD:

- a) Contains terms and conditions which are consistent with the rights and obligations set out in the MSA Determination; and
- b) Does not include terms and conditions which are inconsistent with the rights and obligations set out in the MSA Determination.

1.3.4 Where relevant, the rights and obligations set out in the MSA Determination shall be applicable to Advanced Research Communication's ARD

1.3.5 Advanced Research Communication consider Advanced Research Communication's ARD to be consistent with:

- a) The standard access obligations stipulated under Section 4.1.1 of the MSA Determination and Section 149 of the Act; and
- b) The principals of the non-discrimination stipulated under section 4.1.5 and 4.1.6 of the MSA Determination.

1.3.6 For the purpose of clarification, this Advanced Research Communication's ARD is not an offer to enter into a legally binding agreement. It is merely a reference document

that indicates the terms and conditions on which Advanced Research Communication is prepared to provide the network facilities as stipulated in the Access List to the Access Seeker by entering into an “**Access Agreement**”.

1.3.7 Advanced Research Communication' ARD has no effect on contractual agreements for the supply of facilities by Advanced Research Communication to an Access Seeker prior to the Commencement Date unless and until such contractual agreement is subsequently renegotiated and agreed between the Access Seekers.

1.3.8 In addition for other Additional Services or services outside Advanced Research Communication's ARD, the terms and conditions for the provision of such services shall remain outside the scope of Advanced Research Communication's ARD and to be negotiated separately.

1.4 Amendments to Advanced Research Communication's ARD

1.4.1 Advanced Research Communication shall within ten (10) Business Days of making any amendment to the Advanced Research Communication's ARD, provide a copy of the amendments, or an amended copy of Advanced Research Communication's ARD to:

- a) the Access Seeker who is being provided with access to network facilities listed on the Access List under Advanced Research Communication's ARD; and
- b) The Access Seeker who has requested Advanced Research Communication's ARD within the period of ninety (90) days prior to the making of such amendments, unless the Access Seeker has already indicated that it does not wish to proceed with an Access Request.

1.5 Notice of Withdrawal, Replacement and Variation of Advanced Research Communication's ARD

1.5.1 If the Commission revokes, varies or replaces the Access List Determination relating to the network facilities in accordance to the Access List under Section 56 of the Act, Advanced Research Communication may, by giving written notice to all Access Seekers to whom it is supplying network facilities under Advanced Research Communication's ARD, withdraw or replace Advanced Research Communication's ARD with effect from a date no earlier than the effective date of the Commission's revocation, variation or replacement.

1.5.2 Advanced Research Communication shall comply with **Section 6.4.2** and **6.4.3** of the MSA Determination where it is given written notice pursuant to **Section 1.5.1** above.

1.5.3 In addition to **Section 1.5.2** above, Advanced Research Communication may give the Access Seekers to whom it is supplying network facilities services under Advanced Research Communication's ARD to effect such variations that are necessary or appropriate in the event of:

- a) the occurrence of a Legislative Event that materially affects the rights or obligations of Advanced Research Communication under Advanced Research Communication's ARD; or
- b) the occurrence of a Regulatory Event that relates to Advanced Research Communication; or
- c) a review by the Commission of the MSA Determination pursuant to Section 6.5 of the MSA Determination.

1.5.4 Notwithstanding Section 1.5.1, 1.5.2 and 1.5.3 above, Advanced Research Communication may subject to Section 1.4 above, replace Advanced Research Communication' ARD at anytime.

1.6 Availability

1.6.1 Advanced Research Communication's ARD shall be made available to an Access Seeker:

- a) on written request, at Advanced Research Communication's principle place of business; and
- b) on a publicly accessible website at www.arcomm.com.my.

1.6.2 Prior to the provision of Advanced Research Communication' ARD to the Access Seekers, the Access Seekers shall be required to enter into a Confidentiality Agreement which shall be made separately.

CHAPTER 2 – DEFINITION AND INTERPRETATION

2.1 The following words have these meanings in this Advanced Research Communication' ARD unless the contrary intention appears:-

"Act" means the Communications and Multimedia Act 1998

"Access Agreement" means an agreement which is commercially negotiated between the Access Seekers, whereby Advanced Research Communication provides requested Facilities listed in the Access List Determination to the Access Seeker in accordance with the terms therein contained and registered with the Commission in accordance with Section 150 of the Act.

"Access List" means the list of Facilities determined by the Commission under Section 146 of the Act.

"Access List Determination" means the Commission Determination on Access List, Determination No. 1 of 2005; which came into operation on 1st July 2005 read together with the Variation to Commission Determination on Access List

(Determination No. 1 of 2005), Determination No. 1 of 2009 and Determination No.2 of 2015 which came into force on 1st September 2015.

“Access Request” means a request for access to Facilities on the Access List Determination made by the Access seeker to Advanced Research Communication and containing the information in Section 4.1.3.

“Access Seeker” means an Access Seeker who;

- a) is a network facilities provider, network service provider, application service provider or content application service provider and who is a licensee as defined in the Act; and
- b) makes a written request for access to the Facilities listed in the Access List Determination.

“Access Service” in relation to the network facilities means a service as specified in the Advanced Research Communication' ARD that are provided by Advanced Research Communication to the Access Seeker to an Access Request.

“Advanced Research Communication” means Advanced Research Communication Sdn Bhd and in Advanced Research Communication' ARD, is Advanced Research Communication unless otherwise stated.

“Associated tower sites” is the space surrounding the tower where the Access Seeker may place its cabin or outdoor support equipment including space required for cable gantry connecting to the tower and generator-set

“Bank Guarantee” means the guarantee executed and to be granted to Advanced Research Communication on behalf of the Access Seeker by a bank approved by Advanced Research Communication pursuant to Section 4.3

“Billing Dispute” means the dispute of an invoice prepared by an Access Seeker to the Other Access Seeker which is made in good faith.

“Billing Period” means the period over which the supply of access to Facilities or Service is measured for the purpose of billing as contemplated in Chapter 6, which shall be no more than thirty one (31) days and in accordance with the relevant calendar month, unless otherwise agreed between the Access Seekers.

“Business Day” means a day on which banks are open for general banking business in Kelantan, other than a Friday and Saturday or a public holiday.

“Charges” means the sums payable by the Access Seeker to Advanced Research Communication for the provision of Facilities listed in the Access List Determination.

“Commencement Date” means the date on which the Access Seekers enter into the Access Agreement or such other dates as agreed between the Access Seekers.

“Commission” means the Malaysian Communications and Multimedia Communication Act 1998

“Communication” means any communication, whether between persons and persons, things and things, or person or things in the form of sound, data text, visual images, signals or any other form or any combination of those forms and, where the context permits, includes a Communication Attempt. For the purpose of clarification, this includes Message Communications.

“Confidentiality Agreement” means a confidential agreement entered into between the Access Seekers in accordance with Section 5.3.7 of the MSA Determination.

“Creditworthiness Information” means the information required by Advanced Research Communication to assess the creditworthiness of the Access Seeker which

is more particularly described in Section 4.2 of Advanced Research Communication's ARD and such other information as may be required from time to time.

"Determination" means any lawful determination made by the Commission and/or the Minister, pursuant to the Act.

"Direction" means any lawful direction made by the Commission pursuant to Chapter 1 of Part V of the Act.

"Due Date" means, in respect of an invoice, thirty (30) days from the date of receipt of an invoice.

"Effective Date" means the date on which the relevant portions of the Access Agreement requiring registration is duly registered with the Commission under Section 150 or the Act in its entirety (and such registration is notified in writing to the Access Seekers).

"Equipment" means any equipment (whether hardware or software), or device which is part of or within the Network.

"Facilities" means network facilities and/or other facilities which facilitate the provision of network services or applications services including content application services.

"Handover Date" means the date on which access to be the Infrastructure as endorsed by a Certificate of Acceptance hereunder is given to the Access Seeker for installation of Equipment at that Site. **"Handover"** shall be construed accordingly

"Infrastructure sharing" shall have the meaning as defined in **Part I of Schedule A**

"Insurance Information" means the insurance information required by Advanced Research Communication pursuant to **Section 4.4**

“Invoice” means the invoice for amounts due in respect of the supply of requested Facilities listed in the Access List Determination during a Billing Period

“Letter of Undertaking” refers to the letter in the form set out in **Part II of Schedule C** by the Access Seekers to Advanced Research Communication where, upon receipt of such Letter of Undertaking, Advanced Research Communication shall acknowledge and thereafter execute the work commencement in relation to an infrastructure Project as Facilities.

“License” means an individual license granted by the Minister pursuant to the Act for Communication Services

“License Fee” means the monthly fee payable by an Access Seeker according to the payment structure pursuant to the Master Agreement set out in **Schedule B** and as recorded in the relevant Letter of Offer in **Part III of Schedule C**

“Manuals” means the Technical and Implementation Manual, the Access Seekers and Maintenance Manual and Other Manuals which the Access Seekers establish pursuant to the Access Agreement

“Master Agreement” means the main Agreement entered between Advanced Research Communication and the Access Seeker (that has confirmed the demand for utilization of facilities services once Access Request is established and agreed upon)

“Minimum Value” for the purpose of calculating the Security Sum means the total estimated value of access to the requested Facilities provided (based on the most recent amounts invoice for those requested Facilities) or to be provided by Advanced Research Communication to the Access Seeker for a ninety (90) days period.

“Minister” means the Minister of Energy, Communications and Multimedia or, if different, the Minister administering the Act

“Other Access Seeker” means either Advanced Research Communication; or the Access Seeker, as the context requires

“Regulatory Event” means:

- (a) the declaration, modification, variation or revocation of the MSA Determination;
- (b) the giving of the lawful direction to Advanced Research Communication by the Commission relating Advanced Research Communication' ARD; or
- (c) the giving of lawful direction to Advanced Research Communication by the Minister relating to Advanced Research Communication Advanced Research Communication' ARD

“Review” means a review of the MSA Determination pursuant to Section 6.5 of the MSA Determination

“RM” means Ringgit Malaysia which shall be the monetary currency used by Advanced Research Communication' ARD unless otherwise provided

“Security Sum” means the security, either in the form of a Bank Guarantee or cash, deposited with Advanced Research Communication for the supply of Facilities listed on the Access List Determination which is more particularly described in **Section 4.3**; and which amount is equivalent to the Minimum Value

“Services” means network services and/or other services which facilitate the provision of network services or application services

“Standard Access Obligations” has the meaning prescribed in section 149 of the Act

2.2 In Advanced Research Communication Sdn Bhd' ARD except where the contrary intention appears;

- a) the singular includes the plural and vice versa; and

- b) a document includes all amendments or supplements to that document, or replacements or novations of it; and
- c) a reference to statute, ordinance, regulations, code or other law and other instruments under it, shall include any statute, ordinance, regulation, code and other law consolidating, amending, re-enacting or replacing of any of them from time to time relating thereto or in connection therewith; and
- d) a reference to a person includes a firm, body corporate, unincorporated association or an authority; and
- e) a reference to a person includes the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation), and assigns; and
- f) if the day on which the payment of money falls due is not a Business Day, the due date shall be deemed to be the Next Business Day and any reference to Act that have to be done or to be done by or on before a particular day or Business Day means by or on before a particular day or Business Day means by or on before the close of business at 5.00pm on that particular day or Business Day; and
- g) a reference to a related body corporate of an Access Seeker has the same meaning as in the Companies Act 1965; and
- h) a reference to a third person is a reference to a person is a reference to a person who is not a party to this ARD; and
- i) headings are included for convenience and do not affect the interpretation of Advanced Research Communication's ARD

CHAPTER 3 – PRINCIPLES OF ACCESS

3.1 Services

3.1.1 Advanced Research Communication' ARD applies only to Facilities listed on the Access List Determination

3.1.2 The service description for each of the Facilities is set out in Schedule A

- 3.1.3 Access Seekers Planning Information are set out in Schedule B
- 3.1.4 Charging Principle are set out in Schedule C

3.2 Eligibility for Access to Service

3.2.1 Advanced Research Communication may at its discretion and in a manner consistent with the License(s) granted (and the license rights accorded therein) by the Minister to the Access Seeker, determine on a case by case basis whether to provide the Access Seeker with the Access to the Facilities listed in the Access List Determination which are set out in Advanced Research Communication' ARD

3.2.2 For the purposes of clarification, consistent with Government policy and Determinations by the Commission (and by its predecessors) an Access seeker may only request for access to any or all the of the Facilities listed in the Access List Determination which are set out in Advanced Research Communication' ARD where the Access Seeker has been granted (i) an individual network facilities provider license, and (ii) and individual network services provider license and (iii) an individual content application services provider license, and such individual licenses are not limited or restricted from those detailed in the *Communications and Multimedia (Licensing Regulations 2000*, as amended in any way):

- (a) by the reference to the type of network facilities, network services and/or content applications services that can be provided; and
- (b) by geographical limitations to only a specific area and/or areas in Malaysia to which the Access Seeker can provide such network facilities, network services and or content applications services

An Access Seeker may not request for access to the Facilities listed in the Access List Determination where the requested Facilities are to be used in connection with an activity or activities in which the Access Seeker is not licensed to provide.

Consistent with Government policy and Determinations by the Commission (and its predecessors), where Advanced Research Communication provides the Access Seeker with access to the Facilities listed in the Access List Determination pursuant to Section 3.2.1, the charges for the requested Facilities shall be negotiated between the Access Seekers.

3.3 Principles of Access

3.3.1 Advanced Research Communication shall subject to Section 3.2, if requested to do so by an Access Seeker through an Access Request, supply a Facility listed in the Access List Determination to the Access Seeker on reasonable terms and conditions to be entered separately between the parties

3.3.2 In supplying a Facility listed in the Access List Determination, Advanced Research Communicationb must treat an Access Seeker on the non-discriminatory basis as required by the Standard Access Obligations in relation to the Supply of a Service

3.3.3 Principles of non-discrimination

- (i) The access provided by Advanced Research Communication to the Access Seeker shall be consistent with:
 - a) Section 149(2) of the Act; and
 - b) the principals set out in Sections 4.2.5 and 4.1.6 of the MSA Determination.

3.3.4 Customer Principles

- (i) Advanced Research Communication shall observe and comply with the customer relationship principles set out in Section 4.3 of the MSA Determination

CHAPTER 4 – ACCESS REQUEST PROCEDURES

4.1 Application for Access to Services

4.1.1 an Access Seeker shall request Advanced Research Communication to supply Facilities listed in the Access List Determination to it by serving an Access Request to Advanced Research Communication.

4.1.2 the purpose of such Access Request is to provide Advanced Research Communication with sufficient information to assess the Access Seeker's request for the supply of Facilities listed in the Access List Determination under Advanced Research Communication' ARD

4.1.3 The Access Request must:

- a) contain the name and contact details of the Access Seeker;
- b) specify the Facilities listed in the Access List Determination in respect of which access is sought;
- c) indicate whether the Access Seeker wishes to accept Advanced Research Communication' ARD or negotiate an Access Agreement;
- d) contain the information (if any) as set out in Section 5.3.6 of the MSA Determination that the Access Seeker reasonably requires Advanced Research Communication to provide for the purposes of the access negotiations;
- e) contain two (2) copies of Confidentiality Agreement properly executed by the Access Seeker in the form prescribed by Advanced Research Communication in Annexure 1;
- f) specify forecasts of the capacity which the Access Seeker reasonably requires, having regard to Advanced Research Communication' disclosed provisioning cycle as described in Part I and Part V of Schedule C;
- g) provide the relevant information relating to the Access Seeker's Network and the functionality of its services, to the extent that the Access Seeker is aware that such information may affect Advanced Research Communication' Network;

- h) contain confirmation that the Access Seeker is not currently being supplied with the requested Facility listed in the Access List Determination or if so, the reasons for the additional request for the said Facility;
- i) specify the type of communications licenses held by the Access Seeker and a copy of the license where a copy had not been previously provided;
- j) contain Creditworthiness Information as set out in Section 4.2;
- k) be accompanied by a Security Sum as set out in Section 4.3;
- l) contain Insurance Information as set out in Section 4.4;
- m) contain relevant technical information relating to the interface standards of the Access Seeker; and
- n) contain such other information that Advanced Research Communication may reasonably request.

4.2 Credit Worthiness Information

The Creditworthiness Information that is required to accompany an Access Request includes but shall not be limited to:

- a) a letter, signed by the executive director of the Access Seeker, stating the Access Seeker is not insolvent and is not under any external administration or under similar form of administration under any laws applicable to it in any jurisdiction
- b) a copy of the Access Seeker's most recently published audited balance sheet and audited profit and loss statement; and
- c) such other information as may be reasonably requested by Advanced Research Communication provided that such information are information which are publicly available

4.2.2 the Creditworthiness Information shall commensurate with an estimate of the value of the access to the Facilities to be provided by Advanced Research Communication to the Access Seeker over a ninety (90) day period

4.3 Security Sum

- 4.3.1 An Access Request shall be accompanied by a Security Sum. The Security that may be given by the Access Seeker may be in term of either:
- a) Bank Guarantee; or
 - b) Cash Sum
- 4.3.2 Advanced Research Communication is not obliged to consider entering into an Access Agreement with the Access Seeker pursuant to Advanced Research Communication Sdn Bhd' ARD until the Access Seeker has amongst other things, provided (at the Access Seeker's costs) to Advanced Research Communication such Security Sum on terms and conditions reasonably acceptable to Advanced Research Communication.

4.4 Insurance Information

- 4.4.1 Subject to Section 4.4.2, an Access Request shall be accompanied by the following insurances:
- a) Worker's Compensation and/or Social Security Insurance and/or Employer's Liability Insurance and/or other insurance with statutory limits as required by the laws of Malaysia to provide for payment to its employees employed or in connection with the work covered by the Access Agreement that may be entered into and/or their dependants; and
 - b) Comprehensive General Liability Insurance of an amount which is not in excess of Ringgit Malaysia Twenty Million (RM2, 000,000.00) for any one claim or series of claims arising out of an accident or occurrence in connection with the Access Agreement that may be entered into resulting in bodily injury and/or personal including death and property damage of an Access Seeker which may arise out of or in consequence of any acts or omissions of the Other Access Seeker. Such policy shall include contractual liability

4.4.2 For the purpose of clarification, the insurance provided by the Access Seeker pursuant to Section 4.4.1 shall commensurate with the reasonable sum which is to be agreed by Advanced Research Communication Sdn Bhd.

4.5 Processing of Access Request

4.5.1 Acknowledgement of Receipt of access request

Stealth Solutions shall, within ten (10) Business Days of receipt of the Access Request, inform the Access Seeker in writing that it has received the Access Request and:

- a) subject to section 4.5.3, request additional information from the Access Seeker where there is a need for further information, prior to considering the Access Request; or
- b) indicate whether it is willing to provide access to Facilities listed in the Access List Determination in accordance with Advanced Research Communication' ARD

Subject to the additional information being received by Advanced Research Communication within twenty (20) Business Days from the date of request, Advanced Research Communication shall reconsider the Access Request in accordance with this Section 4.5.1 upon receipt of such additional information

4.5.2 Non-refundable processing fee

- a) Subject to clause (b) of Section 4.5.2, Advanced Research Communication may charge an Access Seeker a non-refundable processing fee for undertaking the necessary administrative work to process the Access Request
- b) the non-refundable processing fee is only applicable to requested facilities listed in the Access List Determination that can be offered and made available by Advanced Research Communication Sdn Bhd
- c) in the event that additional and non-routine work is required in order to process the Access Request, Advanced Research Communication may charge a separate

fee for undertaking such additional work. If the Access Seeker does not proceed with the Access Request accepted by Advanced Research Communication, the processing fee will not be refunded to the Access Seeker

4.5.3 Resources charge

In accordance with Section 5.7.28 of the MSA Determination Advanced Research Communication may charge an Access Seeker a resources charge to be determined by reference to the costs incurred by Advanced Research Communication for the allocation of manpower and other resources to enable the Access Seeker to test and provide new Facilities for the purposes of interconnection

4.5.4 Request for information

Stealth Solutions shall comply with Section 5.4.16 of the MSA Determination where it requests additional information from the Access Seeker pursuant to Section 4.5.1 (a).

4.6 Assessment of Access Request

4.6.1 Reasons for Refusal

Without limiting any other grounds that may be relied upon under the Act, Advanced Research Communication may refuse to accept an Access Request for the supply of a Facility listed on the Access List Determination and accordingly may refuse to supply that Facility to the Access Seeker for any of the following reasons:

- a) in Advanced Research Communication's reasonable opinion, the Access Seeker's Access Request was not made in good faith;
- b) in Advanced Research Communication's reasonable opinion, the Access Request does not contain the information reasonably required by Advanced Research Communication's ARD provided that Advanced Research Communication has sought the information from the Access Seeker under Section 4.5.1 of Advanced Research Communication's ARD and has not received that information within twenty (20) Business Days of making such a request;

- c) Advanced Research Communication does not currently supply or provide access to the requested Facilities listed in the Access List Determination to itself or to any third parties, except where the access Seeker compensates Advanced Research Communication for the supply of access to such Facilities;
- d) It is not technically feasible to provide access to the requested Facilities listed in the Access List determination;
- e) Advanced Research Communication has insufficient capacity to provide the requested Facilities listed in the Access List Determination;
- f) There are reasonable grounds in Advanced Research Communication Sdn Bhd' opinion to believe that the Access Seeker would fail to make timely payment for the supply of the relevant Facility listed in the Access List Determination;
- g) There are reasonable grounds in Advanced Research Communication' opinion to believe that the Access Seeker would fail, to a material extent, to comply with the terms and conditions applicable to the supply of the Facilities listed in the Access List Determination; or
- h) There are reasonable grounds for Advanced Research Communication to refuse access in the national interest

4.6.2 Determination of technical infeasibility

For the purpose of determining technical infeasibility in section 4.6.1(d), the Access Seekers shall comply with Section 5.4.17 of the MSA Determination

4.6.3 Determination of capacity constraints

For the purpose of determining capacity constraints in Section 4.6.1(e), the Access Seekers shall comply with Section 5.4.18 of the MSA Determination

4.6.4 Assessment of the Access Seeker's ability to pay for supply of relevant Facilities listed in the Access List Determination

Examples of reasonable grounds for Advanced Research Communication' belief as mentioned in **Section 4.6.1(f)** mentioned above include evidence that the Access Seeker is not in the reasonable opinion of Advanced Research Communication creditworthy

4.6.5 Assessment of the Access Seeker's ability to comply with terms and conditions applicable to the supply of relevant Facilities listed in the Access List Determination

Examples of reasonable grounds for Advanced Research Communication' belief as mentioned in **Section 4.6.1(g)** include repeated failures by the Access Seeker to comply with the terms and conditions on which the same or similar access to Facilities have been provided (whether or not by Advanced Research Communication)

4.6.6 Assessment of Creditworthiness

a) in determining the creditworthiness of the Access Seeker, Advanced Research Communication may have regard to, but is not limited to the matters referred to in **Section 4.2**

b) in determining the creditworthiness of the Access Seeker, Advanced Research Communication shall not take into account amounts outstanding for Facilities previously provided by Advanced Research Communication to the Access Seeker where, in accordance with the terms and conditions governing the provision of such Facility or Service, the Access Seeker is not required to pay such amounts to Advanced Research Communication to the extent that there is a bona fide dispute in relation to the amounts outstanding by the Access Seeker to Advanced Research Communication and the Access Seeker is relying on such terms and conditions as basis for its non-payment

4.7 Notification of Rejection to the Access Seeker

4.7.1 Where Advanced Research Communication rejects the Access Request, Advanced Research Communication shall:

- a) notify the Access Seeker in writing within ten (10) Business Days from receipt of the Access Request or additional information requested pursuant to Section 4.5.1, as the case may be;
- b) provide reasons for rejection under Section 4.6 to the Access Seeker;
- c) provide the basis for Advanced Research Communication' rejection of the Access Request; and
- d) indicate a date and time, not later seven (7) Business Days from the date of the notice of rejection, at which representatives of Advanced Research Communication will be available to meet with representatives of the Access Seeker to discuss the rejection of the Access Request. At this meeting, the Access Seeker may request Advanced Research Communication Sdn Bhd to substantiate its reasons for refusal, and if access has been refused on the basis of the grounds in section 4.6.1(e), Stealth Solutions must identify when additional capacity is likely to be available.

4.7.2 Where the Access Seekers are unable to resolve their differences following the meeting held pursuant to Section 4.7.1(d), either Access Seeker may request resolution of the dispute in accordance with Annexure A of the MSA Determination

4.8 Acceptance of Access Request

4.8.1 Where Advanced Research Communication agrees to provide access to Facilities listed in the Access List Determination to the Access Seeker in accordance with Advanced Research Communication' ARD, Advanced Research Communication shall within ten (10) Business days of such respond under **Section 4.5.1(b)**, provide, the Access Seeker with two copies of the executed Model Access Agreement, for execution by the Access Seeker

4.8.2 Where the Access Seeker wish to negotiate an Access Agreement, the Access Seekers shall comply with the requirements in Sections 5.4.2, 5.4.4, 5.4.9 and 5.4.15 of the MSA Determination in negotiating and concluding an Access Agreement

- 4.8.3 Advanced Research Communication will not be taken to have agreed to acquire the requested Facility listed in the Access List Determination until:
- (a) a security sum has been provided in accordance with Section 4.1 and 4.3; and
 - (b) an Access Agreement has been executed between the Access Seekers and the Access Agreement is registered with the Commission in accordance with Section 150 of the Act

CHAPTER 5 – PROVISION OF INFORMATION

- 5.1 the obligations of each Access Seeker to provide information to the Other Access Seeker are subject to the MSA Determination and the requirements of confidentiality imposed by Advanced Research Communication' ARD
- 5.2 to the extent permitted by Malaysian law and any relevant guidelines or customer service standards in force pursuant to the Access Seeker's respective License conditions, the Access Seekers will exchange information and otherwise cooperate in relation to the prevention and investigation of fraudulent use or misuse of the Access Seeker's respective Communications Services and the theft of the Access Seeker's provided terminal equipment
- 5.3 information provided under Advanced Research Communication' ARD may only be used for the purpose for which it was given, Personal Information about a Customer's credit worthiness, credit standing, and history or credit capacity may only be used for the purposes permitted by, and in compliance with, Malaysian Law
- 5.4 if the information is used by an Access Seeker for any purpose other than the purpose for which it was given, the providing Access Seeker may deny the recipient Access Seeker further access to the information for the period during which the non-observance or non-conforming use continues on notice specifying the non-observance or non-conforming use continues. The Access Seekers will cooperate to resolve the

providing Access Seeker's reasonable concerns so that information exchange can be resumed as soon as possible

- 5.5 a) subject to the Act and any subordinate legislation, nothing in the Access Agreement may be construed as requiring an Access Seeker at any time to disclose to the Other Access Seeker information which is at the date when the Access Agreement comes into force, the subject of a confidentiality obligation owed to a third person unless the third person consents to such disclosure. Where the consent of a third person is required, the Access Seeker holding the information must use its reasonable endeavours to obtain the consent of that third person.
- b) After the Access Agreement comes into force an Access Seeker must use its best endeavours not to enter into any contract which would prevent it from making information available to the Other Access Seeker unless the contract includes a term which permits the contracting Access Seeker to make the information available if the directed to do so by the Commission

CHAPTER 6 – BILLING AND SETTLEMENT

- 6.1 Where relevant, the billing and settlement obligations set out in Section 5.14 of the MSA Determination shall be applicable
- 6.2 The Access Seekers shall, from time to time, inform each other of the mailing address and the department to which the Invoice should be sent to and also their respective bank account details for the purposes of enabling the other Access Seeker to make payment. All Invoices shall be delivered by hand or post (either registered mail or courier)
- 6.3 The Access Seekers shall bear and pay all taxes as required by Malaysian law that result from the implementation of the Access Agreement

- 6.4 The Access Seeker must pay any amount due and owing to the Advanced Research Communication on the Due Date unless otherwise agreed in writing by both Access Seekers
- 6.5 All payments must:
- a) be paid by electronic transfer to Advanced Research Communication or exceptionally, by cheque to the nominated account(s) of Advanced Research Communication if agreed by Advanced Research Communication;
 - b) be accompanied by such information as is reasonably required Advanced Research Communication to properly allocate payments received, failing which Advanced Research Communication shall have the absolute discretion to allocate payments received to any amounts due and payable; and
 - c) be paid on the Due Date unless otherwise agreed in writing by both Access Seekers
- 6.6 All invoices shall be stated in ringgit Malaysia and payment must be made in Ringgit Malaysia
- 6.7 Notwithstanding anything to the contrary, Advanced Research Communication shall be entitled to deduct or withhold such taxes, duties, levies or such other sums imposed by such governmental authorities ("said taxes") from any sum or sums due to the Access Seeker in the event Advanced Research Communication is required by law to pay the said taxes for and on behalf of the Access Seeker
- 6.8 For the purpose of clarification, the Security Sum does not relieve the Access Seeker from its obligations to pay amounts to Advanced Research Communication as they become due and payable, nor does it constitute a waiver of Advanced Research Communication right to suspend, disconnect, or terminate the relevant network services due to non-payment of any sums due or payable to Advanced Research Communication.

- a) Advanced Research Communication shall be entitled to revise the Security Sum in any of the following event:
- (i) where, in the reasonable opinion of Advanced Research Communication, the amount of the Security Sum is less than the Minimum Value calculated over a ninety (90) days period determined by Advanced Research Communication
 - (ii) where, in the opinion of Advanced Research Communication, there is a material change in circumstances in relation to the Access Seeker's Creditworthiness. In such cases, Advanced Research Communication may request for additional security in addition to the Minimum Value to sufficiently and reasonably mitigate its risk in providing the relevant Facilities and/or Services listed on the Access List Determination to the Access Seeker. For clarification, material change in circumstances includes, but is not limited to, failure to pay on the Due Date in respect of three (3) invoices rendered in the preceding six (6) months, so long as those amounts have not been disputed in good faith;
 - (iii) upon the provisioning of new or additional Facilities to the Access Seeker; and
 - (iv) at each subsequent anniversary from the Commencement Date;
- b) Where the Security Sum is revised pursuant to Section 6.9 (a) above, the Access Seeker shall within five (5) Business Days from the written request of Advanced Research Communication, deposit the new Security Sum with Advanced Research Communication in the manner specified in Section 4.3 of Advanced Research Communication's ARD
- c) Where the Access Seeker deposit monies in lieu of a Bank Guarantee, such monies shall be deposited in a separate interest bearing account ("the said accounts") and any interest accrued thereon is held by Advanced Research Communication in

addition to the Security Sum, Advanced Research Communication shall forward to the Access Seeker a statement of the said accounts annually

- 6.9 a) The Security Sum deposited by the Access Seeker with Advanced Research Communication and any interest thereon shall only be used for the purposes set out in Section 6.8. Advanced Research Communication may at its discretion call upon or deduct the Security Sum at any time after the Due Date or upon breach of any of the Access Seeker's obligation. Such utilization or deduction of the Security Sum shall not be construed as set-off or counterclaim
- b) Upon termination of the Access Agreement the Security Sum deposited with Advanced Research Communication or parts thereof together with the interest thereon, (if any) shall be returned and/or refunded to the Access Seeker within sixty (60) days from the date of termination; and
- 6.10 Billing Dispute Procedures
- a) Where there is a Billing Dispute, the Access Seekers shall comply with the dispute resolution procedures in **Annexure A of the MSA Determination.**

CHAPTER 7 - TERMINATION

7.1 Termination Obligations

This Access Agreement may be terminated or part thereof if any of the following circumstances apply and Advanced Research Communication has notified the Access Seeker of its intention to terminate the Access Agreement:-

- a) The Access Seeker has materially breached the Access Agreement such breach shall have persisted for a period of thirty (30) days without correction and shall have caused Advanced Research Communication inability to operate; or in the reasonable opinion of the non-breaching Party, the economic objective of the non-breaching

- Party shall have suffered or the non-breaching Party shall have sustained material risks or losses due to such breach;
- b) The Access Seeker is subject to winding up order; or
 - c) A Force Majeure event have persisted for ninety (90) days;

Advanced Research Communication shall forward to the Commission a copy of the notice of termination to the Access Seeker

7.2 Approval

Prior to terminating or seeking to materially vary an Access Agreement or access to any Access Service(s) provided under it, Advanced Research Communication must inform the Commission in writing of the action it proposes to take and the reasons why such action is appropriate. Advanced Research Communication shall not terminate, suspend, or seek to materially vary the Access Agreement or access to ant Access Service(s) until such time and on such conditions, as the Commission may warrant

SCHEDULE A

SERVICE DESCRIPTION

PART I – INFRASTRUCTURE SHARING

1. General

1.1 Part I of schedule A sets out the terms and conditions which are applicable to Infrastructure Sharing.

2. Pre-Requisites for Applying for Infrastructure Sharing

2.1 Stealth Solutions shall not be obliged to provide to Access Seeker Infrastructure Sharing for the Designated and associated Tower Sites unless :

- a) Advanced Research Communication is the legal owner of the tower
- b) The Access Seeker has the appropriate licences from the relevant authorities to operate the service for the purpose for the equipment is to be installed; and
- c) There is no space constraint

3. Infrastructure Sharing

3.1 Advanced Research Communication agrees to provide Infrastructure Sharing at the designated tower to the requesting Access Seekers in accordance with the terms of **Master Agreement** initially entered into between Advanced Research Communication and other Access Seeker. The terms and conditions for **technical matters** are also spelled out in the said **Master Agreement**.

3.2 The Access Seekers shall publish on its website and keep updated a list of the Designated Tower leased from Advanced Research Communication.

3.3 Duration of Infrastructure Sharing

3.3.1 Infrastructure Sharing at a designated Tower or agreed between the Access Seekers, shall be for an Initial Period of five (5) years with an option to renew for three (3)

successive terms of five (5) years each up to a maximum of fifteen (15) years (“Renewal Term”).

- 3.3.2 The term of the Infrastructure Sharing shall commence on the date (“**Handover date**”)
- a) The Access Seeker agrees to commence Infrastructure Sharing
 - b) The Access Seeker takes physical possession of the shared space (“Shared Space”) at the Designated Tower or Associated Tower Site, after informing Advanced Research Communication the exact location of the equipment/antenna.

4. Access Seeker’s Obligations

- 4.1 The Access Seeker shall be responsible for and bear the cost of all electricity utilized by the Access Seeker at the Shared Space. Advanced Research Communication shall provide the access for power supply and assist the Access Seekers for its own individual meter.
- 4.2 Installation of Equipment
- 4.3 The Access Seeker shall only be permitted to install its equipment, system and/or devices on the Shared Space and shall not be permitted to install any other party’s equipment, system and/or devices on the Shared Space without the prior written approval of Advanced Research Communication.
- 4.4 Safety and health and Security Procedures
- 4.5 The Access Seeker shall comply with the provisions and requirements of the occupational safety and Health Act 1994 (“OSHA”). These provisions include the usage of personal protective equipment such as safety helmet, safety boots, safety goggles and other safety gadgets as prescribed by OSHA.
- 4.6 The Access Seeker shall exercise due care in the execution of their work so as to prevent accidents and are required to report any incidents including but not limited to accidents

as a result of their works to Advanced Research Communication within twenty four (24) hours from the time of the occurrence.

- 4.7 The Access Seeker shall comply and cause its employees, agents and contractors to comply with all guidelines, rules and regulations issued by Advanced Research Communication from time to time on site access and security procedures with respect to access to and use of the Shared Space. Further the Access Seeker shall ensure the security of its Shared Space is such that no unauthorized person shall enter the Shared Space.
- 4.8 Sub-letting and Assignment
- 4.9 The Access Seeker shall not at any time sub-let, assign or lease the Shared Space to the others.

SCHEDULE B

ACCESS SEEKERS PLANNING INFORMATION

ACCESS SEEKERS PLANNING INFORMATION

SITE NAME		
TOWER HEIGHT		
TYPE OF TOWER		
DATE		
COORDINATE		
LONGITUDE	LATTITUDE	

BTS INFO

ACCESS SEEKERS	BTS TYPE	BTS DIMENSION	CABIN SIZE	PLINTH SIZE	NUMBER OF BTS
Access Seekers 1					
Access Seekers 2					
Access Seekers 3					

RF ANTENNA INFO

ACCESS SEEKERS	ANTENNA QUANTITY	ANTENNA ORIENTATION	ANTENNA DIMENSION (MM)	ANTENNA HEIGHT	CABLE TYPE	CABLE LENGTH
Access Seekers 1						
Access Seekers 2						
Access Seekers 3						

MICROWAVE ANTENNA INFO

ACCESS SEEKERS	ANTENNA QUANTITY	ANTENNA AZIMUTH	ANTENNA SIZE	ANTENNA HEIGHT	CABLE TYPE	CABLE LENGTH
Access Seekers 1						
Access Seekers 2						
Access Seekers 3						

SCHEDULE C

PART I OPERATIONS AND MAINTENANCE

1. General

1.1 **Part VI of Schedule C** sets out the operations and maintenance procedures that are applicable in relation to the Services as listed in the Advanced Research Communication.

1.2 Where relevant, the operations and maintenance obligations set out in Section 5.15 of the MSA Determination shall be applicable.

2. Operations and Maintenance Standard

2.1 Each Access Seeker shall be responsible for the operations and maintenance of its own Network Facilities or Network Services.

3. Maintenance Procedures and Practices

3.1 Each Access Seeker shall on its own establish the recommended maintenance procedures for maintaining and servicing its own Network Facilities or Network Services.

4. Fault Management

4.1 The Access Seeker will manage their own Networks to minimize disruption to services and, in the event of interruption or failure of any service, will restore those services as soon as is reasonably practical.

4.2 In the event of failure of electric supply, Advanced Research Communication shall provide alternative power supply as agreed in the Master Agreement.

5. Network Monitoring

5.1 Each Access Seeker is responsible for monitoring of alarms belonging to its own Network.

SCHEDULE C
CHARGING PRINCIPLE

The following rates shall be utilized as indicative rates for access to heavy duty telecommunication towers of T2 specifications to be granted to an Access Seeker to install its Equipment thereat:-

Tower Height	Type	2 Way	3 Way	4 Way	5 Way	6 Way
150 feet	Heavy Duty	RM6,426	RM3,672	RM2,916	RM2,624	RM2,362
200 feet	Heavy Duty	RM8,883	RM5,076	RM4,104	RM3,694	RM3,324
250 feet	Heavy Duty	RM9,450	RM5,400	RM4,320	RM3,888	RM3,499
300 feet	Heavy Duty	RM12,075	RM6,900	RM5,500	RM4,950	RM4,455
350 feet	Heavy Duty	RM15,225	RM8,700	RM6,900	RM6,210	RM5,589
400 feet	Heavy Duty	RM17,325	RM9,900	RM7,900	RM7,110	RM6,399

- i. The rates stated above and all rates stated in this ARD are exclusive of GST levied by the Government which GST shall be payable by the Access Seeker to the Access Provider over and above the Access Charges.
- ii. The rates above are for the license term of minimum Three (3) years but if the Access Seeker intends to take a license of a site for a longer period than 3 years, a lesser rate may be agreed by the Access Provider.
- iii. The Access Provider may subject to agreement of parties, upon an Access Seeker taking a long term license of a site, grant discount on the Access Charges post the 7th year of the license.

- iv. Subject always to the availability of space in the Associated Tower Site and the loading of the Tower, an Access Seeker may upon agreement by the Access Provider be allowed to install three (3) RF antennas and one (1) microwave antenna/dish with a maximum diameter of 0.6 meters or 1.2 meters (depending on the Tower) per Associated Tower Site and may be provided land space for a cabin not more than 3.6 meters x 2.7 meters in diameter. In any case, the Equipment to be allowed per Tower and Associated Tower Site shall be upon agreement of the parties.

- b. In the event that the Access Seeker wishes to install more than the maximum number of dishes and/or antennas at any Tower or dishes in excess of 1.2 meters or 0.6 meters (where applicable) in diameter, subject to the consent by the Access Provider and also subject to the available land space and Tower loading, the Access Seeker shall pay the following additional Access Charges:-
 - i. RM500.00 per month for any additional RF antennas or dishes measuring less than 1.2 meters or 0.6 meters (where applicable) in diameter; and
 - ii. RM1,000.00 per month for any dishes measuring more than 1.2 meters or 0.6 meters (where applicable) in diameter.

- c. In the event there is Additional Infrastructure under a Variation Order already existing at the Tower, the additional Access Charges payable for the site per RM1,000.00 of the cost of the Additional Infrastructure under the Variation Order (for example generator set, cabin etc) are as follows:-

Cost for User	Additional Access Charges (per month per User) for every RM1,000.00
Cost per User (2 Sharing Parties)	17.32
Cost per User (3 Sharing Parties)	10.83
Cost per User (4 Sharing Parties)	8.66
Cost per User (5 Sharing Parties)	7.58
Cost per User (6 Sharing Parties)	6.93

- d. The Access Charges that will be payable by the Access Seeker will be dependent on the number of telecommunication companies (Access Seeker and other licensees (if any) ("User(s)")) using any particular Tower.
- e. If in the event the number of Users per Tower increases, the Access Charges payable by the Users will be revised downwards as per the payment structure above. There shall be no further reduction for the Access Charges if the Users for any Tower exceed six (6).
- f. If in the event the number of Users per Tower reduces, the following shall happen:-
 - i. in cases where the exiting User had taken a rental/license for a maximum period of Three (3) years only, the remaining Users will be subject to an upward revision of the Access Charges, back to the tier higher than the current Access Charges paid by them; and
 - ii. in cases where the exiting User had taken a license for a minimum period of Ten (10) years only and the following happens:-
 - 1. when the land rental for the Site as imposed by its landowner exceed the amount of RM5,000.00 and the Access Seeker wishes not to continue to contribute towards the land rental equally with the other Users at the Site and exits the Site upon agreement of the Access Provider; or
 - 2. when a User other than the Access Seeker exits a Tower upon the completion of its rental/license period with the Access Provider pursuant to any agreement between them and does not renew or extend the said period;

then the remaining Users will be subject to an upward revision of the Access Charges, back to the tier higher than the current Access Charges paid by them; and
 - iii. in other cases than stated above, the remaining Users will not be subject to an upward revision of the Access Charges and will continue paying the current Access Charges.
- g. In any case, the Access Charges payable by the Access Seeker to the Access Provider to gain access at any Tower shall be at the rate the other current User is paying the Access Provider, with discounts to be agreed upon other Users utilizing the same site and subject always to paragraph (a) above.
- h. Nevertheless, in the event that an Access Seeker is interested to appoint the Access Provider to undertake the Project, subject to the relevant agreement(s) is/are entered

into between the parties upon terms and conditions agreed upon which shall include amongst others that the Access Term to be for a minimum period of at least ten (10) years, the Access Provider may offer the following rates for the Access Charges to the Access Seeker for heavy duty telecommunication towers of T2 specifications:

Tower Height	Type	Single	2 Sharing	3 Sharing	4 Sharing	5 Sharing	6 Sharing
150 feet	Heavy Duty	RM6,426	RM3,672	RM2,916	RM2,624	RM2,362	RM2,126
200 feet	Heavy Duty	RM8,883	RM5,076	RM4,104	RM3,694	RM3,324	RM2,992
250 feet	Heavy Duty	RM9,450	RM5,400	RM4,320	RM3,888	RM3,499	RM3,149
300 feet	Heavy Duty	RM12,075	RM6,900	RM5,500	RM4,950	RM4,455	RM4,009
350 feet	Heavy Duty	RM15,225	RM8,700	RM6,900	RM6,210	RM5,589	RM5,030
400 feet	Heavy Duty	RM17,325	RM9,900	RM7,900	RM7,110	RM6,399	RM5,759

(Paragraphs (c) till (f) above are applicable for Projects as well.)

- i. In the event that the Project involves Towers other than the types in paragraph (h) above or involving floodlights, aesthetic towers, monopoles and towers below 200 feet or 200 feet and beyond, the formula for the purpose of determining the Access Charges shall be based on the following commercial principles (the formula below is for calculation purpose only and not as indication of any fact):-
 - i. Total Interest and Principal based on rate of 6.5% per annum over 7 years;
 - ii. Total Repayment over 7 years;
 - iii. Markup for 2 Sharing Parties = 25%;
 - iv. Markup for 3 Sharing Parties = 50%;
 - v. Markup for 4 Sharing Parties = 75%;
 - vi. Markup for 5 Sharing Parties = 100%;
 - vii. Markup for 6 Sharing Parties = 125%;
 - viii. Schedule of Rates for calculation purpose is based on 15% above current (at time of construction) JKR rate or as agreed between parties;
 - ix. The cost of the Project and the Access Charges for Towers involving lamp poles,

floodlights, aesthetic towers, monopoles, towers and any other telecommunication infrastructure below 200 feet not as per the Tower under paragraph (h) above, shall be calculated in the following manner:-

DESCRIPTION	COST	REMARKS
Cost of the relevant aesthetic towers, floodlights, monopoles, towers below 200 feet and other infrastructure not provided for under paragraph (h) above (including Civil, Structural, Mechanical and Electrical Works) (RM), A	A	15% above current (at time of construction) JKR rate or to be agreed between Parties where no JKR Rate is available
OPEX Cost (RM) for seven (7) years for purpose of calculation only, B	B=RM226,800.00	OPEX is for base rental of site at RM2,000.00 only per month and other expenses totalling RM32,400.00 per year SAVE AND EXCEPT for any increase of rental beyond RM2,000.00 shall be equally shared between the Users.
Total Interest based on rate of 6.5% per annum over 7 years for purpose of calculation only (RM), C	$C=(A \times 0.065 \times 7 \text{ years})$	
Total Cost of the aesthetic towers, floodlights, monopoles, towers below 150 feet and beyond 400 feet and other Infrastructure not provided	D= A+B+C	

for above (RM), D		
Total Repayment per month (RM), E	$E = D / (12 \times 7)$	
Cost per Single User, F	$F = E$	
Cost per User (2 Sharing Parties), G	$G = (1.25 \times F) / 2$	Rounded off to the nearest RM100 using Microsoft Excel "round" function
Cost per User (3 Sharing Parties), H	$H = (1.50 \times F) / 3$	Rounded off to the nearest RM100 using Microsoft Excel "round" function
Cost per User (4 Sharing Parties), I	$I = (1.75 \times F) / 4$	Rounded off to the nearest RM100 using Microsoft Excel "round" function
Cost per User (5 Sharing Parties), J	$J = (2.0 \times F) / 5$	Rounded off to the nearest RM100 using Microsoft Excel "round" function
Cost per User (6 Users), K	$K = (2.25 \times F) / 6$	Rounded off to the nearest RM100 using Microsoft Excel "round" function

- x. The cost of the Project and the Access Charges for Towers involving 4 legged towers, aesthetic towers and any other telecommunication infrastructure 200 feet and above not as per the Towers under paragraphs (h) and (i)(ix) above, shall be calculated in the following manner:-

DESCRIPTION	COST	REMARKS
Cost of the Tower 200 feet and above not as per the Towers under paragraphs (h) and (i)(x) above (including Civil, Structural, Mechanical and Electrical	P	15% above current (at time of construction) JKR rate or to be agreed between Parties where no JKR Rate is available .

Works) (RM), P		
OPEX Cost (RM) taken for seven (7) years for purpose of calculation only, Q	$Q=RM315,000.00$	OPEX is for base rental of site at RM3,000.00 only per month and other expenses totalling RM45,000.00 per year SAVE AND EXCEPT for any increase of rental beyond RM3,000.00 shall be equally shared between the Users
Total Interest based on rate of 6.5% per annum over 7 years for purpose of calculation only (RM), R	$R=(P \times 0.065 \times 7 \text{ years})$	
Total Cost (RM), S	$S= P+Q+R$	
Total Repayment per month (RM), T	$T= S/(12 \times 7)$	
Cost per Single User, U	$U= T$	
Cost per User (2 Users), V	$V=(1.25 \times U)/2$	Rounded off to the nearest RM100 using Microsoft Excel "round" function
Cost per User (3 Users), W	$W=(1.50 \times U)/3$	Rounded off to the nearest RM100 using Microsoft Excel "round" function
Cost per User (4 Users), X	$X=(1.75 \times U)/4$	Rounded off to the nearest RM100 using Microsoft Excel "round" function
Cost per User (5 Users), Y	$Y=(2.0 \times U)/5$	Rounded off to the nearest RM100 using Microsoft Excel "round" function
Cost per User (6 Users), Z	$Z=(2.25 \times U)/6$	Rounded off to the nearest RM100 using Microsoft

		Excel "round" function
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- xi. In the event there is OPEX Cost to be incurred for a specific site where Additional Infrastructure under a Variation Order is involved, the OPEX Cost shall for purpose of calculation only, be calculated over a period of seven (7) years as per the tables above.
- xii. The rates in Ringgit Malaysia (RM) per RM1,000.00 of the cost of the Additional Infrastructure for the Project under the Variation Order (for example generator set, cabin etc) are as follows:-

Cost for User	Additional rate for 1st to 10th year (per month per User) for every RM1,000.00
Cost per Single User	17.32
Cost per User (2 Sharing Parties)	10.83
Cost per User (3 Sharing Parties)	8.66
Cost per User (4 Sharing Parties)	7.58
Cost per User (5 Sharing Parties)	6.93
Cost per User (6 Sharing Parties)	6.50

- xiii. However, for any telecommunication structure to be constructed on sites situated on islands (land area surrounded by water whether salt or fresh water) or for sites situated at highlands (gradient exceeding 15%), all of the abovesaid rates for the Additional Access Charges shall be added thereon an amount equivalent to 15% each or any other amount decided by the Access Provider.
- j. If in the event the land rental charged on the Access Provider for the Associated Tower Site shall exceed RM2,000.00/RM3,000.00 (depending on Tower), the excess thereof (as applicable) shall be equally shared by the Users of a Tower and its Associated Tower Site.

ANNEXURE 1
CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on

BETWEEN

ADVANCED RESEARCH COMMUNICATION SDN. BHD. (Comp No: 1077334-H), a company incorporated in Malaysia with its registered address at 5411-E, 2nd Floor, Jalan Kuala Krai, 15050 Kota Bharu, Kelantan. (hereinafter referred to as "the Access Provider") of the one part;
AND

(hereinafter referred to as "Access Seeker") of the other part.

WHEREAS:-

A. The Access Provider is a licensed individual network facilities provider under the Communications and Multimedia Act 1998.

B. The parties are discussing certain matters thereby necessitating the exchange of information for the purpose of determining their respective interests in establishing a business relationship between them.

C. The parties wish to defend their rights with respect to the said information and to protect the confidentiality thereof and proprietary features contained therein.

NOW THIS AGREEMENT WITNESSETH as follows:-

1. Definition

"Confidential Information" means all oral or written information of any kind, whether in printed or electronic format, including but not limited to technical information, data or know-how which relates to research, product plans, product, services, customers, markets, software, developments, inventions, process, designs, drawings, engineering, hardware and software configuration information, marketing or finance or any form of business plans whether or not labeled as "Confidential" and submitted by one party to the other party during the discussions and/or meetings, which Confidential Information is designated in writing to be confidential or proprietary or if given orally, is confirmed promptly in writing as having been disclose as confidential or proprietary.

"Disclosing Party" means the party from whom the Confidential Information originates and is disclosed to the Recipient.

"Recipient" means the party to whom the Confidential Information is given or disclosed.

2. Non-Disclosure of Confidential Information

- a. The Recipient agrees not to use any Confidential Information disclosed to it by the Disclosing Party for its own use or for any purpose except to carry out discussions concerning and the undertaking of any business relationship between the two.
- b. The Recipient will not disclose any Confidential Information of the Disclosing Party to third parties or to employees or agents of the Recipient except employees and/or agents who are required to have the information in order to carry out the discussion of the contemplated business.
- c. The Recipient agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the Disclosing Party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized hereunder to have any such information, which measures shall include the highest degree of care that the Recipient utilize to protect its own Confidential Information of a similar nature.
- d. The Recipient agrees to notify the Disclosing Party in writing of any misuse or misappropriation of Confidential Information of the Disclosing Party which may come to the Recipient attention.

3. Information excluded from Confidentiality

The obligation imposed upon either party herein shall not apply to information which:

- i. is in the possession of the Recipient at the time of disclosure as shown by the Recipient's files and records immediately prior to the time of disclosure; or
- ii. prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the Recipient; or
- i. is approved in writing by the Disclosing Party for release; or
- ii. is independently developed by the Recipient; or
- iii. is disclosed to a third party pursuant to written authorisation from the Disclosing Party; or
- iv. is received from a third party without similar restrictions as against the Receiving Party; or
- v. is disclosed pursuant to a requirement or request of a Government agency, but only to the extent so ordered.

4. No Commitment

Nothing in this Agreement imposes on either party an obligation to enter into any agreement or transaction.

5. Return of Materials

Any materials or documents which have been furnished by the Disclosing Party to the Recipient will be promptly returned, accompanied by all copies of such documentation, after the business possibility has been rejected or concluded.

6. Patent or Copyright Infringement

Nothing in this Agreement is intended to grant any rights to the Recipient under any patent or copyright nor shall this Agreement grant the Recipient any rights in or to the Disclosing Party's Confidential Information which was given solely for the purpose of determining whether to enter into the proposed business relationship with the Disclosing Party.

7. Term

The foregoing commitments of the Recipient shall survive any termination of discussions between the parties and shall continue for a period of two (2) years following the date of this Agreement.

8. Miscellaneous

This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that Confidential Information of the Disclosing Party may not be assigned without the prior written consent of the Disclosing Party. Failure to enforce any provision of this Agreement shall constitute a waiver of any term hereof.

9. Governing Law

This Agreement shall be governed by and construed and enforced in accordance with the laws of Malaysia and shall be binding upon the parties hereto in Malaysia and worldwide. The courts of Malaysia shall have exclusive jurisdiction to hear and determine all actions and proceedings arising out of this Agreement and the Recipient hereby submits to the jurisdiction of the courts of Malaysia for the purpose of any such actions and proceedings.

10. Remedies

The Recipient agrees that the obligations of the Recipient provided herein are necessary and reasonable in order to protect the Disclosing Party and its business and the Recipient expressly agrees that monetary damages would be inadequate to compensate the Disclosing Party for

any breach by the Recipient of its covenants and agreement set forth herein. Accordingly, the Recipient agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the Disclosing Party and that in addition to any other remedies that may be available, in law, in equity or otherwise, the Disclosing Party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the Recipient without the necessity of providing actual damages.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands the day and year first abovewritten.

SIGNED by)

for and on behalf of)

the Access Provider)

in the presence of)

SIGNED by)

for and on behalf of)

the Access Seeker)

in the presence of:-)