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STATUTORY INSTRUMENTS

1999 No. 2450

TELECOMMUNICATIONS

**The Telecommunications
(Licence Modification)
(Standard Schedules)
Regulations 1999**

<i>Made - - - - -</i>	<i>3rd September 1999</i>
<i>Laid before Parliament</i>	<i>6th September 1999</i>
<i>Coming into force - -</i>	<i>27th September 1999</i>



S T A T U T O R Y I N S T R U M E N T S

1999 No. 2450

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**The Telecommunications (Licence Modification)
(Standard Schedules) Regulations 1999**

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The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in respect of measures relating to telecommunications, in the exercise of the powers conferred on him by that section, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Telecommunications (Licence Modification) (Standard Schedules) Regulations 1999 and shall come into force on 27th September 1999.

Effect of Schedules

2. References to “the standard Schedules” in licences granted by the Secretary of State under section 7 of the Telecommunications Act 1984 shall be references to the Schedules hereto.

3rd September 1999

Patricia Hewitt,
Minister of State for Small Business and E. Commerce,
Department of Trade and Industry

(a) S.I. 1996/266.

(b) 1972 c. 68.

SCHEDULE 1

Regulation 2

CONDITIONS INCLUDED UNDER SECTION 7 OF THE ACT

PART 1:

DEFINITIONS AND INTERPRETATION RELATING TO THE CONDITIONS
IN SCHEDULE 1

1. In this Schedule unless the context otherwise requires:

“Accounting Rate Service” means each telecommunication service to each country and territory for which a separate accounting rate has been agreed, not including Transit Services;

“Act” shall have the meaning it has in paragraph 1 of this Licence;

“Additional Conveyance Costs” means any costs incurred by a Donor Operator associated with resources used in:

(i) effecting the switch-processing required to set up each ported call; and

(ii) providing the switch and transmission capacity for any part of the duration of each ported call, additional to the costs of conveyance of non-ported calls from the Applicable Systems to the Recipient Operator’s system;

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

“Applicable Systems” has the meaning given to it in paragraph 6 of this Licence;

“Applicable Terminal Equipment” means apparatus which is applicable terminal equipment within the meaning of regulation 4 of the Telecommunications Terminal Equipment Regulations 1992 (S.I. 1992/2423);

“Approval” and “Approved” mean approval and approved under section 24 of the Act;

“Approved Apparatus” means apparatus approved under section 22 of the Act for connection to the system to which this Licence relates or which is Compliant Terminal Equipment;

“Associated Person” means any member of the Licensee’s Group or a person with a Participating Interest in a member of the Licensee’s Group or in whom a member of the Licensee’s Group has a Participating Interest;

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

“Auditor” means the Licensee’s auditor for the time being appointed in accordance with the requirements of the Companies Act 1985;

“Authorised Overseas System” means any telecommunication system outside the United Kingdom to which the Applicable Systems are authorised to be connected under Schedule 3;

“Billing Process” means Billing Systems and Metering Systems taken together;

“Billing System” means the totality of all apparatus, data, procedures and activities which the Licensee employs to determine the charges to be sought for Service usage recorded by a Metering System based on published or previously negotiated pricing structures and to present these charges on customers’ bills;

“Bringing into Service” means the process of connecting by means requiring the use of a tool telecommunication apparatus (including apparatus comprised in a telecommunication system) or a telecommunication system to another telecommunication system, or the process of disconnecting by such means such apparatus or such system from another such system; and includes such testing or inspection of that apparatus or system and any other apparatus or system to which it is or is to be connected as is necessary for the purpose of ensuring that the apparatus or the system in which it is or is to be comprised, or the system, is authorised to be connected to any of the Applicable Systems;

“Call Box” means any kiosk, booth, acoustic hood, shelter or similar structure which includes a Call Office at which apparatus is installed for the provision of voice telephony services to the public or a class of the public together with such apparatus;

“Call Box Services” means the installation, repair and maintenance of Call Boxes, the service of conveying by means of the Applicable Systems voice telephony messages to and from such Boxes, directory information services relating to switched voice telephony services available at such Boxes and Public Emergency Call Services so available;

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

“Chatline Service” means a service which consists of or includes the enabling of more than two persons (“the Participants”) simultaneously to conduct a telephone conversation with one another without either:

(i) each of them having agreed with each other; or

(ii) one or more of them having agreed with the person enabling such a telephone conversation to be conducted,

in advance of making the call enabling them to engage in the conversation, the respective identities of the other intended Participants or the telephone numbers on which they can be called. A service by which one or more additional persons who are known (by name or telephone number) to one or more of the parties conducting an established telephone conversation can be added to that conversation by means of being called by one or more such parties is not on that account a Chatline Service if it would not otherwise be regarded as such a service;

“Code of Practice” means for the purposes of Condition 29, a code of practice prepared and disseminated by the Data Protection Commissioner (or, before the commencement of the Data Protection Act 1998 by the Data Protection Registrar) or by a trade association where, in the case of the latter, the said Commissioner (or Registrar) has notified the trade association that in his opinion the code promotes the following of good practice;

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

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

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

“Competitive Standard Service” means a service which, unless a contrary determination by the Director applies pursuant to Condition 47.10:

- (i) a Schedule 2 Public Operator has requested the Licensee to offer to enter into an agreement to provide under Condition 45;
- (ii) the market for which has been determined by the Director to be competitive under Condition 47.10(a);

“Compliant Terminal Equipment” means Applicable Terminal Equipment which satisfies the requirements of regulation 8 of the Telecommunications Terminal Equipment Regulations 1992 (S.I. 1992/2423);

“Condition” means a Condition in this Schedule;

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

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

“Consumer” means, for the purposes of Conditions 7 and 14 and Part D of this Licence, any natural person who uses a Publicly Available Telephone Service for purposes which are outside his trade, business or profession;

“Controlled Service” means:

- (i) a Chatline Service; or
- (ii) a Live Conversation Message Service;

“Conventions” has the meaning given to it in Condition 26.5;

“Customer Interface” means the Technical Characteristics of each Interface at any Network Termination Point within an item of Network Connecting Apparatus relating to Network Services provided by means of the Applicable Systems;

“Customer Interface Specification” means a description of a Customer Interface;

“Directory Information” means, in the case of directories, the name, address and telephone number of the Subscriber and, in the case of a Directory Information Service, may include the telephone number only of the Subscriber or information that the telephone number of the Subscriber may not be supplied;

“Directory Information Service” for the purpose of Conditions 2 and 29, means Directory Information provided by means of a telephone system;

“Donor Operator” means the Licensee, where any Number allocated by the Licensee (or any third party providing telecommunication services by means of the Applicable Systems of the Licensee) is the subject of any agreement or proposed agreement under which Portability will be provided, or any Qualifying Operator where any Number allocated by the Qualifying Operator (or any third party providing telecommunication services by means of the Applicable Systems of the Qualifying Operator) is the subject of any agreement or proposed agreement under which Portability will be provided to the Recipient Operator;

“Dwelling-House” has the same meaning as in section 202 of the Broadcasting Act 1990;

“Emergency” means an emergency of any kind, including any circumstance whatever resulting from major accidents, natural disasters and incidents involving toxic or radio-active materials;

“Emergency Organisation” means in respect of any locality:

- (i) the relevant public police, fire, ambulance and coastguard services for that locality; and
- (ii) any other similar organisation in respect of which any public telecommunications operator licensed to operate in the locality in question is providing a Public Emergency Call Service on the day on which this Licence enters into force;

“End-user” means for the purposes of the definition of “Network Service” any person running a telecommunication system authorised to be connected to the Applicable Systems, not being a person running a telecommunication system under a licence granted to a particular person by the Secretary of State under section 7 of the Act;

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

“Exchange Line” means telecommunication apparatus (within the meaning of Schedule 2 to the Act) comprised in the Applicable Systems and installed for the purpose of connecting a telephone exchange run by the Licensee to a Network Termination Point comprised in Network Termination and Testing Apparatus installed by the Licensee for the purpose of providing voice telephony services at the premises at which the Network Termination and Testing Apparatus is located;

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

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

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

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

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

“Functional Specification” means a document published from time to time by the Director following consultation with the Licensee and Interested Parties which specifies technical and other principles which are intended to enable the efficient implementation and utilisation of Portability;

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

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

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

“Information” (without prejudice to the generality of this term throughout the Licence), for the purposes of Condition 12 includes accounts, estimates and returns;

“Integrated Services Digital Network” (ISDN) means a network evolved from the telephony integrated digital network that provides for end-to-end digital connectivity to support a wide range of services, including voice and non-voice services, to which users have access by a limited set of standard multi-purpose customer interfaces;

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

“Interconnection Directive” means Directive 97/33/EC on interconnection in telecommunications with regard to ensuring universal service and interoperability through the application of the principles of open network provision (ONP);

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

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

“Interface” means a Customer Interface or a Network Interconnection Interface, as appropriate;

“Interface Control” means that the Director has determined for the purposes of Condition 15 that the Licensee has sufficient influence to affect competition adversely in the manufacture of telecommunications apparatus by its ability to influence the costs and timescales which would be incurred by another Operator, or supplier of telecommunications apparatus, including a manufacturer, in adopting the Licensee’s intended Interface Specification, or a comparable specification provided by another party;

“Interface Specification” means a Customer Interface Specification, or a Network Interconnection Interface Specification, as appropriate;

“International Business” means the provision of telecommunication services consisting in the conveyance of Messages to countries or territories outside the United Kingdom (and including, without limitation, International Simple Data Resale Services and International Simple Voice Resale Services) carried on under a Licence and includes the running of such parts of the Applicable Systems as are used for the provision of those services, and the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of such Systems and any apparatus comprised therein;

“International Conveyance Service” means a telecommunication service other than an International Simple Data Resale Service or an International Simple Voice Resale Service, or both, which consists in the conveyance of any Message by means of the Applicable Systems which has been or is to be conveyed by means of any telecommunication system outside the United Kingdom which is one to which the Applicable Systems are authorised by Schedule 3 to this Licence to be connected;

“International Directory Service” means the provision by means of the Applicable Systems of the telephone number, or information that the telephone number may not be supplied, of any natural or legal person located outside the United Kingdom;

“International Simple Data Resale Services” means telecommunication services consisting in the conveyance of Messages which do not include two-way live speech, but include only such switching, processing, data storage or protocol conversion as is necessary for the conveyance of those Messages in real time, which have been or are to be conveyed by means of all of the following:

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

“International Simple Resale Service” means a telecommunication service consisting in an International Simple Data Resale Service, or an International Simple Voice Resale Service, or both;

“International Simple Voice Resale Services” means telecommunication services consisting in the conveyance of Messages which include two-way live speech which have been or are to be conveyed by means of all of the following:

- (i) a Public Switched Network;
- (ii) an International Simple Resale Bearer Circuit; and
- (iii) the equivalent of a Public Switched Network in another country or territory;

“ITU-T” means the International Telecommunication Union;

“Leased Lines Directive” means Council Directive 92/44/EEC on the application of open network provision to leased lines as amended by Council Directive 97/51/EC amending Council Directives 90/387/EEC and 92/44/EEC for the purpose of adaptation to a competitive environment in telecommunications;

“Leased Lines Regulations” means the Telecommunication (Open Network Provision and Leased Lines) Regulations 1997 (S.I. 1997/2932);

“Licence” shall have the meaning it has in paragraph 5 of this Licence;

“Licensee’s Subscriber” means any natural or legal person who or which is a party to a contract with the Licensee for the supply by means of the Applicable Systems of Publicly Available Telephone Services in the United Kingdom to that person;

“Live Conversation Message Service” means a Message Service (other than a directory information service) which consists in the provision of live telephone conversation for any purpose, whether or not including the provision of information of any kind:

- (i) between the person providing the service (or a person acting on his behalf) and a person who obtains the service; or
- (ii) between a person who has independently called the service for the purpose of conducting a telephone conversation with one other such person, and such another person,

and, for the avoidance of doubt, it does not include a service provided by a human operator of the Licensee which is incidental to the conveyance of a voice telephony message;

“Major Office” means the Licensee’s registered office and such other offices as the Director may agree from time to time;

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

“Message Service” means a service which consists of, or includes, the sending of speech, music or other sounds or signals to any person who obtains access to that service by means of a Public Switched Network;

“Meter” means any system or apparatus constructed or adapted for use in ascertaining the extent of telecommunication services provided by means of the Applicable Systems;

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

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

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

“National Numbering Conventions” has the meaning given to it in Condition 26;

“Network Charge Change Notice” has the meaning given to it in Condition 47;

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

“Network Interconnection Interface” means the Technical Characteristics of each interface at any Network Termination Point within an item of Network Connecting Apparatus relating to Network Services provided by means of any of the Applicable Systems;

“Network Interconnection Interface Specification” means a description of a Network Interconnection Interface;

“Network Service” means any of the following:

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

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

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

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

(A) to supply energy between such Apparatus and the Applicable Systems;

(B) to protect the safety or security of the operation of the Applicable Systems; or

- (C) to enable other operations exclusively related to the running of the Applicable Systems to be performed or the due functioning of any system to which the Applicable Systems are or are to be connected to be tested (separately or together with the Applicable Systems);
- “Network Termination Point” has the meaning given in Annex A;
- “New Standard Service” means a service which, unless a contrary determination by the Director applies pursuant to Condition 47.10:
- (i) the Licensee first provides after it has been determined by the Director to be an Operator having Significant Market Power pursuant to regulation 4(1) of the Interconnection Regulations;
 - (ii) a Schedule 2 Public Operator has requested the Licensee to offer to enter into an agreement to provide under Condition 45;
- “Non-Geographic Portability” means Portability relating to Numbers allocated in accordance with the rules for the allocation of Numbering Ranges other than Geographic Numbering Ranges as provided for in the National Numbering Conventions but excluding Portability relating to Numbers allocated for use with Mobile Radio Telecommunication Services;
- “Notifying Licensee’s Interface Specification” means any Interface Specification which has been notified by any Operator, other than the Licensee, pursuant to a condition in that Operator’s Licence which is similar to Condition 15;
- “Number” means:
- (i) except for the purpose of Condition 27, any identifier which would need to be used in conjunction with any public switched telecommunication service for the purposes of establishing a connection with any Network Termination Point, user, telecommunication apparatus connected to any Public Switched Network or service element, but not including any identifier which is not accessible to the generality of users of a public switched service;
 - (ii) for the purpose of Condition 27, any identifier, (including any name or address) of any user, telecommunication apparatus, or telecommunication service related element;
- “Number Portability” means a facility whereby Subscribers who so request can retain their number on a Fixed Public Telephone System at a specific location independent of the organisation providing the service;
- “Numbering Plan” means a plan describing the method adopted or to be adopted for allocating and re-allocating a Number to any Network Termination Point, user, telecommunication apparatus or service element;
- “Numbering Ranges” means numbering ranges as described in the National Numbering Conventions;
- “ONP Framework Directive” means Council Directive 90/387/EEC on the establishment of the internal market for telecommunications services through the implementation of open network provision as amended by European Parliament and Council Directive 97/51/EC for the purpose of adaptation to a competitive environment in telecommunications;
- “Operator” for the purposes of Schedule 1 except Condition 28 means any person running a telecommunication system for the purpose of providing telecommunication services;
- “Operator” for the purposes of Condition 28 means any person authorised to provide telecommunication services not being prohibited from receiving any financial benefit from such provision of such services, and obliged by virtue of provisions in the Licence authorising the provision of such services to adopt a Numbering Plan for such Numbers as may have been allocated by the Director to that person in accordance with the National Numbering Conventions;
- “Parent Undertaking” has the same meaning as in section 258 of the Companies Act 1985 as substituted by section 21 of the Companies Act 1989;
- “Participating Interest” has the same meaning as in section 260 of the Companies Act 1985 as substituted by section 22 of the Companies Act 1989;
- “Point of Connection” means a point at which the Applicable Systems and an Operator’s system are connected;
- “Portability” means a facility which may be provided by the Licensee and by any Qualifying Operator (as the case may be) to each other, or where the Licensee is acting in the capacity of a Qualifying Operator, by the Licensee and by an Operator to each other, thereby enabling any person to whom a Number has been allocated (whether by the Licensee, any Qualifying Operator or any third party as the case may be) to continue to be provided with any telecommunication service by reference to the same Number irrespective of the identity of the person providing such a service;
- “Porting Customer” means a customer to whom the facility of Portability is in the process of being or has been provided;
- “Private Call Box” means a Call Box owned by or supplied to a person other than the Licensee or another public telecommunications operator at which Call Box Services are or may be provided;
- “Private Leased Circuit” means a communication facility which is:
- (i) provided by means of one or more public telecommunication systems;

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

“Process” means to obtain, record or hold data or information or to carry out any operation or set of operations on the data or information, including:

- (i) organisation, storage, adaptation, or alteration of the data or information;
- (ii) retrieval, consultation or use of the data or information;
- (iii) disclosure of the data or information by transmission, dissemination, or otherwise making available; or
- (iv) alignment, combination, blocking, erasing or destruction of the data or information;

“Prospectively Competitive Standard Service” means unless a contrary determination by the Director applies pursuant to Condition 47.10, a service:

- (i) which a Schedule 2 Public Operator has requested the Licensee to offer to enter into an agreement to provide under Condition 45;
- (ii) which the Director has determined pursuant to Condition 47.10(a) is likely to become competitive within a market specified by him, and within a period specified by him;

“Public Call Box” means a Call Box to which the public has access at all times which is neither a Private Call Box nor a Temporary Call Box and at which Call Box Services are or may be provided;

“Public Emergency Call Service” means a telecommunication service by means of which any member of the public may, at any time, communicate as swiftly as practicable with any of the Emergency Organisations for the purpose of notifying them of an Emergency;

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

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

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

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

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

“Qualifying Operator” has the meaning given to it in Condition 28.2;

“Recipient Operator” means any Qualifying Operator, where any Number allocated by the Licensee (or any third party providing telecommunication services by means of the Applicable Systems of the Licensee) is the subject of any agreement or proposed agreement under which Portability will be provided by the Donor Operator; or the Licensee where any Number allocated by the Qualifying Operator (or any third party providing telecommunication services by means of the Applicable Systems of the Qualifying Operator) is the subject of any agreement or proposed agreement under which Portability will be provided by the Donor Operator;

“Relevant Company” means:

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

“Relevant Consulting Period” means:

- (i) in the case of any Network Interconnection Interface Specification, six months from the date of notification to the Director;
- (ii) in the case of any Customer Interface Specification, 60 days from the date of such notification to the Director; or
- (iii) in the case of either Interface Specification, such other period as the Director agrees; and during this period the Director may consult with Interested Parties;

“Relevant Data Protection Legislation” means the Data Protection Act 1984 (until repealed), Directives 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and of the free movement of such data and 97/66/EC

of the European Parliament and Council concerning the processing of personal data and the protection of privacy in the telecommunications sector, and any enactment implementing those Directives;

“Relevant IN Platform” means the intelligent network platform within the Applicable Systems which is capable of ensuring that a Message to a non-geographic number may be correctly delivered;

“Relevant Party” means any person whom the Licensee might reasonably anticipate from the facts known to it would or might be required to modify, replace or cease to produce or supply any item of telecommunication apparatus connected or to be connected to any of the Applicable Systems as a result of any new or modified Interface Specification;

“Relevant Private Circuit” means a Private Leased Circuit:

- (i) at least one Network Termination Point of which is located within the United Kingdom and all the Network Termination Points of that circuit, and of any half circuit to which it is connected, are located within the European Economic Area; and
- (ii) where the agreement between the Licensee and the Users to provide the Private Leased Circuit does not provide for Messages to be conveyed thereby to be routed via a satellite link (notwithstanding that they may be so conveyed) where the Licensee is not authorised so to convey Messages consisting in live speech;

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

“Relevant Terminal Apparatus” means:

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

“Revised Voice Telephony Regulations” means the Telecommunications (Open Network Provision) (Voice Telephony) Regulations 1998 (S.I. 1998/1580);

“Schedule 2 Public Operator” means a Public Operator:

- (i) who is authorised within a Member State other than the United Kingdom to provide public telecommunication networks or publicly available telecommunication services or both and whose name has been notified to the European Commission under Article 18 of the Interconnection Directive as an organisation covered by Annex II of that Directive; or
- (ii) who
 - (A) is a Licensee whose name has been notified to the European Commission, by the United Kingdom, as an organisation covered by Annex II of the Interconnection Directive;
 - (B) is authorised to provide switched and unswitched bearer capabilities to Users upon which other telecommunication services depend; and
 - (C) does any of the following:
 - (AA) runs public switched systems, or provides publicly available telecommunication services, or both, and in doing so controls the means of access to one or more Network Termination Points identified by one or more unique numbers in the Specified Numbering Scheme;
 - (BB) provides leased lines to Users’ premises;
 - (CC) makes available International Simple Resale Bearer Circuits;
 - (DD) runs public switched systems, or provides publicly available telecommunication services, or both, and in doing so controls the means of access, for the services concerned, to one or more end-users identified by one or more unique identifiers within an internationally recognised numbering and addressing plan;
 - (EE) provides publicly available telecommunication services and in doing so controls the means of access for the services concerned, to one or more end users identified by one or more unique numbers in the Specified Numbering Scheme; or
 - (FF) provides publicly available switched or unswitched bearer services between telecommunication systems run by one or more third parties;

“Scheme” for the purposes of Condition 26 has the meaning given in Condition 26.1, and for the purposes of Condition 41 has the meaning given in Condition 41.1;

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

“Service” for the purpose of Condition 12 includes any service provided by any person to whom the Licensee is bound to account for any part of the amount charged by the Licensee;

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

“Shares” has the same meaning as in section 259(2) of the Companies Act 1985, as substituted by section 22 of the Companies Act 1989, and the term “Shareholding” shall be construed accordingly; “Specified Numbering Scheme” means a scheme for the allocation and re-allocation of Numbers for the purposes of any of the switched Applicable Systems and the systems of other licensed Operators which is specified by the Director for the purpose of this Licence and described in a list kept for that purpose by him and made available by him for inspection by the general public;

“Specified Person” means a person specified for the time being by the Director (and who has consented to be so specified) for the purpose of keeping and making available for inspection by the general public a list such as is referred to in Condition 18;

“Standard List” means the list of Standard Services;

“Standard Service” means a Competitive Standard Service, a Prospectively Competitive Standard Service, a New Standard Service, or any other service which a Schedule 2 Public Operator has requested the Licensee to offer to enter into an agreement to provide under Condition 45;

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

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

“Supplemental Services Business” means the following activities of the Licensee taken together:

- (i) the provision in the United Kingdom by the Licensee of Value Added Services;
- (ii) the running of any Value Added Applicable System;
- (iii) the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of any apparatus comprised or to be comprised in a Value Added Applicable System used solely to provide a Value Added Service; and
- (iv) the conveyance of Messages by means of any Value Added Applicable System or by means of any Network Service which has been made available by the Systems Business to the Supplemental Services Business for the purpose of providing a Value Added Service;

“System Set-Up Costs” means the incurred costs of the Donor Operator;

“Systems Business” means the following activities of the Licensee or of any wholly owned Subsidiary to the extent that they are undertaken in the United Kingdom taken together:

- (i) the running of the Applicable Systems except where such running is part of the Supplemental Services Business;
- (ii) the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of any apparatus comprised or to be comprised in the Applicable Systems where those activities are not part of the Supplemental Services Business;
- (iii) without prejudice to the generality of sub-paragraph (i) or (ii) above the Bringing into Service of any item of telecommunication apparatus or telecommunication system connected or to be connected to any of the Applicable Systems whether comprised in any of those systems or not; and
- (iv) without prejudice to the generality of sub-paragraph (i) above the provision of Network Services;

“Technical Characteristics” means the physical, electrical and other relevant characteristics and the network interworking and service management protocols;

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

“Telephone” means an item of telecommunication apparatus capable when connected to the Licensee’s public switched telecommunication system, of transmitting and receiving uninterrupted simultaneous two way speech conveyed, or as the case may be, to be conveyed, by means of the Applicable Systems;

“Temporary Call Box” means a Call Box run by the Licensee which is mobile or is installed for a limited period or is permanently installed but at which Call Box Services are provided to the public or a class of the public for limited periods of time;

“Terminal Equipment” means telecommunication apparatus which is connected to another telecommunication system by means of which telecommunication services are provided to the public and which is used for the transmission, reception or storage of Messages;

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

“Transfer Charge” means the charge which is applied by the Licensee to itself or to any member of the Licensee’s Group for the use or provision of a service which is the same as a Standard Service;

“Transit Service” means any telecommunication service consisting in the conveyance of any Message which originates outside the United Kingdom and is not to be terminated within the United Kingdom and for which a separate accounting rate has been agreed;

“Users” means individuals, including Consumers, or organisations using or requesting Publicly Available Telephone Services;

“Value Added Applicable System” means that part of any of the Applicable Systems (other than a fixed link) which is used for the purpose of providing a Value Added Service provided by the Licensee, but only to the extent that it is or they are so used; and

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

2. Expressions cognate with those referred to in this Schedule shall be construed accordingly.
3. Any reference in any Condition in this Schedule, however expressed, to the Director notifying the Licensee about any matter, affording the Licensee an opportunity to make representations, taking representations made by the Licensee into account or explaining, or giving reasons for any matter to the Licensee, shall be without prejudice to any obligation of due process or similar obligation which the Director is or may be under by virtue of any rule or principle of law or otherwise.
4. Subject to paragraph 5 below, if the Director is considering whether a determination, direction or consent under any Condition in this Licence is appropriate, he shall notify the Licensee and any Interested Parties of his proposed decision or the options which he is considering, and his reasons, and give them a reasonable opportunity to make representations. On making or refusing a determination or direction or giving or refusing consent, he shall notify the Licensee and Interested Parties of the determination, direction or consent or refusal, as the case may be, and his reasons.
5. Paragraph 4 does not apply in relation to any determination, direction or consent the procedure for which is otherwise set out in this Licence or in or under any enactment.
6. Where the Director makes a determination for the purposes of Part A, B, C, D, E or F of Schedule 1, or decides that such a determination shall no longer apply, the procedure shall be as follows:
 - (a) the Director shall serve upon the Licensee a notice, with reasons, informing the Licensee that it appears to the Director that the Licensee is all or any of the following or is not all or any of the following, as the case may be:
 - (i) a Provider of Universal Services as referred to in Condition 38;
 - (ii) a supplier of telecommunication services as referred to in Condition 43;
 - (iii) an Operator having Significant Market Power for the purposes of the Interconnection Directive as referred to in Condition 44;
 - (iv) an Operator having Significant Market Power for the purpose of the Revised Voice Telephony Directive as referred to in Condition 51;
 - (v) an Operator having Significant Market Power for the purposes of the Leased Lines Directive as referred to in Condition 55;
 - (vi) an Operator having Market Influence as referred to in Condition 56;
 - (b) the notice in sub-paragraph (a) above shall be copied to Interested Parties at the same time as being served upon the Licensee;
 - (c) the Licensee and Interested Parties shall be given a period of not less than 28 days in which to make representations;
 - (d) the representations made by the Licensee or Interested Parties, or both, shall be published in such manner as the Director considers appropriate to bring such representations to the attention of the Licensee and Interested Parties (having regard to the wish of the Licensee or any Interested Party to keep matters contained in any representation confidential);
 - (e) the Licensee and Interested Parties shall be given a further period of not less than 28 days in which to make any observations on the representations which have been published;
 - (f) when the Director has considered the representations and any observations made, he shall prepare a draft decision and statement of reasons for that decision and send it to the Licensee, and any Interested Party who has submitted representations or observations, or both, giving those persons a period of not less than 14 days within which to comment; and
 - (g) after considering any comments received, the Director shall inform the Licensee of his decision, with reasons, and publish such decision in the same manner he published the representations referred to in paragraph 6(d) above.

PART 2:
GENERAL CONDITIONS

Condition 1

REQUIREMENT TO PROVIDE TELECOMMUNICATION SERVICES

1.1 If the Licensee provides Publicly Available Telephone Services, the Licensee shall comply with Condition 2 (Requirement to Provide Directory Services).

1.2 If the Licensee does not provide Publicly Available Telephone Services, the Licensee shall comply with Condition 3 (Requirement to Provide International Conveyance Services or International Directory Services).

Condition 2

REQUIREMENT TO PROVIDE DIRECTORY SERVICES

2.1 Where the Licensee provides Publicly Available Telephone Services by means of Applicable Systems in the United Kingdom, the Licensee shall, subject to paragraphs 2.4 and 2.7 below, on request by any end-user in the United Kingdom receiving such telephone services at Call Boxes provided by the Licensee or by means of apparatus lawfully connected to the Applicable Systems:

- (a) make available a Directory Information Service; and
- (b) provide directories.

2.2 The Licensee shall ensure that:

- (a) Directory Information concerning each of its Subscribers is included in a publicly available telephone directory, and as part of a Directory Information Service provided to end-users; and
- (b) each of its Subscribers has the right to verify, correct or request removal of such Directory Information relating to that Subscriber.

2.3 The Directory Information Service and directories referred to in paragraphs 2.1 and 2.2 above shall contain Directory Information on all Subscribers who have been allocated telephone numbers, including Subscribers provided with Publicly Available Telephone Services by any person, other than the Licensee, except to the extent that such Subscribers have expressed opposition to inclusion of Directory Information about them.

2.4 The obligation under paragraph 2.1(a) above does not apply to the Licensee:

- (a) to the extent that any Subscriber of the Licensee has decided not to receive such services; or
- (b) where the Licensee runs a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services, where such service incurs a charge to any Subscriber of the Licensee and where due warning has been given to that Subscriber in accordance with a direction made under regulation 34(3) of the Revised Voice Telephony Regulations.

2.5 The obligation in paragraph 2.2 above applies whether or not such directory or Directory Information Service is provided to that Subscriber by the Licensee, or by another person.

2.6 The directories referred to in this Condition may be produced by the Licensee or by another person, and shall be in a form approved by the Director whether printed or electronic or both, and shall be updated on a regular basis.

2.7 The Licensee may charge end-users a reasonable fee for making available the Directory Information Service and directories referred to in paragraph 2.1 above, and may charge its Subscribers a reasonable fee for inclusion of Directory Information in a directory or as part of the Directory Information Service referred to in paragraph 2.2 above.

2.8 Where the Licensee provides switched voice telephony services by means of any of the Applicable Systems which is connected to an Authorised Overseas System by means of which such services are provided then, if a Directory Information Service is provided by means of that Authorised Overseas System in respect of that Authorised Overseas System, the Licensee shall provide to any person to whom it provides switched voice telephony services by means of that Applicable System information as to how that person may avail himself by means of that Applicable System and that Authorised Overseas System when connected together of the Directory Information Service provided and shall take all reasonable steps to secure that that can be done.

2.9 The Directory Information Service provided by the Licensee under paragraph 2.1 and paragraph 2.8 shall include a service or information as the case may be which the Director determines to be satisfactory where the Directory Information is made available in a form which is appropriate to meet their needs to persons who are so blind or otherwise disabled as to be unable to use a telephone directory in a form in which it is generally available to persons to whom the Licensee provides services; and the services so provided to such persons shall from the date on which this Licence enters into force be provided free of charge or, if the Director is satisfied that this is not practicable, the Licensee shall provide, in accordance with the arrangements agreed with the Director, appropriate reasonable compensation in respect of charges that are paid.

2.10 Where the Licensee provides switched voice telephony services by means of any of the Applicable Systems which is connected to both:

- (a) an Authorised Overseas System by means of which such services are provided; and
- (b) a Connectable System in the United Kingdom by means of which such services are provided which is run under a Licence which does not authorise the connection of that system to a system outside the United Kingdom so as to convey Messages from the United Kingdom to a place outside the United Kingdom,

it shall not unreasonably refuse to provide to the operator of that Connectable System access to such Directory Information Services relating to the Authorised Overseas System as the Licensee makes available to those to whom it provides voice telephony services. However this obligation applies only where the Applicable Systems are connected to other telecommunication systems run under licences granted to persons generally, or to persons of a class, but not to a particular person.

Condition 3

REQUIREMENT TO PROVIDE INTERNATIONAL CONVEYANCE SERVICES

3.1 Where the Licensee is obliged to comply with this Condition by virtue of Condition 1.2, the Licensee shall take all reasonable steps to provide either:

- (a) International Conveyance Services to any Schedule 2 Public Operator who requests such Services to the extent necessary to satisfy all reasonable demands for such Services by such Operator; or
- (b) International Directory Services.

Condition 4

ACCESS TO EMERGENCY CALL SERVICES AND OPERATOR ASSISTANCE

4.1 The Licensee shall ensure that each user of a Call Box provided by the Licensee or of telecommunication apparatus by means of which the Licensee provides Publicly Available Telephone Services, which is lawfully connected to the Applicable Systems and which is capable of transmitting and receiving unrestricted two-way voice telephony services when so connected can:

- (a) access operator assistance services; and
- (b) access emergency services at no charge using the emergency call numbers "112" and "999" and without having to use coins or cards from pay telephones provided by the Licensee.

4.2 The obligation in paragraph 4.1(a) does not apply to the Licensee:

- (a) to the extent that a Subscriber of the Licensee has decided not to receive such services; or
- (b) where the Licensee runs a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services, in the case of services which incur a charge to the Subscriber of the Licensee and where due warning of disconnection has been given to the Subscriber in accordance with a direction made under regulation 34(3) of the Revised Voice Telephony Regulations.

Condition 5

CONNECTION OF SYSTEMS AND APPARATUS

5.1 The Licensee:

- (a) shall connect or permit the connection of, at a Network Termination Point within Network Termination and Testing Apparatus situated on Served Premises, the Applicable Systems to:
 - (i) any item of telecommunication apparatus which is approved for the time being for connection to that Applicable System under section 22 of the Act or is Compliant Terminal Equipment; or

- (ii) any other telecommunication system to which this Condition applies which is or is to be run by the Crown or which is composed of apparatus which is approved for connection to that system or is Compliant Terminal Equipment, which is owned by or supplied to another person; and
- (b) shall not discontinue such connection of any such apparatus or system lawfully made.

5.2 Apparatus shall not be regarded as approved for connection to any system for the purposes of paragraph 5.1 unless that apparatus is Compliant Terminal Equipment or has been so approved:

- (a) by the Secretary of State; or
- (b) by some other person by virtue of an authorisation given by the Secretary of State being an authorisation which required the person authorised, before approving any apparatus or designating any standard to which apparatus must conform if it is to be approved, to be satisfied that connection of the apparatus to the system would not be likely:
 - (i) to cause the death of, or personal injury to, or damage to the property of the Licensee or any person engaged in the running of that system; or
 - (ii) materially to impair the quality of any telecommunication service provided by means of that system or any system connected to it (other than the system being connected).

5.3 No apparatus or system is required under paragraph 5.1 to be, or to be permitted to be, connected or kept connected to the Applicable Systems if that apparatus, or any apparatus comprised in that system, as the case may be:

- (a) conformed to the relevant standard or standards at the time when the connection to the Applicable Systems was made but no longer does so and does not conform to the relevant standard or standards (if any) for the time being designated under section 22(6) of the Act;
- (b) was at the time when the connection to the Applicable Systems was made but has since ceased to be Compliant Terminal Equipment; or
- (c) while continuing to conform to the relevant standard is in the opinion of the Licensee liable to cause the death of, or personal injury to, or damage to the property of, the Licensee, or any person engaged in the running of the Applicable Systems or materially to impair the quality of any telecommunication service provided by means of the Applicable Systems and the Director has not expressed a contrary opinion.

5.4 Paragraphs 5.1, 5.2 and 5.3 do not apply to any system run by a Schedule 2 Public Operator to which Condition 9 or Part C applies, or to apparatus comprised in such a system.

5.5 Except with the consent of the Director the Licensee shall not connect nor permit to be connected any Relevant Terminal Apparatus to any of the Applicable Systems on Served Premises except by means of Network Termination and Testing Apparatus.

Condition 6

PROVISION BY OTHERS OF SERVICES BY MEANS OF THE APPLICABLE SYSTEMS

6.1 The Licensee shall permit any person, who is licensed to run a Connectable System under a Licence which authorises it to provide telecommunication services to others, including Connection Services, to provide such services whilst that Connectable System is connected to the Value Added Applicable Systems.

6.2 Subject to the provisions of Condition 22, the Licensee shall permit any person:

- (a) using telecommunication apparatus which is lawfully connected to the Applicable Systems or which is connected to another telecommunication system which itself has been lawfully connected to the Applicable Systems; or
- (b) running a telecommunication system which is so connected,

to provide by means of the Applicable Systems any service other than the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of telecommunication apparatus comprised in the Applicable Systems.

Condition 7

PUBLICATION OF CHARGES, TERMS AND CONDITIONS

7.1 The Licensee shall from time to time publish for Consumers a notice specifying its standard charges and terms and conditions with regard to access to the Public Telephone Systems run by it or provision of Publicly Available Telephone Services by it, or both (except to the extent that such charges and terms and conditions are published under paragraph 7.2(a) below). In particular, the Licensee shall

ensure that tariffs for end-users, any minimum contractual period, if relevant, and conditions for renewal of the contracts are presented clearly and accurately. Publication of the information specified in this paragraph shall be effected by:

- (a) placing a copy of such information in a publicly accessible part of every Major Office of the Licensee in such a manner and in such a place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe under Section 19(4) of the Act that the register of Licences and final and provisional orders is to be open for public inspection, or in the absence of any such order having been made by the Secretary of State, during normal office hours; and
- (b) sending a copy of such information or such part or parts thereof as are appropriate to any Consumer who may request such a copy.

7.2 The Licensee shall, except in so far as the Director may otherwise consent in writing, publish in the manner and at the times specified in paragraph 7.5 a notice specifying, or specifying the method that is to be adopted for determining:

- (a) its charges, terms and conditions on which it offers to provide each description of telecommunication service which the Licensee is obliged to provide under Conditions 2, 3 and 4 (to the extent such Conditions are applicable to the Licensee);
- (b) its charges, terms and conditions on which it offers to connect to the Applicable Systems any other apparatus or system which is not and is not to be comprised in the Applicable Systems in accordance with Condition 5; and
- (c) the charges, terms and conditions on which it offers to grant permission to allow others to provide services under Condition 6.

7.3 The Licensee shall, where it does any of the things described in paragraph 7.2, do those things at the charges and on the terms and conditions so published and not depart therefrom except in accordance with paragraph 7.4 below.

7.4 The requirement to publish under paragraphs 7.1 and 7.2 shall not apply in respect of any service which is materially different from any service already provided by the Licensee by means of the Applicable Systems until such time as it is provided and a copy of the notice shall be sent to the Director at that time.

7.5 Publication of the notice specified in paragraph 7.2 shall be effected by:

- (a) sending a copy thereof to the Director to arrive not more than 28 days after the date on which the Licensee first provides such services and thereafter not less than 1 day before any proposal to amend any charge, term or condition or the method of determining the same is to become effective;
- (b) placing as soon as practicable thereafter a copy thereof in a publicly accessible part of every Major Office of the Licensee in such a manner and in such a place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe under section 19(4) of the Act that the register of Licences and final and provisional orders is to be open for public inspection, or in the absence of any such order having been made by the Secretary of State, during normal office hours; and
- (c) sending a copy thereof or such part or parts thereof as are appropriate to any person who may request such a copy.

Condition 8

PROHIBITION ON UNDUE PREFERENCE AND UNDUE DISCRIMINATION

8.1 The Licensee shall not (whether in respect of the charges or other terms or conditions applied or otherwise) show undue preference to, or exercise undue discrimination against, particular persons or persons of any class or description (including in particular persons in rural areas) as respects:

- (a) the provision by means of the Applicable Systems of any telecommunication service which the Licensee is obliged to provide under Conditions 2, 3 and 4, to the extent that such Conditions are applicable to the Licensee;
- (b) the connection to the Applicable Systems of any apparatus or any other system which is not and is not to be comprised in the Applicable Systems in accordance with Condition 5; or
- (c) the granting of permission to connect such systems or apparatus to, or to provide services by means of, any of the Applicable Systems in accordance with Condition 6.

8.2 The Licensee may be deemed to have shown such undue preference or to have exercised such undue discrimination if it unfairly favours to a material extent a business carried on by it in relation to the doing of any of the things mentioned in paragraph 8.1 so as to place at a significant competitive disadvantage persons competing with that business.

8.3 Any question relating to whether any act done or course of conduct pursued by the Licensee amounts to such undue preference or such undue discrimination shall be determined by the Director, but nothing done in any manner by the Licensee shall be regarded as undue preference or undue discrimination if and to the extent that the Licensee is required or permitted to do the thing in that manner by or under any provision of this Licence.

Condition 9

REQUIREMENT TO PROVIDE CONNECTION SERVICES INCLUDING CO-LOCATION AND FACILITY SHARING

9.1 Subject to paragraphs 9.3 and 9.4 and any exercise by the Director of his functions under regulation 6(3) or 6(4) of the Interconnection Regulations, the Licensee shall to the extent requested by an Operator which is a Schedule 2 Public Operator, negotiate with that Operator with a view to concluding an Interconnection agreement (or an amendment to an existing agreement) within a reasonable period, whereby the Licensee agrees:

- (a) to connect, and keep connected, to any of the Applicable Systems, or to permit to be so connected and kept connected, the Operator's telecommunication system and accordingly to establish and maintain such one or more Points of Connection as are reasonably required and are of sufficient capacity and in sufficient number to enable Messages conveyed or to be conveyed by means of any of the Applicable Systems to be conveyed in such a way as conveniently to meet all reasonable demands for the conveyance of Messages between the Operator's system and the Applicable Systems; and
- (b) to provide such other telecommunication services (including the conveyance of Messages which have been, or are to be, transmitted or received at such Points of Connection), information and other services which, to the extent the parties do not agree (or the Licensee is not in any event so required under or by virtue of another Condition), the Director may determine are reasonably required (but no more than reasonably required) to secure that Points of Connection are established and maintained and to enable the Operator effectively to provide the Connection Services which it provides or proposes to provide.

9.2 The Licensee or the Schedule 2 Public Operator may at any time request the Director to make a direction in order:

- (a) to specify issues which must be covered in an Interconnection agreement;
- (b) to lay down specific conditions to be observed by one or more parties to the agreement; or
- (c) if he thinks fit, to set time limits within which negotiations are to be completed,

and a direction under this paragraph operates as an exercise by the Director of the power of direction conferred by regulation 6(3) or 6(4) of the Interconnection Regulations as the case may be.

9.3 The Licensee shall:

- (a) comply with the requirements of any direction given to the Licensee under paragraph 9.2 or under regulation 6(3) or 6(4) of the Interconnection Regulations in relation to any negotiations or agreement to which it is or is intended to be a party;
- (b) comply with the requirements of any direction given to the Licensee under regulation 6(6) or 6(7) of the Interconnection Regulations in relation to any Interconnection dispute;
- (c) where the Director specifies conditions based on essential requirements pursuant to regulation 7(1) of the Interconnection Regulations for inclusion in any Interconnection agreement to which the Licensee is a party, forthwith secure the incorporation of those terms and conditions in such an agreement;
- (d) comply with any requirement made by the Director as a last resort under regulation 6(10) of the Interconnection Regulations to interconnect in order to protect essential public interests, and comply with any terms set by the Director for such purpose;
- (e) comply with any decision by the Director under regulation 10(2) of the Interconnection Regulations; and
- (f) comply with any facility or property sharing arrangement, or both, specified by the Director in accordance with regulation 10(3) of the Interconnection Regulations.

9.4 Paragraph 9.1 above does not apply to the extent that the Director has consented to limiting such obligation on a temporary basis and on the grounds that there are technically and commercially viable alternatives to the Interconnection requested, and that the requested Interconnection is inappropriate in relation to the resources available to meet the request.

9.5 So long as section 11 of the Restrictive Trade Practices Act 1976 is still in force an agreement made pursuant to this Condition shall not contain any restrictive provision, unless, before the agreement is made, the Director has consented to the inclusion of such a provision. For the purposes of this paragraph, a provision in an agreement is a restrictive provision if by virtue of the existence of such a provision (taken alone or with other provisions) the agreement is one to which the Restrictive Trade Practices Act 1976 would apply but for paragraph 1(1) of Schedule 3 to that Act.

9.6 The Licensee shall comply with any request by the Director under regulation 6(5) of the Interconnection Regulations to inspect any Interconnection agreement entered into by the Licensee in its entirety.

9.7 Where the Director so directs the Crown shall be treated for the purposes of this Condition as a Schedule 2 Public Operator.

Condition 10

REQUIREMENT TO OFFER CONTRACTS FOR TELEPHONE SERVICES

10.1 Where the Licensee runs a Public Telephone System, the Licensee shall offer either to enter into a contract with each of its Subscribers which complies with paragraph 10.2 or to vary an existing contract to comply with paragraph 10.2, except to the extent that the Licensee has already entered into a contract which complies with these requirements.

10.2 Subject to paragraph 10.4 the contract referred to in this Condition shall either specify the type of service offered and the terms and conditions on which the telephone service is to be provided under the contract or shall make reference to publicly available terms and conditions. The contract or publicly available terms and conditions shall at least specify, if relevant:

- (a) the supply time for initial connection;
- (b) the types of maintenance service offered;
- (c) the compensation or refund arrangements or both for the Licensee's Subscribers which apply if the contracted service is not met and, if none are applicable, a statement to that effect;
- (d) a summary of the method of initiating procedures for the settlement of disputes; and
- (e) information on service quality levels offered.

10.3 The Licensee shall secure such alteration to the conditions of any such contract, and the conditions of any compensation or refund arrangements or both used by the Licensee, as the Director may direct pursuant to regulation 15(4) of the Revised Voice Telephony Regulations.

10.4 Paragraph 10.2(d) above shall apply to the Licensee only to the extent that it runs a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services.

Condition 11

METERING ARRANGEMENTS

11.1 As regards any description of Meter in use on a date specified by the Director in connection with the Applicable Systems and which has been specified by the Director, the Licensee shall apply for Approval as soon as is practicable and in any case not later than such date as the Director may determine in relation to that description of Meter.

11.2 As regards any description of Meter specified by the Director and not in use in connection with the Applicable Systems on the date specified under paragraph 11.1, the Licensee shall, unless the Director consents otherwise, apply for Approval not later than such date as is further specified by the Director or not less than six months before the date on which the Licensee intends to bring that Meter into such use, whichever shall be the later.

11.3 The Licensee shall not after such date as the Director may determine in relation to any description of Meter so specified by him, keep in use or bring into use in connection with the Applicable Systems, any Meter of a description so specified which is not Approved or for which the Licensee has not made an application for Approval.

11.4 Where Approval is not granted to or is withdrawn from a particular description of Meter the Licensee shall, as soon as is reasonably practicable either:

- (a) inform the Director of the action to be taken by the Licensee to remedy the absence of Approval in relation to that description of Meter and the anticipated date of such Approval; or

- (b) inform the Director that the Licensee intends to cease use of that description of Meter in connection with the Applicable Systems in accordance with a timetable for the withdrawal thereof which the Licensee shall provide to the Director on request.

11.5 Paragraphs 11.1, 11.2, 11.3 and 11.4 shall apply to any description of Meter for voice frequency switched telecommunication services.

Condition 12

BILLING ARRANGEMENTS

12.1 The Licensee shall not render any bill in respect of any description of telecommunication Service provided by means of the Applicable Systems unless every amount (other than an indication of unit charge) stated in that bill is no higher than an amount which represents the true extent of any such Service actually provided by the Licensee to the customer in question. In this paragraph "customer" does not include any Operator with whom the Licensee has entered into an agreement following negotiations pursuant to Condition 9, or any agreement made pursuant to Part C of this Licence.

12.2 Without prejudice to the generality of paragraph 12.1 the Licensee shall at all times maintain in operation such a Billing Process as facilitates compliance by the Licensee with, and is calculated to prevent contravention by it of, that paragraph.

12.3 The Licensee shall not be regarded as being in contravention of its obligation under paragraph 12.1 except where the failure is in relation to the Billing Process and the Licensee has failed to take all reasonable steps to prevent a contravention of that obligation.

12.4 The Licensee shall keep such records as may be necessary or as may be determined by the Director to be necessary for the purpose of satisfying the Director that the Billing Process has the characteristics required by paragraph 12.2, provided that nothing in this paragraph shall require the Licensee to retain any records for more than 2 years from the date on which they came into being.

12.5 For the purpose of giving the Director an independent quality assurance from time to time that the Billing Process has the characteristics required by paragraph 12.2, the Licensee shall, where the Director has prima facie grounds to believe the Billing Process does not have those characteristics and has so notified the Licensee, extend its prompt co-operation to the Director and, in particular, on request by the Director shall:

- (a) furnish the Director in accordance with the Director's reasonable requirements any Information, document (including any facility enabling him to read data not held in readable form) or other thing;
- (b) carry out (or cause to be carried out by such person having such special expertise as the Director may specify and to whom the Director has raised no reasonable objection) in such manner as the Director may specify, an examination of the whole or of any part of the Billing Process and as soon as practicable after the conclusion of such examination and in any event not later than 28 days thereafter, furnish to the Director a written report by the Licensee or that specified person, as the case may be, of the results of such examination;
- (c) on reasonable notice by him allow during normal business hours the Director and, on production of his special authority in that behalf, any member of his staff, access to any relevant premises, plant or equipment of the Licensee;
- (d) on reasonable notice by him allow during normal business hours the Director, and, on production of his special authority in that behalf, any member of his staff, to examine or test the whole or any part of the Billing Process including any plant or equipment whether or not forming part of the Applicable Systems;
- (e) for the purposes of paragraph 12.5(c) or 12.5(d), allow the Director to be accompanied by any person as the Director may specify and to whom the Licensee has raised no reasonable objection whose assistance the Director might reasonably require for the purposes described at the beginning of this paragraph provided that the Director shall have given the Licensee notice (save in exceptional circumstances) of at least 5 working days of the identity of that person; and
- (f) install and keep installed any equipment (whether or not supplied by the Director) for the purpose of verifying:
 - (i) the accuracy and reliability of any equipment or apparatus (including any Meter) of the Licensee; and
 - (ii) in the case of any Meter which is or is required to be Approved in accordance with Condition 11 and is in use in connection with the Applicable Systems, compliance with any conditions or other matters which may be required as regards such use of that Meter.

Condition 13**ITEMISED BILLS**

13.1 This Condition shall apply to the Licensee only to the extent that it runs a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services.

13.2 Where the Licensee runs a Fixed Public Telephone System, the Licensee shall provide to each of its Subscribers, except to the extent that the Subscriber has agreed or requested otherwise, a basic level of itemised billing at no extra charge to the Subscriber. Where the Director has directed what constitutes a basic level of itemised billing pursuant to regulation 22(4) of the Revised Voice Telephony Regulations, the Licensee shall make that level of itemised billing available to such Subscribers. Where appropriate, the Licensee may offer additional levels of detail to its Subscribers at reasonable tariffs or at no charge.

13.3 The Licensee shall ensure that each itemised bill shows a sufficient level of detail to allow verification and control of the charges incurred in using its Fixed Public Telephone System.

13.4 The Licensee shall ensure that calls which are free of charge to its Subscribers, including calls to helplines, shall not be identified in its Subscribers' itemised bills.

Condition 14**NON-PAYMENT OF BILLS**

14.1 Where a Licensee's Subscriber has not paid the Licensee all or part of a bill for use of the Fixed Public Telephone System provided by the Licensee any measures taken by the Licensee shall:

- (a) be proportionate and non-discriminatory;
- (b) be published by the Licensee in accordance with paragraph 14.2;
- (c) give due warning in advance of any consequent service interruption or disconnection to the Subscriber; and
- (d) except in cases of fraud, persistent late payment or non-payment, ensure, as far as is technically possible, that any service interruption is confined to the service concerned.

14.2 The Licensee shall publish measures by:

- (a) placing a copy of such information in a publicly accessible part of every Major Office of the Licensee in such manner and in such place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe under section 19(4) of the Act that the register of Licences and final and provisional orders is to be open for public inspection, or in the absence of any such order having been made by the Secretary of State, during normal office hours; and
- (b) sending a copy of such information or such part or parts thereof as are appropriate to any Consumer who may request such a copy.

Condition 15**PUBLICATION OF INTERFACES****Publication of Commonly Provided Interfaces within 90 days**

15.1 The Licensee shall, in relation to all commonly provided Customer Interfaces and Network Interconnection Interfaces relating to any service described in sub-paragraph (i) or (ii) of the definition of Network Service, in use by the Licensee at the time this Condition comes into force, notify such Interfaces to the Director and publish Interface Specifications relating to such Interfaces within 90 days of this Condition coming into force, in accordance with paragraph 15.6 below.

Publication of new Commonly Provided Interfaces

15.2 Where the Director has determined that the Licensee has Interface Control in relation to any new commonly provided Interface Specification relating to any service described in sub-paragraph (i) or (ii) of the definition of Network Service, which the Licensee intends to use and which is not published under paragraph 15.1:

- (a) the Licensee shall notify such Interface Specification to the Director at the commencement of the Relevant Consulting Period;
- (b) the Licensee shall, if so directed by the Director, consult with Interested Parties during the Relevant Consulting Period;

- (c) the Licensee may, during and after the Relevant Consulting Period, modify any such Interface Specification in line with representations made and any advice offered by the Director to the Licensee relating to such representations;
- (d) the Licensee shall, after the end of the Relevant Consulting Period, publish the Interface in accordance with paragraph 15.6 below; and
- (e) the Licensee shall not make any modifications to the Applicable Systems conforming to the new Interface Specification until a sufficient period has elapsed after publication of the Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems. Such period shall be not less than 15 months, except where the Director has consented to a shorter period following the written application of the Licensee.

15.3 Where the Licensee does not have Interface Control in relation to any new commonly provided Interface Specification relating to any service described in sub-paragraph (i) or (ii) of the definition of Network Service, which the Licensee intends to use, and which is not published under paragraph 15.1 above:

- (a) the Licensee shall notify such Interface Specification to the Director;
- (b) the Licensee shall publish the Interface Specification in accordance with paragraph 15.6 below; and
- (c) the Licensee shall not make any modifications to the Applicable Systems conforming to the new Interface Specification until a sufficient period has elapsed after publication of the Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems. Such period shall be not less than 15 months, except where the Director has consented to a shorter period following the written application of the Licensee.

Modifications of Commonly Provided Interface Specifications

15.4 Where any Interface Specification to which paragraph 15.1, 15.2 or 15.3 apply is modified by the Licensee:

- (a) the Licensee shall notify such modification to the Director and publish such modification in accordance with paragraph 15.6 below;
- (b) the Licensee shall not make any modifications to the Applicable Systems conforming to the new Interface Specification until a sufficient period has elapsed after publication of the Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems. Such period shall be not less than 3 months, except where the Director has consented to a shorter period following the written application of the Licensee; and
- (c) the modification shall include any change in the description of any Interface which may affect the maintenance of effective interoperability of services by means of the Interface described in the relevant Interface Specification.

Withdrawals of Commonly Provided Interfaces

15.5 Where any interface described in any Interface Specification to which paragraph 15.1, 15.2 or 15.3 apply is withdrawn by the Licensee:

- (a) the Licensee shall notify such withdrawal to the Director and publish such withdrawal in accordance with paragraph 15.6 below; and
- (b) the Licensee shall not make any modifications to the Applicable Systems conforming to the new Interface Specification until a sufficient period has elapsed after publication of the Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems. Such period shall not be less than 15 months, except where the Director has consented to a shorter period following the written application of the Licensee.

Publication Requirements

15.6 The requirements as to publication are that:

- (a) the description of the Technical Characteristics must be such as to assist in securing the effective interoperability of telecommunication systems and apparatus, and in particular, (although without prejudice to the generality of the foregoing) the correct operation of Terminal Equipment;
- (b) the Licensee shall ensure that each Interface Specification is published in a manner appropriate for bringing the matters to which the Interface Specification relates to the attention of:
 - (i) the Secretary of State, the British Standards Institution, all persons to whom functions have been delegated pursuant to section 25 of the Act, all Operators with whom the Licensee is obliged to negotiate Interconnection under Condition 9, or offer to enter into

- Interconnection agreements with, as the case may be, under Part C of this Licence, appropriate representatives of suppliers and manufacturers of telecommunication apparatus and systems, and appropriate representatives of users or consumer interests;
- (ii) any person whom the Director considers likely to be affected by or to have an interest in such matters and whom the Director has determined for the purpose of this sub-paragraph; and
 - (iii) any other person likely to be affected by or to have an interest in such matters; and
- (c) where the Director considers it necessary to enable Interested Parties to obtain easy access to the information contained in Interface Specifications, he may direct the Licensee to send copies of any Interface Specification, or any class of Interface Specification, to any person specified by him for the purposes of this sub-paragraph.

Amendments of Interface Specifications directed by the Director

15.7 If, following any representation made to him, the Director concludes that any Interface Specification contains insufficient information for its purpose he may direct the Licensee to:

- (a) amend the Interface Specification in order to remedy the defect; and
- (b) publish the amended Interface Specification in accordance with the provisions of paragraph 15.6 and in relation to any period specified by the Director which takes into account the need to ensure a sufficient period has elapsed after publication of the amended Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems.

15.8 To the extent that the Licensee is running a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services the Licensee shall inform the Director in writing, without undue delay, of any particular network characteristics which are found to affect the correct operation of Approved Apparatus. Such information shall be made available to Terminal Equipment suppliers at their request by the Director pursuant to regulation 17(4)(c) of the Revised Voice Telephony Regulations.

15.9 Nothing in this Condition shall require the Licensee to publish or send to the Director information which it has already published or sent to the Director.

Condition 16

ESSENTIAL INTERFACES

16.1 The Licensee shall take full account of such standards, if any, as are listed in the Official Journal of the European Communities as being suitable for the purposes of Interconnection.

16.2 The Director may, having first notified the Licensee of his proposal and given the Licensee not less than 28 days in which to make representations, specify an Essential Interface. In making such a specification the Director will consider whether the Relevant Standard is inappropriate for the particular application for any reason taking into account the obligations imposed on the Licensee under Conditions 20.5 and 20.6.

16.3 Where in pursuance of paragraph 16.2 the Director specifies an interface as an Essential Interface, and the Licensee thereafter makes that interface available to a Schedule 2 Public Operator it shall do so in such a manner as it considers appropriate, but shall ensure such availability is in compliance with the Relevant Standard if the Schedule 2 Public Operator so requires.

16.4

- (a) For the purposes of paragraph 16.3 "Relevant Standard" means:
 - (i) standards listed in the Official Journal of the European Communities, if any, as being suitable for the purposes of Interconnection, or in the absence of such standards;
 - (ii) standards adopted by European standardisation bodies such as the European Telecommunications Standards Institute (ETSI) or the European Committee for Standardisation/European Committee for Electrotechnical Standardisation (CEN/CENELEC), or in the absence of such standards;
 - (iii) international standards or recommendations adopted by the International Telecommunication Union (ITU), the International Organisation for Standardisation (ISO) or the International Electrotechnical Committee (IEC), or in the absence of such standards;
 - (iv) any other standard specified by the Director after notifying the Licensee of his proposal and allowing the Licensee adequate time, being not less than 28 days, in which to make representations, provided that the Director shall not specify a standard if an appropriate European or other international standard is expected to be promulgated within a

reasonable time, including, by way of example, if the European Telecommunications Standards Institute have published a work programme for the development of such a standard,

to the extent that such a standard is necessary to ensure interoperability.

- (b) Where in pursuance of paragraph 16.4(a)(iv) the Director specifies a standard as a Relevant Standard, he shall include in that Relevant Standard a technical specification, using all reasonable endeavours to obtain the agreement of the Licensee and other relevant licensees to a technical specification applicable to that Relevant Standard, being a specification defined if possible by reference to:
- (i) standards listed in the Official Journal of the European Communities, if any, as being suitable for the purposes of Interconnection, or in the absence of such standards;
 - (ii) standards adopted by European standardisation bodies such as the European Telecommunications Standards Institute (ETSI) or the European Committee for Standardisation/European Committee for Electrotechnical Standardisation (CEN/CENELEC), or in the absence of such standards;
 - (iii) international standards or recommendations adopted by the International Telecommunication Union (ITU), the International Organisation for Standardisation (ISO) or the International Electrotechnical Committee (IEC).

16.5 Where the Director has been unable in accordance with paragraph 16.4(b) to secure the agreement of the Licensee and other relevant licensees to a technical specification within a period not exceeding 3 months from the date he first sought the agreement of the Licensee and other relevant licensees under that paragraph, the Director shall adopt for inclusion in the Relevant Standard an appropriate technical specification which has been promulgated by a recognised standards body, including, by way of example, the European Telecommunications Standards Institute, or the British Standards Institute, or other such body as the Director considers to be representative of all relevant telecommunications interests and has notified the Licensee and other relevant licensees.

16.6 The Director shall specify a Relevant Standard in pursuance of paragraph 16.5 only if the owners of relevant intellectual property rights have agreed to grant any necessary licences in respect thereof to the Licensee on reasonable terms.

16.7 For the avoidance of doubt this Condition shall not:

- (a) without prejudice to paragraph 16.3, prevent the Licensee using such interfaces as it considers appropriate in relation to the Applicable Systems; or
- (b) where it makes available to a Schedule 2 Public Operator an interface which the Director has specified as an Essential Interface, require the Licensee to comply with the Relevant Standard if the Schedule 2 Public Operator does not require it to do so.

16.8 When implementing an Essential Interface, the Licensee shall not be obliged to conform with the Relevant Standard if to do so would necessitate the Licensee:

- (a) acquiring apparatus, software or other goods or supplies of any kind, or implementing any operation, incompatible with, as the case may be, apparatus, software or such other goods or supplies already in use at the time, or the subject of contracts for their procurement for use, in connection with the Applicable Systems, or, in the case of an operation, incompatible with any other operation being carried out at the time in connection therewith; or
- (b) incurring any cost, or having to resolve technical difficulties, disproportionate to the benefits to be gained from the implementation of the Relevant Standard,

provided that the Licensee shall take reasonable steps to incorporate the Relevant Standard in its plans for network development, with a view to implementation of that Standard in connection with the Applicable Systems, but without the Licensee incurring any incremental expenditure which, but for the implementation of the Relevant Standard, would not have been incurred.

16.9 It is a precondition of any obligation on the Licensee under this Condition that an equivalent Condition to this Condition is included in the respective Licences of all Schedule 2 Public Operators running telecommunication systems that are connected to the Applicable Systems.

Condition 17

USE OF AUTOMATIC CALLING EQUIPMENT

17.1 This Condition applies if the Applicable Systems, or any telecommunication apparatus comprised in them:

- (a) are capable of automatically initiating a sequence of calls to each of more than one destination in accordance with instructions stored in the Applicable Systems or telecommunication apparatus comprised in them; and

- (b) are capable of transmitting, for reception by persons at some or all of the destinations so called:
 - (i) sounds which are not live speech; or
 - (ii) sounds which are for the purpose of the transmission or reception of facsimile messages, and where one or more of the calls referred to in paragraph 17.1(a):
 - (A) constitutes Messages comprising matter that has been recorded;
 - (B) is intended or reasonably expected by the Licensee to be one which does not result in any Message consisting of live speech being delivered to the recipient of the call; or
 - (C) is intended or reasonably expected by the Licensee to identify whether apparatus addressed by the Number so called is capable of the transmission or reception of facsimile messages.

17.2 The Licensee shall, except insofar as the Director consents otherwise:

- (a) secure that the Applicable Systems are used to initiate calls to transmit the Messages of the description referred to in paragraph 17.1(b) only to telecommunication systems which are run by the Licensee or by persons who have consented in writing to receive such calls and which are identified by reference to Numbers which are used to make calls to those telecommunication systems; and
- (b) maintain, or secure that there is maintained, a record giving particulars of the persons and the Numbers referred to in paragraph 17.2(a), and shall make that record available for inspection on reasonable notice by the Director.

17.3 This Condition does not apply to any services which the Licensee supplies pursuant to Condition 19.

17.4 Paragraph 17.2(a) shall have no application where regulation 6 of the Telecommunications (Data Protection and Privacy)(Direct Marketing) Regulations 1998 (S.I. 1998/3170) (use of automated calling systems for direct marketing purposes) applies.

Condition 18

RESTRICTIONS ON ADVERTISING

18.1 Where the Licensee sends and conveys Messages on its own behalf, or on behalf of any member of the Licensee's Group, by means of the Applicable Systems for the purposes of the advertising, the offering for supply or provision or the supply or provision of goods, services or any other thing, and receives from any end user who runs a telecommunication system by means of which that person receives such Messages a request to cease so sending them to a telecommunication system run by that person, then:

- (a) the Licensee shall, and shall ensure insofar as possible that every member of the Licensee's Group shall, cease sending such Messages to any telecommunication system run by that person and identified for the purpose to the Licensee by reference to a Number which is used to make calls to that telecommunication system; and
- (b) the Licensee shall, or shall procure that a member of the Licensee's Group shall, maintain, or secure that there is maintained, a record giving particulars of the persons and the Numbers referred to in sub-paragraph 18.1 and shall make that record available for inspection on reasonable notice by the Director.

18.2 Where:

- (a) in respect of a telecommunication system run by him or on his behalf, a person has notified a Specified Person that he does not wish to receive unsolicited calls (whether of a general or a particular kind) made for the purpose of the advertising or the offering for supply or provision or the supply or provision of goods, services or any other thing; and
- (b) a Specified Person keeps a list of such notifications in a form specified by the Director and made available for inspection by the general public,

the Licensee shall not, and shall ensure in so far as possible that no member of the Licensee's Group nor their agent, subcontractor or employee shall, make such unsolicited calls by means of the Applicable Systems to the telecommunication systems so listed.

18.3 Paragraph 18.2 shall have effect only where the Director has determined for the time being:

- (a) the description of unsolicited calls to which that paragraph shall apply; and
- (b) the description or descriptions of persons who shall be entitled to notify a Specified Person under that paragraph in relation to any such description of unsolicited calls,

and such determinations are described in a list kept for the purpose by the Director and made available by him for inspection by the general public.

18.4 This Condition shall have no application where the Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998 (S.I. 1998/3170) apply.

Condition 19**CONSULTATION WITH EMERGENCY ORGANISATIONS AND PROVISION OF SERVICES IN EMERGENCIES**

19.1 The Licensee shall, after consultation with the authorities responsible for Emergency Organisations and such departments of central and local government as the Director may from time to time determine and whose names are notified to the Licensee by him for the purpose, make plans or other arrangements for the provision or, as the case may be, the rapid restoration of such telecommunication services as are practicable and may reasonably be required in Emergencies.

19.2 The Licensee shall, on request by any such person as is designated for the purpose in the relevant plans or arrangements, implement those plans or arrangements insofar as is reasonable and practicable to do so.

19.3 Nothing in this Condition precludes the Licensee from:

- (a) recovering the costs which it incurs in making or implementing any such plans or arrangements from those on behalf of or in consultation with whom the plans or arrangements are made; or
- (b) making implementation of any plans or arrangements conditional upon the person or persons for whom or on whose behalf that plan or arrangement is to be implemented indemnifying the Licensee for all costs incurred as a consequence of the implementation.

Condition 20**ESSENTIAL REQUIREMENTS AND ESSENTIAL PUBLIC INTERESTS**

20.1 The Licensee shall comply with any decision taken in accordance with the procedures referred to in regulation 21(1) of the Revised Voice Telephony Regulations which relates to proceedings to which the Licensee is a party, subject to regulation 21(2).

20.2 The Licensee shall comply with any notice served on it pursuant to regulation 21(6)(a) of the Revised Voice Telephony Regulations.

20.3 The Licensee shall take all reasonably practicable steps to maintain, to the greatest extent possible, the availability of Fixed Public Telephone Systems run by it and Fixed Publicly Available Telephone Services provided by it, having particular regard to the needs of Emergency Organisations, in the event of catastrophic network failure, or in cases of force majeure, such as extreme weather, earthquake, flood, lightning or fire.

20.4 The Licensee shall take all reasonably practicable steps to maintain, to the greatest extent possible, the integrity of Fixed Public Telephone Systems run by the Licensee and Fixed Publicly Available Telephone Services provided by it, having particular regard to the needs of Emergency Organisations; that is to say, protection of the physical and functional operation of such systems and services against malfunctions or failure caused by electrical conditions, signalling protocols or traffic loads conveyed from telecommunication systems connected to the Applicable Systems.

20.5 The Licensee shall ensure that any restrictions imposed by it on access to and use of its Fixed Public Telephone System on grounds of maintenance of network integrity, in order to protect, inter alia, network equipment, software or stored data are kept to the minimum necessary to provide for normal operation of the System.

20.6 The Licensee shall ensure that any restrictions imposed by it on access to and use of its Fixed Public Telephone System on the grounds of network security or network integrity are proportionate, non-discriminatory, and based on objective criteria identified in advance.

20.7 The Licensee shall take all necessary steps in order to maintain so far as practicable the highest level of Fixed Publicly Available Telephone Services provided by it to meet any priorities specified by the Director.

20.8 The Licensee shall not impose any restrictions on the use of any Terminal Equipment relating to Fixed Publicly Available Telephone Services provided by it on the grounds of interoperability of services where such equipment complies with the Terminal Equipment Regulations on the grounds of interoperability of services.

20.9 The Licensee may impose conditions on access to and use of its Fixed Public Telephone System on the grounds of protection of data only in accordance with Relevant Data Protection Legislation.

Condition 21**STANDARDS FOR ISDN NETWORK TERMINATION POINTS**

21.1 Where the Licensee supplies Fixed Publicly Available Telephone Services to its Subscribers over its ISDN networks at the S/T reference point, the Licensee shall:

- (a) only introduce new ISDN Network Termination Points which comply with the relevant physical Interface Specifications, in particular those for the socket, referenced in the list of standards referred to in Article 5 of the ONP Framework Directive; and
- (b) at the request of a Subscriber which has an ISDN Network Termination Point which does not comply with the relevant physical Interface Specifications referred to in paragraph 21.1(a), replace that Subscriber's ISDN Network Termination Point with a new one which does comply with such Specifications.

21.2 The Licensee may make the replacement termination point referred to in paragraph 21.1(b) available for a reasonable fee.

Condition 22**CONTROLLED SERVICES**

22.1 The Licensee may provide a Controlled Service in whole or part by means of the Applicable Systems (whether or not Messages comprised in, or resulting from the provision of, such Services have previously been or are subsequently conveyed by any other public telecommunication system) only where the Relevant Condition is satisfied.

22.2 The Licensee may provide a telecommunication service to another person by means of the Applicable Systems by means of which that person, to the knowledge of the Licensee, provides a Controlled Service (whether or not Messages comprised in, or resulting from the provision of, such Services have previously been or are subsequently conveyed by any other public telecommunication system) only where the Relevant Condition is satisfied.

22.3 The Relevant Condition is that there is in effect at the time the Controlled Service concerned is provided a code of practice governing the provision of such a Service, which has been recognised by the Director for the purposes of this Condition after consultation with the Licensee and with any body whom he considers to be representative of those wishing to provide such Services.

22.4 A code of practice shall be recognised for the purposes of paragraph 22.3 only if the Director is satisfied that:

- (a) its provisions are capable of properly regulating the provision of the Controlled Services to which it relates and, without prejudice to the generality of the foregoing, make adequate provision for compensating those who suffer financial loss as a result of the provision of such Services; and
- (b) adequate arrangements have been made for the constitution of a body of persons to apply and administer the code.

22.5 A code of practice is recognised for the purposes of this Condition where it is specified as such in a determination made by the Director, and the Director may, at any time after such a code is recognised and after giving not less than one month's notice in writing of his intention to the body of persons applying and administering the code, determine that its recognition be revoked if he is satisfied that its provisions are not capable of properly regulating the provision of the Controlled Services to which it relates or that it is not being properly applied and administered.

22.6 For the purposes of this Condition the Director may recognise a code of practice in relation to any description of Controlled Service or to all Controlled Services and the provisions of this Condition shall apply accordingly.

22.7 If a recommendation is made to the Director by the body of persons applying and administering a code of practice recognised under paragraph 22.3 that any person (including the Licensee) should no longer be permitted or should not be permitted to provide a particular Controlled Service or any Controlled Services (whether or not he is providing it or them when the recommendation is made) the Director may direct the Licensee to cease to provide, or, as the case may be, not to provide that person or any other person with any service facilitating or enabling the provision of the relevant Controlled Service or Services or, as the case may be, itself cease to provide, or, as the case may be, not to provide the relevant Controlled Service or Services.

22.8 The Director may determine, subject to such conditions as he thinks fit, that:

- (a) any Controlled Service of any description, or any individually specified Service provided by a person named in the determination, is not to be treated as a Controlled Service for the purposes of this Condition; and

- (b) any individually specified Controlled Service in respect of which a determination under paragraph 22.8(a) has been made or which is within a description of Controlled Services in respect of which such a determination has been made, is to be treated as a Controlled Service for those purposes notwithstanding such determination,

and where a determination of the kind specified in paragraph 22.8(b) is made the provisions of this Condition shall apply to such a Service from the date specified in the determination.

22.9 Subject to paragraph 22.8, the provisions of this Condition apply only to a Controlled Service in respect of which:

- (a) a person providing the Service obtains the whole or any part of his revenue from the Licensee (or, where that person is the Licensee, that part of the Licensee's business which provides the Service is credited with revenue from that part of its business which conveys the Message comprised in, or resulting from the provision of, the Service); and
- (b) the person responsible for paying the charges for the telephone calls by means of which the Service is obtained is billed by means of his telephone bill for any amount in respect of the provision of the Service.

22.10 The provisions of this Condition shall cease to have effect on the making of a direction by the Director under Condition 23.1 to the extent specified in the direction.

Condition 23

PROVISION OF SPECIAL FACILITIES RELATING TO CHATLINE AND MESSAGE SERVICES

23.1 The Licensee shall comply with any direction made under this paragraph which requires the Licensee to make available such of the facilities listed in paragraph 23.2 as are specified in the direction. A direction under this paragraph shall be made by the Director after consultation with the Licensee and shall specify only facilities which the Director considers it will be technically and economically practicable for the Licensee to provide. The direction shall specify the date by which each facility is to be provided and the class or description of customer (whether described by reference to area or otherwise) to whom it is to be provided and shall be subject to such conditions as the Director thinks fit.

23.2 The facilities referred to in paragraph 23.1 are:

- (a) the provision to any customer of the Licensee for voice telephony services who requests it of a bill or invoice showing, by reference to the number used to access the service, and the date and time on which access was obtained, the amount of any charge imposed by the Licensee for a telephone call to any service to which this Condition applies;
- (b) the notification to such a customer who requests it, as soon as reasonably practicable, and in any event not later than 28 days after such request, of:
 - (i) the date on which the total charges accrued within the standard billing period of the Licensee for voice telephony services and any other service to be included in the bill or invoice for such services exceed an amount specified by that customer being an amount, or one of a number of amounts, from time to time specified by the Licensee as being suitable for the purpose; or
 - (ii) the date on which the aggregate charges accrued in any such period in respect of services to which this Condition applies exceed an amount determined from time to time by the Director; and
- (c) the barring, by means of apparatus forming part of the Applicable Systems, on request by any such customer, of access from any Exchange Line specified by that customer and in respect of which that customer is the customer of the Licensee, to all services to which this Condition applies.

23.3 The services to which this Condition applies are those Chatline Services and Message Services in respect of which:

- (a) the person providing the service obtains the whole or any part of his revenue from the Licensee (or, where that person is the Licensee, that part of the Licensee's business which provides the service is credited with revenue from that part of its business which conveys the Messages comprised in, or resulting from the provision of, the service); and
- (b) the person responsible for paying the charges for the services is billed for them by the Licensee and the bill includes charges in respect of the generality of the telecommunication services provided to that person by means of the Applicable Systems.

Condition 24**PUBLIC CALL BOX SERVICES**

24.1 At any Public Call Box at which the Licensee provides Call Box Services or permits Call Box Services to be provided the Licensee shall ensure that such services shall comprise all Call Box Services and shall take all reasonable steps to secure that such services shall continue to be provided until such time as such Services shall cease to be provided in accordance with Condition 24.4.

24.2 The Licensee shall install and take all reasonable steps to keep installed in all Public Call Boxes at which it provides or secures the provision of Call Box Services, apparatus enabling persons using hearing aids designed for use in conjunction with Telephones of the kind installed in Public Call Boxes to use such hearing aids when voice telephony services are provided at Public Call Boxes.

24.3 The Licensee shall display and take all reasonable steps to keep displayed prominently in or on all Public Call Boxes at which it provides or secures the provision of Call Box Services a notice specifying in relation to those services:

- (a) the minimum charge payable for connection of a call;
- (b) the means by which the charge may be paid by reference to the particular coins and other means of payment by credit card or otherwise;
- (c) the amount of charge payable in respect of Messages conveyed within the United Kingdom by reference to the duration of the call, the distance over which the Message is conveyed and the time or day when the call is made or alternatively the number which may be called free of charge from that Public Call Box which will provide this charging information by means of a recorded announcement;
- (d) the location of the Public Call Box sufficient to enable it to be located as swiftly as practicable by the Emergency Organisations;
- (e) that the Licensee or other person whose name, address and telephone number in either case is specified in the notice will deal with any complaint which is made to them;
- (f) that Public Emergency Call Services are available at the Public Call Box without incurring any charge; and
- (g) whether or not the Services include the connection of calls to the Public Call Box where the call has not been initiated in the Public Call Box.

24.4 Except where Condition 42 applies to the Licensee, the Licensee shall be entitled to cease to provide or to secure the provision of all (but not some) of the Call Box Services provided at a Public Call Box only if it has installed prominently in or on that Public Call Box and has taken all reasonable steps to keep so displayed for the period mentioned below a notice specifying:

- (a) that the Licensee is proposing that such services shall cease to be provided there on expiration of the period mentioned in the notice not being less than 42 days commencing with the day on which the notice is first displayed; and
- (b) the name and address of the Licensee,

and such period has expired.

Condition 25**SUPPLY AND CONNECTION OF APPARATUS FOR DISABLED PEOPLE**

25.1 Where the Licensee provides Publicly Available Telephone Services, the Licensee shall consult the Director from time to time about the arrangements made, or to be made, for the connection to the Applicable Systems of telecommunication apparatus designed or adapted to assist disabled people to obtain telecommunication services and shall, if requested by the Director to do so:

- (a) discuss with the Director the availability of telecommunication apparatus designed or adapted to meet the reasonable needs of disabled people; and
- (b) participate in the work of the advisory body established by the Director under section 54(4) of the Act for matters affecting people who are disabled or of pensionable age.

Condition 26**NUMBERING ARRANGEMENTS**

26.1 The Director may determine a Specified Numbering Scheme (the "Scheme") in accordance with the National Numbering Conventions (referred to in this Condition as the "Conventions") published in accordance with paragraph 26.5 and he will allocate Numbers from this Scheme to the Licensee in accordance with the Conventions. The Director shall, at the request from time to time of the Licensee and in accordance with the Conventions, allocate to it:

- (a) such quantity of additional Numbers as it may require; and
- (b) such specific Numbers as it may request and which the Director is satisfied are not required for other purposes.

26.2 The Licensee shall adopt a Numbering Plan for such Numbers as the Director may allocate to it from time to time in accordance with the Conventions. It shall prior to being notified of such allocation furnish details of the Numbering Plan to the Director, and keep him informed of material changes to the Numbering Plan as they occur. The Licensee shall also furnish details of the Numbering Plan together with any material changes to that Numbering Plan on request to any other person having a reasonable interest. Except where the Director agrees otherwise, the Numbering Plan shall be consistent with the Conventions published in accordance with paragraph 26.5. If the Numbering Plan is not consistent with those Conventions, the Director may direct the Licensee to adopt and furnish him with a new Numbering Plan or to take such other reasonable remedial action which does not cause undue inconvenience to the Licensee's customers, as may be necessary to ensure consistency.

26.3 The Licensee shall install, maintain and adjust its switched Applicable Systems so that those Systems route Messages and otherwise operate in accordance with the Numbering Plan, including any requirement relating to Portability as set out in Condition 28 contained in a direction made under paragraph 26.2. The Licensee shall not use Numbers other than those allocated to it from the Scheme except with the written consent of the Director.

26.4

- (a) The Licensee shall provide to the Director, on request, such information about its operations under its Numbering Plan as he may reasonably require to administer the Scheme and in particular on:
 - (i) the percentages of Numbers in significant ranges which have already been allocated to end-users or which for other reasons are unavailable for further allocation;
 - (ii) any allocation of blocks of Numbers to any person for purposes other than end use;
 - (iii) Numbers whose use has been transferred at an end-user's request to another Operator; and
 - (iv) the Licensee's current forecasts of all of the above matters.
- (b) The Licensee shall not be required to provide information about individual end-user customers.
- (c) In making any such request the Director shall ensure that no undue burden is imposed on the Licensee in procuring and furnishing such information and, in particular, that the Licensee is not required to procure or furnish information which would not normally be available to it, unless the Director is satisfied that such information is essential to the administration of the Scheme.

26.5

- (a) The Conventions referred to in this Condition will be a set of principles and rules published from time to time by the Director after consultation with Interested Parties who are members of the Telecommunications Numbering and Addressing Body and, if deemed appropriate, with end-users.
- (b) In consulting the said Interested Parties, the Director shall afford a reasonable period, not being less than 28 days, for them to make representations, and he shall take the said representations into account when publishing the Conventions. The Conventions shall govern the specification and application of the Scheme and the Numbering Plan of the Licensee and may also include such other matters relating to the use and management of Numbers as (but not limited to):
 - (i) criteria and procedures relating to the application for, allocation of and withdrawal of Numbers;
 - (ii) dialling plans;
 - (iii) access codes;
 - (iv) prefixes;
 - (v) standard ways of recording Numbers for convenience or ease of use, such as the grouping of digits in Numbers in particular lengths;
 - (vi) methods of enabling end-users to understand the meaning implicit in Numbers or other dialled digits, and in particular the rate at which a call to a particular Number will be chargeable; and
 - (vii) arrangements for the transfer of Numbers between Operators as a result of Portability.
- (c) The Director may from time to time amend or withdraw a Convention already published, after consultation with Interested Parties who are members of the Telecommunications Numbering and Addressing Body. The Licensee shall not be required to comply with any such amendment or withdrawal unless the Licensee has been given a reasonable period of notice, such notice not being less than three months. Numbers allocated to the Licensee may only be withdrawn after similar consultation and notice, and the Director shall consult end-users affected by such withdrawal. Subject to overriding national interests, or where there is no alternative solution

available, the power to withdraw Numbers shall not apply to any Numbers which the Director has approved from time to time as part of a specific service of the Licensee, which, as a result of investment by the Licensee, has a recognised identity and quality associated with that particular Number and which the Licensee is using and plans to continue to use.

26.6 In deciding on the details of and any subsequent changes to the Scheme and the Conventions, and when making or changing Number allocations within the Scheme or making determinations under this Condition, the Director shall ensure that the Scheme complies with the Conventions and shall have regard to:

- (a) the need for sufficient Numbers to be made available, having regard to the anticipated growth in demand for telecommunication services, together with the need for good husbandry of that supply at any time;
- (b) the need to ensure Compatibility with the Numbering Plans adopted or to be adopted by other public telecommunications operators;
- (c) the convenience and preferences of end-users;
- (d) the requirements of effective competition;
- (e) the practicability of implementing the Conventions with respect to licensed systems by the date when the Conventions are intended to apply;
- (f) any costs or inconvenience imposed on the Licensee, other network operators, end-users and other Interested Parties (including those overseas);
- (g) any relevant international agreements, recommendations or standards;
- (h) the views of the Licensee and other Interested Parties; and
- (i) any other matters he regards as relevant.

26.7 The Licensee shall not, unless the Director consents otherwise, charge any person for a Number which is allocated to him (other than a coveted Number allocated to a person who is not a public telecommunications operator at the request of such a person), but nothing in this Condition shall preclude the Licensee from recovering from the operator of a Relevant System the reasonable costs associated with allocating Numbers to and routing calls to that System; save that in the case of any dispute or difference as to those costs the Director may determine them and the Licensee shall not be obliged so to allocate Numbers and route calls unless such operator agrees to bear the costs so determined.

26.8 For the avoidance of doubt, it is hereby declared that this Condition applies notwithstanding any arrangements for numbering arising by virtue of any agreement made following negotiations pursuant to Condition 9, or any agreement made pursuant to Part C of this Licence.

26.9 The Numbers to which this Condition applies are Numbers:

- (a) which are of a class described in ITU-T Recommendation E.161, E.164, E.166 or F.69 or their functional successors; or
- (b) which are of a class described in ITU-T Recommendation X.121 or X.122 and which include any data network identification code which has been specified by the Director for the purposes of this Licence and described in a list kept for that purpose by the Director and made available by him for inspection to the general public.

Condition 27

NUMBERING ARRANGEMENTS FOR OTHER NUMBERS

27.1 Subject to Condition 26, the Licensee shall, from the date on which it first provides Applicable Services, adopt a Numbering Plan in respect of Applicable Services provided or to be provided, for the allocation of any Numbers which:

- (a) are not allocated in accordance with a Specified Numbering Scheme;
- (b) are used or are intended to be used:
 - (i) by the Licensee;
 - (ii) by any person running a telecommunication system, other than a public telecommunication system, under a Licence, who provides a telecommunication service of a description which the Licensee could provide in accordance with the provisions of this Licence; or
 - (iii) by any public telecommunications operator; and
- (c) are necessary for access to each separately distinguishable element of each Applicable Service.

27.2 The Numbering Plan shall describe the method adopted or to be adopted for allocating and re-allocating Numbers of a kind described in paragraph 27.1. That method shall allow for sufficient Numbers to be available in relation to all telecommunication services, having regard to the reasonably foreseeable growth in demand for such services.

27.3 The Licensee shall, on or before the date on which it first provides Applicable Services or as soon as practicable thereafter, furnish details of the Numbering Plan to the Director and, on request, to any other person having a reasonable interest.

27.4 The Licensee shall furnish to the Director details of any proposals which the Licensee may have from time to time to change the arrangements for allocating or re-allocating Numbers within, or to develop, add to or replace, the Numbering Plan adopted and furnished in accordance with paragraphs 27.1, 27.2 and 27.3.

27.5 Where any arrangements for allocating or re-allocating Numbers within the Numbering Plan referred to in paragraph 27.1 or any developments, additions or replacements furnished in accordance with paragraph 27.4:

- (a) are insufficient to provide Compatibility with the numbering arrangements applied or to be applied by any public telecommunications operator or other person running a telecommunication system under a Licence who provides a service of a description which the Licensee could provide in accordance with the provisions of this Licence;
- (b) do not allow for sufficient Numbers to be available in relation to all telecommunication services, having regard to the reasonably foreseeable growth in demand for such services; or
- (c) are not consistent with any obligations and recommendations of the International Telecommunication Union which apply to Her Majesty's Government and are binding on or are accepted by it,

the Licensee shall adopt the Numbering Plan referred to in paragraph 27.1 with such developments, additions or replacements as are best calculated to secure such Compatibility or availability or consistency.

27.6 The Numbers to which this Condition applies do not include Numbers:

- (a) which are of a class described in ITU-T Recommendation E.161, E.164, E.166 or F.69 or their functional successors; or
- (b) which are of a class described in ITU-T Recommendation X.121 or X.122 and which include any data network identification code which has been specified by the Director for the purposes of this Licence and described in a list kept for that purpose by the Director and made available by him for inspection to the general public.

27.7 The Licensee shall allocate and re-allocate Numbers in accordance with the Numbering Plan referred to in paragraph 27.1.

Condition 28

NUMBER PORTABILITY

28.1 This Condition applies to the Licensee only to the extent that it is running a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services.

28.2 The Licensee shall provide Portability either to any Qualifying Operator, or in the capacity of a Qualifying Operator, on reasonable terms in accordance with the Functional Specification and with the following provisions provided that any charges for provision of such Portability shall be made by the Licensee in accordance with the following principles:

- (a) subject always to the requirement of reasonableness, charges shall be based, unless the charges made by British Telecommunications plc for the provision of telecommunication services under Condition 69 of its Licence granted under section 7 of the Act shall be incremental costs, in which case the basis for charges shall be incremental costs, on the fully allocated costs of providing Portability unless the Donor and Recipient Operators shall have agreed another basis for charges, or the Director shall have determined, following an application by either or both Operators, that another basis for charges should be used;
- (b) the Donor Operator shall make no charge in relation to its System Set-Up Costs;
- (c) subject to sub-paragraph 28.2(b), the Recipient Operator shall pay charges based on the reasonable costs incurred by the Donor Operator in providing Portability with respect to each Number which, subject to sub-paragraph 28.2(d) may be paid by way of specific elements of the provision of the facility; and
- (d) the Donor Operator shall make no specific charge based on Additional Conveyance Costs.

28.3 "Qualifying Operator" means an Operator who:

- (a) has notified the Licensee in writing that it requests the provision of Portability from the Licensee specifying the type or types and Extent of Portability so requested; and

- (b) is able and willing to provide on reasonable terms and in accordance with the Functional Specification and these provisions the same type or types and Extent of Portability to the Licensee as it has sought,

and the Licensee shall be deemed to be acting in the capacity of a Qualifying Operator where the Licensee has requested in writing the provision of Portability from a Public Operator and has offered Portability to that Public Operator in accordance with sub-paragraphs 28.3(a) and 28.3(b) above.

28.4 For the purposes of this Condition the Extent of Portability means:

- (a) in relation to Geographic Portability, the area or any specified part thereof within which the Licensee and Qualifying Operator are entitled to provide telecommunication services, provided that Portability may only be sought or offered throughout any such area or specified part thereof; and
- (b) in relation to Non-Geographic Portability, the Numbers sought and offered by the party requesting Portability, together with a description of both the services offered and tariff-bands charged to parties calling such Numbers.

28.5 Where a notice for the purposes of paragraph 28.3 has been given, the Licensee or the Qualifying Operator may refer in writing to the Director for his determination any question as to the reasonableness of:

- (a) the request for the provision of Portability, taking into account the technical and operational characteristics of the Licensee's Applicable Systems and, if relevant, those of the applicable systems of the Qualifying Operator;
- (b) the Extent of Portability requested;
- (c) the costs incurred in providing Portability;
- (d) the categorisation of costs;
- (e) the proposed use or use of a higher cost method in proposing to implement or implementing any aspect of Portability where a lower cost method could or ought to have been used;
- (f) the charges to be made for providing Portability; and
- (g) the basis for calculating such charges.

28.6 Before making any determination under paragraph 28.5 the Director shall consult with the Licensee and the relevant Qualifying Operators and with Interested Parties and take into account any representations made by them.

28.7 If requested in writing by the Director, the Licensee shall provide to the Director a record of each Number in relation to which it is providing Portability, specifying the relevant Qualifying Operator in each case.

28.8 Where the Licensee does not yet offer the facility of Number Portability on request to any of its Subscribers, the Licensee shall ensure that, with regard to any such Subscriber, for a reasonable period after that Subscriber has changed to a different supplier of telephone services either a telephone call to his old Number can be re-routed to his new Number for a reasonable fee or callers are given an indication of the new Number, without charging the called party for this service.

Condition 29

OBLIGATION TO SUPPLY NUMBERING INFORMATION ON REQUEST

29.1 Where the Licensee has been allocated telephone numbers by the Director in accordance with Condition 26.1, the Licensee shall, on request in accordance with paragraph 29.4 below, supply to any public telecommunications operator subject to the obligations corresponding to those set out in Condition 2.1 above, the name, address and telephone number of the Licensee's Subscribers and of any other end-user sub-allocated a telephone number from those telephone numbers, for the purpose of enabling such operator to comply with its obligations corresponding to those set out in Condition 2.1 above.

29.2 Where the Licensee has been sub-allocated telephone numbers whether by a licensee or another person, the Licensee shall on request in accordance with paragraph 29.4 below supply to:

- (a) the person who sub-allocated such telephone numbers to the Licensee; or
- (b) (if different from 29.2(a) above), the licensee who was allocated such telephone numbers by the Director,

the name, address and telephone number of the Licensee's Subscribers and of any other end-user allocated a telephone number from the telephone numbers sub-allocated to the Licensee.

29.3 The Licensee shall supply any information under paragraph 29.1 or 29.2 for the purpose of enabling the person requesting the information to:

- (a) comply with its obligations corresponding to those in Condition 2.1 above; or

- (b) meet any request made to that person in accordance with paragraph 29.1 or 29.2, or regulation 10(6) of the Revised Voice Telephony Regulations.

29.4 The Licensee shall supply any information under paragraph 29.1 or 29.2 at the reasonable request of the person requesting the information. Without prejudice to the generality of the foregoing, the Licensee may refuse to supply such information if the person requesting the information does not undertake to Process such data or information in accordance with any relevant Code of Practice, or the Licensee has reasonable grounds to believe that the person requesting the information will not comply with Relevant Data Protection Legislation.

29.5 The Licensee shall supply any information under paragraph 29.1 or 29.2 having due regard, in such manner as is appropriate, to any Subscriber who has expressed opposition to inclusion of Directory Information about that Subscriber in a directory or as part of a Directory Information Service.

29.6 Where the Licensee is requested to supply Directory Information in accordance with paragraph 29.1 or 29.2 above, the Licensee shall do so on terms which are fair, cost oriented and non-discriminatory, and in a format which is agreed between the Licensee and the person requesting the information, or by the Director, where no such agreement is reached.

29.7 Where the Licensee, pursuant to this Condition, supplies to any person, data or information subject to any relevant Code of Practice, the Licensee shall secure that such person undertakes to Process such data or information in accordance with such a Code.

Condition 30

ACCOUNTING SEPARATION FOR SPECIAL OR EXCLUSIVE RIGHTS IN NON-TELECOMMUNICATION SECTORS

30.1 Where the Licensee has special or exclusive rights for the provision of services in sectors other than telecommunications, within the meaning of Article 8(1) of the Interconnection Directive, and the Licensee's annual turnover from its telecommunications activities in the Community exceeds 50 million euros, the Licensee shall keep, draw up, submit to independent audit, and publish, separate accounts for telecommunications activities in the Community, to the extent that would be required if the telecommunications activities in question were carried out by legally independent companies, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to their telecommunications activities including an itemised breakdown of fixed assets, or have structural separation for the telecommunications activities.

Condition 31

FAIR TRADING

31.1 The Licensee shall not do anything, whether by act or omission, which has or is intended to have or is likely to have the effect of preventing, restricting or distorting competition where such act or omission is done in the course of, as a result of or in connection with, providing telecommunication services, or any particular description of telecommunication service, or running a telecommunication system.

For the purposes of this Condition such an act or omission will take the form of:

- (a) any abuse by the Licensee, either alone or with other undertakings, of a dominant position within the United Kingdom or a substantial part of it. Such abuse may, in particular, consist in:
 - (i) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
 - (ii) limiting production, markets or technical development to the prejudice of consumers;
 - (iii) applying dissimilar conditions to equivalent transactions with other parties, thereby placing them at a competitive disadvantage; or
 - (iv) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts; or
- (b) the making (including the implementation) of any agreement, the compliance with any decision of any association of undertakings or the carrying on of any concerted practice with any other undertaking which has the object or effect of preventing, restricting or distorting competition within the United Kingdom.

31.2

- (a) An act or omission of a kind described in paragraph 31.1 is not prohibited where:
 - (i) it has or would have no appreciable effect on competition; or

- (ii) it has or would have no effect on competition between persons engaged in commercial activities connected with telecommunications and it would have no effect on users of telecommunication services.
- (b) An act or omission of a kind described in paragraph 31.1(b) is not prohibited by this Condition if the agreement, decision or concerted practice contributes to improving the provision of any goods or services or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit and does not:
 - (i) impose on the parties concerned restrictions which are not indispensable to attaining those objectives; and
 - (ii) afford such parties the possibility of eliminating competition in respect of a substantial part of the goods or services in question.
- (c) This Condition shall not apply to any provision of an agreement insofar as it is a provision by virtue of which the Restrictive Trade Practices Act 1976 applies to that agreement.
- (d) This Condition shall not apply to a merger situation qualifying for investigation under the Fair Trading Act 1973.

31.3 Whether any act or omission is prohibited by this Condition shall be determined:

- (a) with a view to securing that there is no inconsistency with the general principles having application to similar questions of directly applicable competition law, in particular those laid down by the Court of Justice of the European Communities on the scope of the competition rules contained in the EC Treaty and block exemptions adopted by the European Commission under Article 81(3) (ex Article 85(3)); and
- (b) having regard to:
 - (i) any decision taken, or notice issued, by the European Commission in applying the competition rules contained in the EC Treaty and any relevant pronouncement of the Director General of Fair Trading or report of the Competition Commission; and
 - (ii) any guidelines on the application of this Condition issued from time to time by the Director.

31.4

- (a) If it appears to the Director that an act or omission of the Licensee is or was prohibited by this Condition he may make an initial determination to that effect (an "Initial Determination").
- (b) Before making an Initial Determination the Director shall give a notice to the Licensee:
 - (i) stating that he is investigating a possible contravention of this Condition;
 - (ii) setting out the reasons why it appears to him that this Condition may be being, or may have been, breached, including any matters of fact or law which he thinks relevant;
 - (iii) requesting within a reasonable period laid down by the Director such further information as he may require from the Licensee in order to complete his Determination; and
 - (iv) where appropriate, setting out the steps he believes the Licensee would have to take in order to remedy the alleged breach.

31.5

- (a) Within 28 days of the Director:
 - (i) making an Initial Determination;
 - (ii) making a provisional order; or
 - (iii) giving notice of his proposal to make a final order under section 17(1) of the Act, in respect of the contravention in question, the Licensee may notify the Director that it:
 - (iv) requires him to make a final determination (a "Final Determination") of the matter; and
 - (v) requires that in making the Final Determination he takes into account a report of a body of experts appointed by him to consider the matter ("the Advisory Body").
- (b) Before making a Final Determination the Director shall:
 - (i) give a notice to the Licensee setting out the matters referred to in paragraph 31.4(b); and
 - (ii) if the Licensee has given notice under sub-paragraph 31.5(a)(v) above, take into account the report of the Advisory Body on the matter.
- (c) The Director shall then determine whether he is satisfied that the act or omission in respect of which the Initial Determination was made is or was prohibited by this Condition.

31.6

- (a) Before making his Initial Determination or Final Determination the Director shall give the Licensee, and any other person whom he considers it appropriate to consult, such period within which to make representations (both orally and in writing) in response to the notice as he considers reasonable in all the circumstances.
- (b) The Director shall notify the Licensee and any other person whom he considers it appropriate

to notify of every Initial Determination and Final Determination made by him and of his reasons for making it; and he shall, if so requested by the Licensee, publish any report of the Advisory Body on the matter, subject to such exclusions as he may consider it appropriate to make of matters of a kind mentioned in section 48(2) of the Act.

31.7 The Director shall publish a description of his office's procedures for the enforcement of this Condition including the steps taken to ensure that he has access to appropriate independent advice in enforcing this Condition.

31.8 This Condition shall not limit or affect in any way the Licensee's obligations arising under any other condition of this Licence nor limit the Director's powers of enforcement under sections 16 to 18 of the Act.

31.9

- (a) On the coming into force of any Act or subordinate legislation which:
- (i) contains a prohibition enforceable by the Director, or gives to the Director the power to enforce an existing prohibition, of any behaviour prohibited under paragraph 31.1;
 - (ii) gives to third parties in respect of a breach of that prohibition at least the rights they have under section 18 of the Act in respect of a breach of a provisional or final order; and
 - (iii) permits the imposition on the Licensee of monetary penalties in respect of the breach of that prohibition,

this Condition shall cease to apply to the behaviour prohibited by or the prohibition enforceable by such Act or subordinate legislation.

- (b) If this Condition still has effect on 31 July 2001, it shall cease to have effect after that date.

31.10 The prohibition in paragraph 31.1(b) shall not apply to acts or omissions done prior to the expiry of the three months from the date of this Licence in pursuance of agreements entered into prior to the date of this Licence.

Condition 32

CONCILIATION AND RESOLUTION OF DISPUTES

32.1 The Licensee, to the extent that the Applicable Systems constitute a Fixed Public Telephone System by means of which the Licensee provides Fixed Publicly Available Telephone Services shall, where it is involved in a dispute concerning an alleged infringement of any right or obligation created by or under the Revised Voice Telephony Regulations, follow the procedures set up by the Director pursuant to regulation 37 of the Revised Voice Telephony Regulations in order to resolve such dispute in a fair, transparent and timely manner and shall take such steps as are required by the Director or other independent body or both to do so.

Condition 33

REQUIREMENT TO FURNISH INFORMATION TO THE DIRECTOR

33.1 Without prejudice to any other provision in this Licence relating to the provision of information, the Licensee shall furnish to the Director, in such manner and at such times as the Director may reasonably request, such information in the form of documents, accounts, estimates, returns and without prejudice to the generality of the foregoing, such other information as he may reasonably require for the purpose of verifying that the Licensee is complying with these Conditions and for statistical purposes.

33.2 In making any such request the Director shall ensure that no undue burden is imposed on the Licensee in procuring and furnishing such information and, in particular, that the Licensee is not required to procure or furnish information which would not normally be available to it unless the Director considers that the particular information is essential for the purposes referred to in paragraph 33.1.

33.3 Without prejudice to the generality of paragraph 33.1 and notwithstanding paragraph 33.2, the Licensee shall in such manner and at such times as he may reasonably request, furnish to the Director:

- (a) accounts which show separately the annual turnover of the Systems Business; and
- (b) particulars of a sample of retail call revenues disaggregated by categories of call.

33.4 The Licensee shall provide financial information to the Director promptly on request and to the level of detail required by the Director under Part IV of Schedule 3 to the Interconnection Regulations.

33.5 Where the Licensee is running a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services the Licensee shall make available to the Director at his request, in confidence, detailed accounting information in order to ensure compliance with the Revised Voice Telephony Regulations, and any condition which is required to be in this Licence by virtue of those Regulations.

33.6 In this Condition “documents” includes, without prejudice to the generality thereof, drawings, designs, plans, or specifications.

Condition 34

NOTIFICATION OF CHANGES IN SHAREHOLDINGS

34.1 The Licensee shall notify the Secretary of State if an undertaking becomes a Parent Undertaking in relation to the Licensee.

34.2 Subject to paragraph 34.3, the Licensee shall notify the Secretary of State of:

- (a) any change in the proportion of the Shares held in a Relevant Company by any person; and
- (b) the acquisition of any Shares in a Relevant Company by a person not already holding any such Shares, and the proportion of any such Shares held by that person immediately after that acquisition.

34.3 The Licensee shall be obliged to notify the Secretary of State of any acquisition of Shares or change in the Shareholding of a Relevant Company by any person only if, by reason of that acquisition or change, the total number of Shares in that Relevant Company held by that person otherwise than as trustee or nominee for another person together with any Shares held by any nominee or trustee for that person immediately after that change or acquisition:

- (a) exceeds 15 per cent of the total number of Shares in that company (where it did not exceed 15 per cent prior to that change or acquisition);
- (b) exceeds 30 per cent of the total number of Shares in that company (where it did not exceed 30 per cent prior to that change or acquisition); or
- (c) exceeds 50 per cent of the total number of Shares in that company (where it did not exceed 50 per cent prior to that change or acquisition),

provided that where a Relevant Company is a public company as defined in section 1 of the Companies Act 1985, the obligation shall be discharged by forwarding to the Secretary of State as soon as practicable all information in respect of that acquisition or that change as is entered on or received for entry on the register required to be maintained by that Relevant Company under section 211 of the Companies Act 1985.

34.4 In any case referred to in paragraph 34.1 or 34.2, notification shall be given by a date which is 30 days prior to the taking effect of such change or acquisition as the case may be, or as soon as practicable after that date.

Condition 35

LICENSEE'S GROUP

35.1 Without prejudice to the Licensee's obligations under these Conditions in respect, in particular, of anything done on its behalf, where:

- (a) the Director determines either:
 - (i) that a member of the Licensee's Group has done something which would, if it had been done by the Licensee, be prohibited or not be authorised under these Conditions; or
 - (ii) that a member of the Licensee's Group has done something which would, if it had been done by the Licensee, require the Licensee to take or refrain from taking a particular action under these Conditions and that neither the Licensee nor the member has met that further requirement; and
- (b) the Director is not satisfied that the Licensee has taken all reasonable steps to prevent any member acting in that way,

then the Director may direct the Licensee to take such steps as the Director deems appropriate for the purpose of remedying the matter, including refraining from carrying on with that member such commercial activities connected with telecommunications as the Director may determine.

35.2 Where these Conditions apply in respect of the Applicable Systems they do not apply in respect of any other telecommunication system, whether run by the Licensee or another.

35.3 Where any person becomes a member of the Licensee's Group then the Licensee shall not be subject to paragraph 35.1 before that is reasonably practicable but shall be so not later than one year after that person becomes such a member or such later date as the Director may determine.

35.4 This Condition shall not apply to any particular member of the Licensee's Group if and to the extent that the Director so determines.

Condition 36

PAYMENT OF FEES

36.1 Subject to paragraph 36.2 below, the Licensee shall pay the following amounts to the Secretary of State at the times stated:

- (a) on the grant of this Licence the sum of £40,000;
- (b) on 1 April 1999 and annually thereafter a renewal fee of (at the option of the Director) either £3,000 (the subsequent renewal fees being adjusted to take account of any fall or increase in the value of money since that date) or such amount which shall represent a fair proportion, to be determined each year by the Director according to a method that has been disclosed to the Licensee in a written statement, of the estimated costs to be incurred in that fiscal year by the Director in the regulation and enforcement of telecommunication licences and in the exercise of his other relevant functions under the Act. The first renewal fee shall be increased by the proportion which the period from the date of granting of this Licence until the next following 1 April bears to the period of one year; and
- (c) when the Director so determines, on 1 January 2000 and annually thereafter, a special fee which shall represent a fair proportion, to be determined by the Director according to a method that has been disclosed to the Licensee in a written statement of the amount, if any, by which the aggregate of:
 - (i) the costs estimated to have been incurred already in that fiscal year by the Director in the regulation and enforcement of telecommunication licences and in the exercise of his other relevant functions under the Act;
 - (ii) the costs estimated to have been incurred already in that fiscal year by the Competition Commission following licence modification references under section 13 of the Act; and
 - (iii) the estimated costs to be incurred in the remainder of that fiscal year:
 - (A) by the Director in the regulation and enforcement of telecommunication licences and in the exercise of his relevant other functions under the Act; and
 - (B) by the Competition Commission following licence modification references under section 13 of the Act,
 exceeds the renewal fee for that year.

36.2 The aggregate of the renewal fee and the special fee for any fiscal year shall not exceed:

- (a) 0.08% of the relevant annual turnover attributable to the licensable activities of the Licensee in the United Kingdom (as described in a written statement given to the Licensee by the Director) in the financial year before the last complete financial year of the Licensee before the renewal fee is payable (the "relevant turnover"); or
- (b) £3,000 (adjusted in the manner described in paragraph 36.1(b)),

whichever is the greater (the "normal aggregate fee"), unless the Director determines that the costs incurred in any fiscal year by him and the Competition Commission in respect of the Licensee's activities exceed the normal aggregate fee, by virtue of the costs of licence modification references under section 13 of the Act, in which case the aggregate of the renewal fee and the special fee for the following year shall be such amount (not exceeding 0.4% of the relevant turnover) as the Director determines is sufficient to take account of that excess as well as the normal aggregate fee.

Condition 37

BODIES RECOGNISED TO BE REPRESENTING THE INTERESTS OF CONSUMERS

37.1 The Licensee shall give due consideration to any matter which relates to:

- (a) telecommunication services provided by means of or in relation to any of the Applicable Systems;
- (b) telecommunication apparatus supplied by the Licensee; or
- (c) the connection to any of the Applicable Systems:
 - (i) of any telecommunication system run by any person other than the Licensee; or
 - (ii) any telecommunication apparatus,

and which is the subject of a representation made to the Licensee by either:

- (aa) a body recognised by the Secretary of State under section 27 of the Act, after consultation with the Licensee, as representing the interests of consumers and other users of such telecommunication services or apparatus; or
- (bb) an advisory body established by the Secretary of State under section 54(1) of the Act.

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

PART A: UNIVERSAL SERVICES CONDITIONS

This Part shall apply to the Licensee only to the extent that it is running a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services.

Condition 38

DETERMINATION OF PROVIDER OF UNIVERSAL SERVICES

38.1 The Licensee may be determined to be a provider of universal services by the Director, whenever he thinks appropriate in accordance with the procedure set out in paragraph 6 of Part 1 of this Licence, for the purposes of complying with any or all of Conditions 40 to 42 below as specified by the Director. Such conditions shall be referred to in this Part as the "Specified Conditions".

38.2 The Licensee shall comply with the Specified Conditions throughout or in any part of the area as specified by the Director within which the Licensee is authorised to run telecommunication systems under this Licence except to the extent that the Director is satisfied that any reasonable demand for any telecommunication services falling within the Specified Conditions is or is to be met by other means and that accordingly it would not be reasonable in the circumstances to require the Licensee to provide the services requested. Such specified area shall be referred to in this Part as the "Designated Area" and shall contain not less than 100,000 Served Premises.

38.3 In making a determination for the purposes of paragraph 38.1 above, the Director shall have regard to all the following factors:

- (a) the relative size of the Licensee's business including the extent, density and resilience of the Applicable Systems in the provision of telephone services in any area which is being considered by the Director for the purposes of paragraph 38.2, in which the Licensee is authorised to provide such services, compared with other providers of such services in that area;
- (b) the relative capability of the Licensee to comply with any or all of Conditions 40 to 42 in the area referred to in sub-paragraph 38.3(a) above compared with other providers of telephone services in that area;
- (c) the likely net cost to the Licensee of complying with any or all of Conditions 40 to 42;
- (d) the financial stability of the Licensee; and
- (e) the willingness of the Licensee to comply with any or all of Conditions 40 to 42.

Condition 39

UNIVERSAL SERVICE FUND

39.1 The Licensee shall, at the request of the Director and within such period as may be determined by him, calculate the net costs incurred by the Licensee in complying with the Specified Conditions. The Licensee shall carry out such calculations in accordance with Schedule 5 to the Interconnection Regulations.

Condition 40

REQUIREMENT TO PROVIDE TELEPHONE SERVICES ON REQUEST

40.1 To the extent that this is a Specified Condition the Licensee shall provide, at the reasonable request of any person, telephony services to that person, including the ability to make and receive national and international calls and calls employing facsimile or voice band data up to 2400 bit/s, at any place in the Designated Area by means of the Applicable Systems, and the Licensee shall ensure that the Applicable Systems are installed, kept installed and run for those purposes.

Condition 41**SCHEMES FOR USERS WITH SPECIAL SOCIAL NEEDS**

41.1 To the extent that this Condition is a Specified Condition, the Licensee shall make available and thereafter continue to make available to Users within the Designated Area who request telephony services, one or more schemes (a "Scheme") the effect of which would be to assist Users who have difficulty affording telephone services, including, in particular Users with limited financial resources.

41.2 Each such Scheme shall comply with guidelines to be agreed between the Director and the Licensee. The guidelines shall be agreed within 3 months of the Director providing a draft of the guidelines to the Licensee. The guidelines shall be published in accordance with paragraph 41.4 below.

41.3 Those guidelines:

- (a) shall specify the requirements to be met by the Scheme including the criteria to be applied by the Licensee in deciding which of its residential customers are entitled to the benefits of the Scheme;
- (b) shall specify the date of the introduction of the Scheme; and
- (c) may not be revoked or varied save with the prior written agreement of the Licensee.

41.4 The Licensee shall publish the guidelines referred to in paragraph 41.3 above by:

- (a) sending a copy of them to the Director within three months of the guidelines being agreed with the Director;
- (b) placing as soon as practicable thereafter a copy of them in a publicly accessible part of every Major Office of the Licensee in such a manner and in such place that they are readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe that the register of Licences and final and provisional orders is to be open for public inspection under section 19(4) of the Act, or in the absence of any such order having been made by the Secretary of State, during normal office hours; and
- (c) sending a copy thereof or such part or parts thereof to any person who may request such a copy.

Condition 42**PROVISION OF PUBLIC CALL BOX SERVICES**

42.1 To the extent that this Condition is a Specified Condition the Licensee shall, after consultation with the Director, from time to time publish guidelines for determining when:

- (a) Public Call Boxes should be installed in new locations; and
- (b) the Licensee shall be entitled to cease to provide Call Box Services at a Public Call Box.

42.2 The Licensee shall:

- (a) in the case of paragraph 42.1(a), install Call Boxes on request in accordance with the guidelines unless there are special circumstances which make it unreasonable to require the Licensee to do so; and
- (b) in the case of paragraph 42.1(b), be entitled to cease to provide Call Box Services in accordance with the guidelines.

42.3 Publication of the guidelines shall be effected by:

- (a) sending a copy thereof (including any changes) to the Director;
- (b) placing as soon as practicable thereafter a copy thereof in a publicly accessible part of every Major Office of the Licensee in such a manner and in such a place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe that the register of Licences and final and provisional orders is to be open for public inspection under section 19(4) of the Act, or in the absence of any such order having been made by the Secretary of State, during normal office hours; and
- (c) sending a copy thereof or such part or parts thereof to any person who may request such a copy.

PART B: OBLIGATION TO PROVIDE SERVICES OTHER THAN VOICE TELEPHONY ON REQUEST

This Part shall apply to the Licensee only to the extent that it is running a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services.

Condition 43

REQUIREMENT TO PROVIDE TELECOMMUNICATION SERVICES, OTHER THAN VOICE TELEPHONY SERVICES, ON REQUEST

43.1 This Condition shall apply to the Licensee where the Director has made a determination whenever he thinks appropriate for the purposes of this Condition, in accordance with the procedure set out in paragraph 6 of Part 1 of this Licence.

43.2

- (a) Subject to sub-paragraph (b) below, the Licensee shall provide such telecommunication services consisting in the conveyance of Messages as may be specified by the Director, other than those specified in Part A, to every person who reasonably requests such services at any place throughout or in any part of the area as specified by the Director within which the Licensee is authorised to run telecommunication systems under this Licence and which contains not less than 100,000 Served Premises. The Director may specify such services generally, or with reference to services of a particular description.
- (b) The Licensee shall not be required to provide such services to the extent that the Director is satisfied that any reasonable demand for such services is or is to be met by other means and that accordingly it would not be reasonable in the circumstances to require the Licensee to provide the services requested.

43.3 The Licensee shall ensure that the Applicable Systems are installed, kept installed and run for the purposes specified in paragraph 43.2 above.

43.4 In making a determination for the purposes of paragraph 43.1 above, the Director shall have regard to all the following factors, and any other factors, which appear to him to be relevant:

- (a) the relative size of the Licensee's business including the extent, density and resilience of the Applicable Systems in the provision of the telecommunication services, of a description specified by the Director, in any area which is being considered by the Director for the purposes of paragraph 43.2 in which the Licensee is authorised to provide such services compared with other providers of such services in that area;
- (b) the relative capability of the Licensee to provide telecommunication services of a description specified by the Director in the area referred to in sub-paragraph 43.4 (a) compared with other providers of such services in that area;
- (c) the likely net cost to the Licensee of providing such services;
- (d) the financial stability of the Licensee; and
- (e) the willingness of the Licensee to provide such services.

PART C: OPERATORS WITH SIGNIFICANT MARKET POWER FOR THE PURPOSES OF THE INTERCONNECTION DIRECTIVE

Conditions 46, 47 and 50 shall apply to the Licensee only to the extent that it is running a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services.

Condition 44

DETERMINATION OF SIGNIFICANT MARKET POWER

44.1 Part C applies to the Licensee where the Director has determined the Licensee to be an Operator having Significant Market Power pursuant to regulation 4(1) of the Interconnection Regulations. Such determination shall be made in accordance with the procedure set out in paragraph 6 of Part 1 of Schedule 1 of this Licence if such determination is made after that paragraph has come into force.

44.2 Where this Part applies, Condition 9 shall no longer apply to the Licensee.

44.3 The Conditions in this Part apply to the Licensee only in respect of the relevant market or markets in which the Director has determined the Licensee to be an Operator having Significant Market Power.

Condition 45**INTERCONNECTION AGREEMENTS WITH SCHEDULE 2 PUBLIC OPERATORS INCLUDING CO-LOCATION AND FACILITY SHARING**

45.1 Subject to paragraphs 45.6 and 45.7 and any exercise by the Director of his functions under regulations 6(3) or 6(4) of the Interconnection Regulations, the Licensee shall offer to enter into an agreement with an Operator which is a Schedule 2 Public Operator, or offer to amend such an agreement, as the case may be, within a reasonable period, if such Operator requires it:

- (a) to connect, and keep connected, to any of the Applicable Systems, or to permit to be so connected and kept connected, the Operator's telecommunication system and accordingly to establish and maintain such one or more Points of Connection as are reasonably required and are of sufficient capacity and in sufficient number to enable Messages conveyed or to be conveyed by means of any of the Applicable Systems to be conveyed in such a way as conveniently to meet all reasonable demands for the conveyance of Messages between the Operator's system and the Applicable Systems; and
- (b) to provide such other telecommunication services (including the conveyance of Messages which have been, or are to be, transmitted or received at such Points of Connection), information and other services which, to the extent the parties do not agree (or the Licensee is not in any event so required under or by virtue of another Condition), the Director may determine are reasonably required (but no more than reasonably required) to secure that Points of Connection are established and maintained and to enable the Operator effectively to provide the Connection Services which it provides or proposes to provide.

45.2 The Licensee or the Schedule 2 Public Operator may at any time request the Director to make a direction in order:

- (a) to specify issues which must be covered in an Interconnection agreement;
- (b) to lay down specific conditions to be observed by one or more parties to the agreement; or
- (c) if he thinks fit, to set time limits within which negotiations are to be completed,

and a direction under this paragraph operates as an exercise by the Director of the power of direction conferred by regulation 6(3) or 6(4) of the Interconnection Regulations, as the case may be.

45.3 The Licensee shall secure that the agreement or amendment referred to in paragraph 45.1 above is offered on terms and conditions which are reasonable.

45.4 To the extent that the terms and conditions of any agreement or amendment made under paragraph 45.1 cease to be reasonable, the Licensee shall, within a reasonable period, offer to the Schedule 2 Public Operator, or agree with such Operator, as the case may be, to amend the agreement so that its terms and conditions are reasonable.

45.5 The Licensee shall:

- (a) comply with the requirements of any directions given to the Licensee under paragraph 45.2 above or under regulation 6(3) or 6(4) of the Interconnection Regulations in relation to any negotiations or agreement to which it is or is intended to be a party;
- (b) comply with the requirements of any direction given to the Licensee under regulation 6(6) or 6(7) of the Interconnection Regulations in relation to any dispute over the terms of an agreement or amendment made under paragraph 45.1 above;
- (c) where the Director specifies conditions based on essential requirements pursuant to regulation 7(1) of the Interconnection Regulations for inclusion in an Interconnection agreement to which the Licensee is a party, forthwith secure the incorporation of those terms and conditions in such an agreement;
- (d) comply with any requirement made by the Director as a last resort under regulation 6(10) of the Interconnection Regulations to interconnect in order to protect essential public interests, and comply with any terms set by the Director for such purpose;
- (e) comply with any decision by the Director under regulation 10(2) of the Interconnection Regulations; and
- (f) comply with any facility or property sharing arrangements, or both, specified by the Director in accordance with regulation 10(3) of the Interconnection Regulations.

45.6 So long as section 11 of the Restrictive Trade Practices Act 1976 is still in force an agreement made pursuant to this Condition shall not contain any restrictive provision, unless, before the agreement is made, the Director has consented to the inclusion of such a provision. For the purposes of this paragraph, a provision in an agreement is a restrictive provision if by virtue of the existence of such a provision (taken alone or with other provisions) the agreement is one to which the Restrictive Trade Practices Act 1976 would apply but for paragraph 1(1) of Schedule 3 to that Act.

45.7 Paragraph 45.1 above does not apply to the extent that the Director has consented to limiting such obligation on a temporary basis and on the grounds that there are technically and commercially viable alternatives to the Interconnection requested, and that the requested Interconnection is inappropriate in relation to the resources available to meet the request.

45.8 For the avoidance of doubt:

- (a) any question as to whether any term or condition (including a charge) is reasonable shall be decided by the Director having regard to any guidelines on the application of this Condition issued from time to time by the Director; and
- (b) in considering whether a term or condition (including a charge) is reasonable, the Director may take into account, inter alia, the effective date of the term or condition and the period during which such term or condition may already have been in effect; the Director may conclude that a reasonable charge is one which is offered or agreed, as the case may be, on terms that it take effect in agreements or amendments made under paragraph 45.1 above from the date of a complaint or the date on which the term was first offered by the Licensee or accepted by a Schedule 2 Public Operator or from any other date which is considered by the Director to be appropriate in the circumstances.

45.9 Where the Director so directs, the Crown shall be treated for the purposes of this Condition as a Schedule 2 Public Operator.

Condition 46

REQUIREMENT TO PUBLISH A REFERENCE INTERCONNECTION OFFER

46.1 The Licensee shall publish a reference interconnection offer within 3 months of having been determined by the Director as having Significant Market Power, and every 6 months from the date of the previous publication. Publication shall be effected by:

- (a) sending a copy thereof to the Director;
- (b) except to the extent that the Director may consent to an alternative location or to an alternative method of publication, placing as soon as practicable thereafter a copy thereof in a publicly accessible part of every Major Office of the Licensee in such a manner and in such a place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe that the register of Licences and final and provisional orders is to be open for public inspection under section 19(4) of the Act, or in the absence of any such order having been made by the Secretary of State during normal office hours; and
- (c) sending a copy thereof to any person who may request such a copy.

46.2 The Licensee's reference interconnection offer shall include:

- (a) a full list of the Standard Services to be supplied to Schedule 2 Public Operators in accordance with an agreement or amendment to an agreement required under Condition 45.1 and shall specify:
 - (i) the charges for each Standard Service (the Standard List) and the amounts applied to each component within that Service; and
 - (ii) the location in the Licensee's current standard Interconnection agreement of the terms and conditions associated with the provision of each Standard Service; and
- (b) a description of Interconnection services to be supplied in accordance with Condition 48 broken down into components according to market needs and the associated terms and conditions, including charges.

46.3 The Licensee shall secure that all offers made pursuant to Condition 45.1 and Condition 48.1 are at the same charges and associated terms and conditions as set out or referred to in the Licensee's reference interconnection offer referred to in paragraph 46.2 above.

Condition 47

REQUIREMENTS RELATING TO INTERCONNECTION AGREEMENTS WITH SCHEDULE 2 PUBLIC OPERATORS

Cost Oriented Charges

47.1 Where the Licensee runs the systems or provides the services described in Parts I and II of Schedule 1 to the Interconnection Regulations (fixed public telephone network and leased lines services), the Licensee shall secure, and shall be able to demonstrate to the satisfaction of the Director at his request, that the charges offered, payable or proposed to be offered or payable by a Schedule 2 Public Operator

to the Licensee for each Standard Service, including the amounts applied to each component within that Service, are reasonably derived from the costs of providing the Service based on a forward looking incremental cost approach (except to the extent the Director considers it appropriate that for a transitional period, or in any particular case, the Licensee apply another cost standard). The Licensee shall comply with any adjustment required by the Director in exceptional cases where justified to ensure effective competition or interoperability of services for users or both.

47.2 The Licensee shall ensure that the amount applied and incorporated in the Transfer Charge and other terms and conditions for any service which the Licensee provides to itself or any member of the Licensee's Group which is a Schedule 2 Public Operator and which is the same as a Standard Service, are the same as those applied to Schedule 2 Public Operators for such Service.

47.3 An offer by the Licensee to a Schedule 2 Public Operator pursuant to Condition 45.1 shall not be conditional on the acceptance by such Operator of any other terms and conditions except for terms and conditions which are necessarily incidental to the provision of the Standard Service in question.

47.4 The Licensee may set different tariffs, terms and conditions for Interconnection for different categories of Schedule 2 Public Operators running telecommunication systems or providing telecommunication services, where such differences can be objectively justified on the basis of the type of Interconnection provided or on the basis of relevant Conditions of the Licence.

Network Charge Change Notice

47.5 The Licensee shall give notice in writing of any proposal to change any charge for a Standard Service or to introduce a charge for a proposed New Standard Service which identifies:

- (a)
 - (i) the Standard Service, the current charge for, and the location in the Licensee's current standard Interconnection agreement of the terms and conditions associated with the provision of the Service and the proposed charge; or
 - (ii) the proposed charge and associated terms and conditions for the proposed New Standard Service; and
- (b) the date on which or the period for which the proposed new charge will take effect ("the effective date or period").

The notice above shall be referred to in these Conditions as a "Network Charge Change Notice".

47.6 The Licensee shall send the Network Charge Change Notice to the Director and to all Schedule 2 Public Operators with which it has entered into (or offered to enter into) an agreement pursuant to Condition 45.1:

- (a) in the case of a Competitive Standard Service, a Prospectively Competitive Standard Service, or a New Standard Service, not less than 28 days before the proposed change is to take effect; and
- (b) in the case of all other Standard Services, not less than 90 days before the proposed change is to take effect,

and the Licensee shall not apply any proposed new charge before the effective date or period.

47.7 When the Director decides to investigate a proposed charge for a Standard Service or a charge for a New Standard Service before the period of notice specified in paragraph 47.6 expires, on the basis that:

- (a) it is not independent of the type of application of the Service which Operators implement or may implement;
- (b) except in the case of a Competitive Standard Service, it will not differ by time of day in accordance with the Licensee's retail time of day gradient; or
- (c) the unit of payment or method of charging is to be changed, for example, by the introduction of a minimum fee or a charge comprising a set up charge and an ongoing usage related charge, or to capacity based charging, or as a result of the repackaging of a Service,

the Director may direct that the Licensee:

- (d) change the effective date or the beginning of the period specified in accordance with paragraph 47.5(b) from which the New Standard Service will be offered, or as the case may be, the proposed charge will take effect, to a date specified in the direction; or
- (e) withdraw the Network Charge Change Notice and that, except to the extent that enforcement action is taken against the proposal, the proposal may not take effect except in accordance with a further Notice under paragraph 47.5 sent after a date specified in the direction.

47.8 Without prejudice to Condition 33, if, in the opinion of the Director, the information provided in a Network Charge Change Notice does not contain all the information specified in paragraph 47.5 or is inaccurate, then the Licensee shall provide to the Director, in the manner and at the times as the Director may request, such information or such further information as the Director may reasonably require to address the deficiency in the Notice. If the Director makes such a request, he may direct that the Licensee:

- (a) change the effective date or the beginning of the period specified in accordance with paragraph 47.5(b) from which the proposed charge will take effect, to a date specified in the direction; or

- (b) withdraw the Network Charge Change Notice and that, except to the extent that enforcement action is taken against the proposal, the proposal may not take effect except in accordance with a further Notice under paragraph 47.5 sent after a date specified in the direction.

47.9 If, before it comes into effect, the Licensee withdraws a Network Charge Change Notice, or changes the effective date or the beginning of the period, the Licensee shall send to the Director, to all Schedule 2 Public Operators with which it has entered into (or offered to enter into) an agreement or amendment pursuant to Condition 45.1, and to every person who on or before that date requested a copy of the Network Charge Change Notice which has been withdrawn or changed, written notice of the withdrawal or change forthwith.

Determination of Competitive Standard Services and Prospectively Competitive Standard Services

47.10

- (a) The Director shall, following a representation by the Licensee or by a Schedule 2 Public Operator that the market for a Standard Service is competitive, or prospectively competitive, determine whether or not that market is competitive or prospectively competitive. If the Director determines that the market is competitive or prospectively competitive, then that Standard Service shall be a Competitive Standard Service, or a Prospectively Competitive Standard Service, as the case may be.
- (b) The Director may, following a representation by the Licensee or a Schedule 2 Public Operator that the market for a Competitive Standard Service, a New Standard Service or a Prospectively Competitive Standard Service is not or has ceased to be competitive, or prospectively competitive, make any determination as follows:
 - (i) the Director may determine that the market for a Competitive Standard Service is not competitive, and the Standard Service shall, accordingly, cease to be a Competitive Standard Service;
 - (ii) the Director may determine that the market for a Prospectively Competitive Standard Service is not prospectively competitive, and the Prospectively Competitive Standard Service shall, accordingly, cease to be a Prospectively Competitive Standard Service; and
 - (iii) the Director may determine that the market for a New Standard Service is not competitive or prospectively competitive, and the New Standard Service shall, accordingly, cease to be a New Standard Service.

Other Publication Requirements relating to the Standard List and Network Charge Change Notices

47.11 Except to the extent that the Director may otherwise consent, within 10 working days from the date on which a proposal to change a charge or to offer a New Standard Service comes into effect, the Licensee shall amend the Standard List to take account of the change and shall publish the amendment by sending it to the Director and to all Schedule 2 Public Operators with which it has entered into (or offered to enter into) an agreement pursuant to Condition 45.1.

47.12 Except to the extent that the Director may consent to an alternative location or to an alternative method of publication, the Licensee shall make available in a publicly accessible part of every Major Office, in such manner and in such place that it is readily available for inspection free of charge by members of the public, a notice of the address and telephone number of the person to whom any request may be made for any of the following:

- (a) a copy of the current Standard List, any amendments thereto or the standard Interconnection agreement;
- (b) copies of the Network Charge Change Notices; and
- (c) written notice of any withdrawal or change of a Network Charge Change Notice.

47.13 The Licensee shall send a copy of the current Standard List, any amendments not incorporated into the List or the current standard Interconnection agreement or any Interconnection agreement or amendment offered by the Licensee pursuant to Condition 45.1 to any person who may request such items upon payment of a reasonable charge. The Licensee shall send the copy within 7 working days after receipt of payment of that charge.

47.14 The Licensee shall send a copy of any notice to which paragraphs 47.12(b) and 47.12(c) apply to any person who makes a request for such a notice within a period of a year after it has been sent to the Director. The Licensee shall send such notice to such person within 7 working days of receipt of the request.

Condition 48**REQUIREMENT TO MEET REQUESTS FOR ACCESS OTHER THAN FROM SCHEDULE 2 PUBLIC OPERATORS**

48.1 Except in relation to agreements with Schedule 2 Public Operators where Condition 45 applies and subject to paragraph 48.3 below, the Licensee shall offer to provide Interconnection to the Applicable Systems to any person running a telecommunication system under a Licence reasonably requesting it in accordance with an agreement to which this Condition applies.

48.2 An agreement to provide Interconnection to the Applicable Systems shall provide for:

- (a) the connection to the Applicable Systems at such points, including points other than Network Termination Points on Served Premises, of telecommunication systems or telecommunication apparatus run by the person making the request; and
- (b) the provision by means of the connection so made of such telecommunication services (including the conveyance of Messages which have been or are to be transmitted or received thereby), information and other services,

as may reasonably be requested.

48.3 The Licensee shall provide such Interconnection on charges, terms and conditions set out in the reference interconnection offer and referred to in Condition 46.2(b), and in setting the charges, terms and conditions shall secure that:

- (a) charges shall be transparent and cost oriented;
- (b) different charges, terms and conditions for different circumstances shall be objectively justified on the basis of the services or service elements provided to the person concerned; and
- (c) charges shall be sufficiently unbundled to ensure that there is no requirement to pay for anything not strictly related to the services requested,

and shall ensure that it is able to demonstrate the same to the Director at his request.

48.4 Where the Licensee or a member of the Licensee's Group which is not a Schedule 2 Public Operator uses services or facilities equivalent to services provided by means of the Applicable Systems and to which paragraph 48.2 above applies, it shall ensure that the quality of and the terms and conditions applying to services provided to others in accordance with that paragraph shall be the same as for those provided to or used by the Licensee or a member of the Licensee's Group.

48.5 The Licensee or the person requesting Interconnection may at any time request the Director to make a direction in order:

- (a) to specify the issues which must be covered in the Interconnection agreement; or
- (b) to lay down specific conditions to be observed by one or more parties to the agreement,

and a direction under this paragraph operates as an exercise by the Director of the power of direction conferred by regulation 6(3) of the Interconnection Regulations.

48.6 The Licensee shall:

- (a) comply with the requirements of any direction given to the Licensee under paragraph 48.5 above or under regulation 6(3) or 6(4) of the Interconnection Regulations in relation to any negotiations or agreement to which it is or is intended to be a party;
- (b) comply with the requirements of any direction given to the Licensee under regulation 6(6) or 6(7) of the Interconnection Regulations in relation to any dispute over the terms of any agreement or amendment made under paragraph 48.2 above;
- (c) where the Director specifies conditions based on essential requirements pursuant to regulation 7(1) of the Interconnection Regulations for inclusion in an Interconnection agreement to which the Licensee is a party, forthwith secure the incorporation of those terms and conditions in such an agreement;
- (d) comply with any requirement made by the Director as a last resort under regulation 6(10) of the Interconnection Regulations to interconnect in order to protect essential public interests, and comply with any terms set by the Director for such purpose;
- (e) comply with any decision by the Director under regulation 10(2) of the Interconnection Regulations; and
- (f) comply with any facility or property sharing arrangements, or both, specified by the Director in accordance with regulation 10(3) of the Interconnection Regulations.

Condition 49**REQUIREMENT TO SEND INDIVIDUAL AGREEMENTS TO THE DIRECTOR AND TO PUBLISH THEM**

49.1 On entering into an Interconnection agreement (including amendments), pursuant to Condition 45 or 48, the Licensee shall send a copy of such agreement (including amendments), to the Director.

49.2 Either party to an agreement or amendment referred to in Condition 45.1 or 48.1 above may, within 14 days of entering into such agreement or amendment make a representation to the Director that any part of such agreement or amendment deals with its commercial strategy and require the Director to make a determination to that effect.

49.3 A determination made in response to a requirement under paragraph 49.2 above shall specify any exclusions to be made from the agreement or amendment before it is published under paragraph 49.4 below. However, details of Interconnection charges, terms and conditions and any contributions to a universal service fund cannot be excluded from publication of the agreement or amendment.

49.4 The Licensee shall:

- (a) where no request has been made under paragraph 49.2 above, as soon as reasonably practicable and in any event not earlier than 14 days and not later than 28 days after entering into an agreement or amendment pursuant to Condition 45.1 or 48.1; or
- (b) where a request has been made under paragraph 49.2 above, as soon as reasonably practicable and in any event not before receipt of a determination and not later than 14 days thereafter,

publish the agreement or amendment in the following manner. Except to the extent that the Director may consent to an alternative location or method of publication, the Licensee shall make available in a publicly accessible part of every Major Office, in such manner and in such place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe that the register of Licences and final and provisional orders is to be open for public inspection under section 19(4) of the Act, or in the absence of any such order having been made by the Secretary of State during the normal office hours, a list of all such agreements and amendments together with a notice of the address and telephone number of the person to whom any request for a copy of any or all of such list, agreements or amendments, or any part of them, may be made.

49.5 The Licensee shall send a copy of the list referred to in paragraph 49.4 above, or (following publication) any agreement or amendment or part of them to any person who may request it within 7 working days of receipt of the request.

49.6 The Licensee shall, within a reasonable period following a request, send to any person requesting Interconnection all necessary information and specifications, in order to facilitate the conclusion of an agreement, including, except to the extent that the Director may otherwise consent, information on changes planned for implementation within the next six months.

49.7 Any information received by a Licensee from any person for the purposes of any provision in Part C shall be used only for the purposes for which it was supplied. The Licensee shall not pass such information on to other departments within the Licensee's organisation, subsidiaries or partners for which such information could provide a competitive advantage.

49.8 The Licensee shall comply with any request by the Director under regulation 6(5) of the Interconnection Regulations to inspect in its entirety any Interconnection agreement entered into by the Licensee.

Condition 50**REQUIREMENT TO HAVE COST ACCOUNTING SYSTEMS AND ACCOUNTING SEPARATION FOR INTERCONNECTION PURPOSES**

50.1 The Licensee shall maintain a cost accounting system which, having regard to the Licensee's obligations under Condition 47.1 above:

- (a) in the opinion of the Director is suitable to demonstrate that its charges for Interconnection have been fairly and properly calculated; and
- (b) provides the information for the time being required to be provided by virtue of Article 7.5 of, and Annex V to, the Interconnection Directive.

50.2 The Licensee shall make available to any person on request a description of its cost accounting system showing the main categories under which costs are grouped and the rules used for the allocation of costs to Interconnection.

50.3 The Licensee shall be deemed to be complying with the requirements of paragraph 50.1 and 50.4A to 50.6 at any time within the period of two years from the designation of the Licensee as an Operator having Significant Market Power if it is at that time complying with directions then in force which have been given to it by the Director for the purpose of ensuring that its cost accounting system enables it to demonstrate that its charges have been fairly and properly calculated.

50.4 Where the annual turnover of the Licensee in telecommunications activities in the UK is more than 20 million euros the Licensee shall keep separate accounts for, on the one hand, activities related to Interconnection—covering both Interconnection services provided to or used by itself and any organisation within its Group and Interconnection services provided to others—and, on the other hand, other activities so as to identify all elements of costs and revenue, with the basis of their calculation and the detailed attribution methods used, related to its Interconnection activity, including an itemised breakdown of fixed assets.

50.4A The Licensee shall also prepare in respect of each financial year a statement (the “Standard Service Statement”) of costs of and charges for Standard Services, to the extent that disaggregation of such Standard Services is necessary for the purposes of paragraph 50.1.

50.5 For each financial year ending on or after 1 January in the year in which the Licensee is determined by the Director to be an Operator having Significant Market Power pursuant to regulation 4(1)(b)(i) of the Interconnection Regulations, the Licensee shall procure in respect of each of the separate accounts described in paragraph 50.4 above an audit report by the Licensee’s Auditor which shall conform to Auditing Standards and in which the Auditor shall state whether in its opinion the accounts in question fairly present, in accordance with the description of cost accounting systems:

- (a) in the case of the profit and loss account, the results; and
- (b) in the case of the statement of mean capital employed, the mean capital employed.

50.5A The Licensee shall procure in respect of each Standard Service Statement an audit report by the Licensee’s Auditor, which shall conform to Auditing Standards in which the Auditor shall state whether in his opinion the costs of and the charges for, the Standard Service are properly prepared in accordance with the description of cost accounting systems, unless the Licensee can demonstrate, to the reasonable satisfaction of the Director, in respect of which the Licensee shall be afforded a reasonable opportunity to present its case, that the requirement to procure an audit opinion on a specific Standard Service Statement is not proportionate.

50.6 For each financial year ending on or after 1 January in the year in which the Licensee is determined by the Director to be an Operator having Significant Market Power pursuant to regulation 4(1)(b)(i) of the Interconnection Regulations, the Licensee shall publish:

- (a) the separate financial accounts and the report of the Auditor thereon; and
- (b) the Standard Service Statement and the report of the Auditor thereon,

within two months after the date on which the Licensee’s annual statutory financial statements are published and, in any event, within four months after the end of the period to which they relate, or such other period as the Director shall determine and which is objectively justified.

50.7 Any requirement to which the Licensee would otherwise be subject under paragraph 50.4A shall not apply if, or to the extent that, the Licensee can demonstrate to the reasonable satisfaction of the Director, in respect of which the Licensee shall be afforded a reasonable opportunity to present its case, that the requirement is not proportionate.

PART D: OPERATORS WITH SIGNIFICANT MARKET POWER FOR THE PURPOSES OF THE REVISED VOICE TELEPHONY DIRECTIVE AND OPERATORS WHICH HAVE BEEN RUNNING A FIXED PUBLIC TELEPHONE SERVICE FOR MORE THAN 18 MONTHS

Condition 51

SCOPE OF APPLICATION OF THIS PART

51.1 Part D applies to the Licensee where the Director has determined the Licensee to be an Operator having Significant Market Power pursuant to regulation 6 of the Revised Voice Telephony Regulations. Such determination shall be made in accordance with the procedure set out in paragraph 6 of Part 1 of Schedule 1 of this Licence, if such determination is made after that paragraph has come into force.

51.2 Where a direction is made by the Director pursuant to regulation 19(3) of the Revised Voice Telephony Regulations in respect of Public Operators which have been running a Fixed Public Telephone System for more than 18 months, and the direction applies to the Licensee, this Part applies to the Licensee to the extent of the direction made.

Condition 52**QUALITY OF SERVICE AND PROVISION OF ADDITIONAL FACILITIES**

52.1 The Licensee shall keep up-to-date information concerning its performance based on the parameters, definitions and measurement methods laid down in Schedule III to the Revised Voice Telephony Regulations. The Licensee shall provide this information to the Director at his request.

52.2 Where the Director has set quality of service standards or performance targets or both pursuant to regulation 19 of the Revised Voice Telephony Regulations in respect of the Licensee, the Licensee shall meet such standards or targets or both, and shall, if requested by the Director, publish data on its performance in accordance with paragraph 52.3 below.

52.3 The Licensee shall:

- (a) place a copy of such data in a publicly accessible part of every Major Office of the Licensee in such manner and in such place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe that the register of Licences and final and provisional orders is to be open for public inspection under section 19(4) of the Act or in the absence of any such order having been made by the Secretary of State during normal office hours; and
- (b) send a copy of such information or such part or parts thereof as are appropriate to any Consumer who may request such a copy.

52.4 Where, pursuant to regulation 19(3)(c) of the Revised Voice Telephony Regulations, the Director calls for an independent audit of the performance data kept by the Licensee pursuant to paragraph 52.1, the Licensee shall furnish to the Director, in such manner and at such times as the Director may reasonably request, such documents, accounts, estimates, returns or other information and such reports as he may reasonably require for the purpose of ensuring the accuracy and comparability of the data made available by Licensees to whom this Condition applies.

52.5 The Licensee shall, subject to technical feasibility and economic viability, make available to users the facilities listed in Part 2 of Schedule I to the Revised Voice Telephony Regulations, that is to say:

- (a) Calling-Line identification
i.e. the calling party's number is presented to the called party prior to the call being established;
- (b) Direct dialling-in (or facilities offering equivalent functionality)
i.e. users on a private branch exchange (PBX) or similar private system can be called directly from the Public Switched Network, without the intervention of the PBX attendant; and
- (c) Call forwarding
i.e. incoming calls sent to another destination in the same or another Member State (for example, on no reply, on busy, or unconditionally).

52.6 Where the Licensee provides any of the facilities described in paragraphs (a) and (c) of Part 2 of Schedule I and in paragraphs (d) and (f) of Part 3 of Schedule I of the Revised Voice Telephony Regulations, it shall do so in accordance with Relevant Data Protection Legislation.

Condition 53**SPECIAL NETWORK ACCESS**

53.1 This Condition applies where the Licensee receives a request from an organisation providing telecommunication services for access to its Fixed Public Telephone System at Network Termination Points other than the commonly provided Network Termination Points referred to in Schedule II to the Revised Voice Telephony Regulations (and for the purposes of this Condition the foregoing shall be referred to as "special network access").

53.2 The Licensee shall deal with reasonable requests for special network access except where the Director has determined pursuant to regulation 26(2) of the Revised Voice Telephony Regulations that this obligation does not apply on a case by case basis and on the grounds that there are technically and commercially viable alternatives to the special network access requested and that the requested access is inappropriate in relation to the resources available to meet the request.

53.3 The Licensee shall grant the organisation making the request an opportunity to put its case to the Director before a final decision is taken to restrict or deny access in response to a particular request.

53.4 Where the Licensee denies a request for special network access, the Licensee shall give the organisation making the request a prompt and fully reasoned explanation of why the request has been refused.

53.5 Subject to intervention by the Director pursuant to regulations 26(1)(b), 26(3) and 26(4) of the Revised Voice Telephony Regulations, technical and commercial arrangements for special network access shall be a matter for agreement between the parties involved. Where the agreement provides for reimbursement to the Licensee of the costs incurred among other things in providing the special network access requested, those charges shall fully respect the principles of cost orientation set out in Schedule IV to the Regulations.

53.6 Where the Director makes a direction pursuant to regulation 26(3) or 26(4) of the Revised Voice Telephony Regulations or both, the Licensee shall comply with the provisions of any such direction including securing incorporation of any conditions specified by the Director in any agreement entered into by the Licensee to which such direction applies.

53.7 The Licensee shall make available to the Director, at his request, details of the agreements on special network access to which it is a party.

53.8 The Licensee shall provide special network access facilities and information to others under the same conditions and of the same quality as it provides for its own service or those of its subsidiaries or partners.

Condition 54

TARIFFS, COST ACCOUNTING PRINCIPLES, AND DISCOUNT SCHEMES

54.1 Paragraphs 54.2 to 54.5 below do not apply in any geographical area which the Director has specified pursuant to regulation 27(2) of the Revised Voice Telephony Regulations.

54.2 The Licensee shall ensure that tariffs for the provision of its Fixed Public Telephone Services follow the basic principles of cost orientation set out in Schedule IV to the Revised Voice Telephony Regulations.

54.3 Without prejudice to Conditions 47.4 and 47.6, the Licensee shall ensure that tariffs for the Fixed Public Telephone System and Fixed Publicly Available Telephone Services provided by the Licensee shall be independent of the type of application which its Subscribers use, except to the extent that such Subscribers require different services or facilities.

54.4 The Licensee shall ensure that tariffs for facilities additional to the provision of connection to the Licensee's Fixed Public Telephone System and provision of Fixed Publicly Available Telephone Services are sufficiently unbundled so that each of the Licensee's Subscribers is not required to pay for facilities which are not necessary for the service requested from the Licensee.

54.5 The Licensee shall only implement changes to its tariffs referred to in this Condition 28 days after publication of such changes in accordance with paragraph 54.6 below, except where the Director has consented in writing to a shorter notice period.

54.6 The Licensee shall:

- (a) place a copy of such changes in a publicly accessible part of every Major Office of the Licensee in such manner and in such place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe that the register of Licences and final and provisional orders is to be open for public inspection under section 19(4) of the Act, or in the absence of any such order having been made by the Secretary of State, during normal office hours; and
- (b) send a copy of such information or such part or parts thereof as are appropriate to any Consumer who may request such a copy.

54.7 The Licensee shall operate a cost accounting system suitable for the implementation of this Condition and shall ensure that compliance with such a system is verified by a competent body which is independent of the Licensee. The Licensee shall publish annually a statement concerning compliance.

54.8 The Licensee shall make available to the Director at his request a description of the cost accounting system referred to in paragraph 54.7 showing the main categories under which costs are compiled and the rules used for the allocation of costs to voice telephony services.

54.9 The Licensee shall ensure that discount schemes offered by the Licensee to its Subscribers, including Consumers, are fully transparent and shall be published in the same manner set out in paragraph 54.6 above.

54.10 The Licensee shall ensure that, with respect to the application of the discount schemes referred to paragraph 54.9, the Licensee does not show undue preference to, or exercise undue discrimination against, particular persons or persons of any class or description.

54.11 The Licensee shall modify or withdraw such scheme as the Director may direct in accordance with regulation 31(2) of the Revised Voice Telephony Regulations.

PART E: LEASED LINES DIRECTIVE CONDITION

This Part applies to the Licensee only to the extent that it runs a Fixed Public Telephone System.

Condition 55**LEASED LINES**

55.1 This Condition shall apply to the Licensee:

- (a) where the Director has determined in accordance with regulation 8 of the Leased Lines Regulations and in accordance with the procedure set out in paragraph 6 of Part 1 of this Licence if a determination is made after that paragraph has come into force, that the Licensee is an organisation having significant market power in respect of a Relevant Private Circuit market; or
- (b) where no holder of a licence to which section 8 of the Act applies is an organisation having significant market power in respect of that market.

55.2 This Condition applies to the Licensee only to the extent that the Director directs the Licensee to comply with all or some of the paragraphs in this Condition in respect of any relevant private circuit market specified by the Director.

Availability of Information

55.3 The Licensee shall publish by notice in accordance with the presentation given in paragraphs A to C of Schedule 2 to the Leased Lines Regulations information on offerings, technical characteristics, tariffs and supply and usage conditions in respect of Relevant Private Circuits.

55.4 The Licensee shall publish the notice in paragraph 55.3 by:

- (a) sending a copy thereof to the Director to arrive not more than one month after this Condition first applies to the Licensee and thereafter not less than 28 days before any proposal to introduce any new charge, or to amend any existing charge, term or condition or the method of determining the same is to become effective;
- (b) placing as soon as practicable thereafter a copy of the notice in a publicly accessible part of every Major Office of the Licensee in such manner and in such place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe that the register of Licences and final and provisional orders is to be open for public inspection under section 19(4) of the Act or in the absence of any such order having been made by the Secretary of State during normal office hours; and
- (c) sending a copy of the notice to any consumer who may request such a copy.

55.5 The Licensee shall publish the supply conditions published in accordance with paragraph 55.4 above by including at least the elements defined in paragraph C of Schedule 2 to the Leased Lines Regulations.

Conditions for the Termination of Offerings

55.6 The Licensee shall not terminate an existing offering of a Relevant Private Circuit unless:

- (a) the offering has continued for a reasonable period of time; and
- (b) the Licensee has consulted with the users affected.

55.7 Without prejudice to any other remedy or right of appeal which the user may have in law or in accordance with contract or this Condition, where the user does not agree with the termination date as envisaged by the Licensee, he may bring the case before the Director.

Access, Usage and Essential Requirements

55.8 The Licensee shall not restrict access to and usage of Relevant Private Circuits save as permitted by the Director.

55.9 No technical restrictions shall be introduced or maintained for the interconnection of Relevant Private Circuits to each other or to public telecommunication systems.

55.10 In relation to Relevant Private Circuits, the Licensee shall not be held to have failed to comply with this Condition if the Licensee takes the following measures in order to safeguard the security of network operations during the period when an emergency situation prevails:

- (a) the interruption of the service;
- (b) the limitation of service features; or
- (c) the denial of access to the service,

provided that the following conditions are satisfied:

- (i) the Licensee makes every reasonable endeavour to ensure that service is maintained to all users; and
- (ii) the Licensee takes as soon as reasonably possible all reasonable steps to notify the users and the Director of the beginning and the end of the emergency as well as the nature and extent of temporary service restrictions,

and in this paragraph, an emergency situation means an exceptional case of force majeure, which, without prejudice to the generality thereof, includes extreme weather, earthquake, flood, lightning or fire.

55.11 Where a user's Terminal Equipment no longer complies with the approval conditions laid down in accordance with Council Directive 91/263/EEC or Council Directive 93/97/EEC for its connection to the Network Termination Point of the type of Relevant Private Circuit concerned, the Licensee may, notwithstanding any obligation under this Licence to provide to users access to and usage of Relevant Private Circuits, interrupt the provision of the Relevant Private Circuit concerned until the Terminal Equipment is disconnected from the Network Termination Point provided that the Licensee:

- (a) immediately informs the user about the interruption giving reasons for it; and
- (b) restores the provision of the Relevant Private Circuit concerned as soon as the user has ensured that the Terminal Equipment is disconnected from the Network Termination Point.

Provision of a Minimum Set of Relevant Private Circuits

55.12 The Licensee shall provide such of the minimum set of Relevant Private Circuits with harmonised technical characteristics specified in Schedule 3 to the Leased Lines Regulations as may be specified by the Director in any direction referred to in paragraph 55.2. The Licensee shall ensure, if it provides other Relevant Private Circuits beyond the minimum set, that such provision does not impede the provision of the minimum set.

Control by Director

55.13 The Licensee shall not take, for reasons of the alleged failure of the user of a Relevant Private Circuit to comply with the usage conditions, any measure (including, without prejudice to the generality of the foregoing, the refusal to provide a Relevant Private Circuit, the interruption of the provision of Relevant Private Circuits or the reduction of the availability of Relevant Private Circuit features) unless:

- (a) the measure is a specified measure authorised by the Director in the case of a defined infringement of usage conditions; or
- (b) the Licensee has been notified in accordance with regulation 10 of the Leased Lines Regulations that the Director consents to the taking of the measure.

55.14 Nothing in this Condition shall prevent the Licensee, where it considers it unreasonable to provide a Relevant Private Circuit in response to a particular request under its tariffs and supply conditions published in accordance with paragraph 55.4 above, from varying those conditions in that case with the consent of the Director.

Tariff Principles and Cost Accounting

55.15 The Licensee shall ensure that tariffs for Relevant Private Circuits follow the basic principles of cost orientation and transparency in accordance with the following rules:

- (a) tariffs for Relevant Private Circuits shall be independent of the type of application which the users of the Relevant Private Circuits implement without prejudice to the principle of non-discrimination set out in Part E;
- (b) tariffs for Relevant Private Circuits shall normally contain the following elements:
 - (i) an initial connection charge; and
 - (ii) a periodic rental charge, that is to say, a flat-rate element,
 and when other tariff elements are applied, these shall be transparent and based on objective criteria; and
- (c) tariffs for Relevant Private Circuits apply to the facilities provided between Network Termination Points at which the user has access to the Relevant Private Circuits. For Relevant Private Circuits provided by more than one telecommunications organisation notified in accordance with regulation 12(1) of the Leased Lines Regulations, half-circuit tariffs, that is to say, from one Network Termination Point to a hypothetical mid-circuit point, can be applied.

55.16 The Licensee shall formulate and put in practice a cost accounting system suitable for the implementation of paragraph 55.15. Without prejudice to the generality of the foregoing, the system shall include the following elements:

- (a) the costs of the Relevant Private Circuits shall in particular include the direct costs incurred by the Licensee for setting up, operating and maintaining Relevant Private Circuits, and for marketing and billing them; and
- (b) common costs, that is to say, costs which can neither be directly assigned to Relevant Private Circuits nor to other activities, shall be allocated as follows:

- (i) whenever possible, common cost categories shall be allocated based upon direct analysis of the origin of costs themselves;
- (ii) when direct analysis is not possible, common cost categories shall be allocated based upon an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible and such indirect linkage shall be based on comparable cost structures; and
- (iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocation computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to Relevant Private Circuits and, on the other hand, to other services.

55.17 Other cost accounting systems may be applied only if they are suitable for the implementation of paragraph 55.15 and have as such been approved by the Director for application by the Licensee.

PART F: MARKET INFLUENCE

Condition 56

DETERMINATION BY THE DIRECTOR OF MARKET INFLUENCE

56.1 The Director may, in accordance with the procedure set out in paragraph 6 of Part 1 of this Licence, determine the Licensee to be an Operator having market influence in relation to any particular telecommunications market specified by him where the Licensee has the ability to raise prices above the competitive level in that market for a non-transitory period without losing sales to such a degree as to make this unprofitable. In making such a determination, the Director may, in addition to any other factors which appear relevant to him, take into account all or any of the following factors:

- level of entry barriers;
- vertical integration;
- number of active competitors;
- market share;
- extent of countervailing power among buyers;
- the extent of any recent market entry or exit;
- trends in market share and concentration;
- pricing behaviour;
- the level of profits; and
- the influence of other members of the Licensee's Group operating in the same or similar markets which the Director is minded to specify for the purpose of this Condition.

PART G: UNDUE DISCRIMINATION AND PRICE PUBLICATION REQUIREMENTS WHICH APPLY TO PARTS A, B, C, D, E AND F

Condition 57

PROHIBITION ON UNDUE PREFERENCE AND UNDUE DISCRIMINATION

57.1 Where a determination has been made which applies to the Licensee for the purposes of Part A, B, C, D, E or F of this Licence, the Licensee shall not unduly discriminate or show undue preference in the manner set out below:

- (a) the Licensee shall not (whether in respect of the charges or other terms or conditions applied or otherwise) show undue preference to, or exercise undue discrimination against, particular persons or persons of any class or description (in any market) as respects:
 - (i) the provision by means of the Applicable Systems of any telecommunication service provided by the Licensee (including offers of terms on which such services are to be provided):
 - (A) which the Licensee is obliged to provide for the purposes of Part A or Part B; or
 - (B) in the market determined by the Director for the purposes of Part F;
 - (ii) Interconnection of any description which the Licensee provides pursuant to Part C;
 - (iii) any Publicly Available Telephone Service, or any access to the Fixed Public Telephone System run by it, which the Licensee is obliged to provide pursuant to Part D;
 - (iv) the provision of Relevant Private Circuits where Part E applies to the Licensee; and

- (v) the maintenance, adjustment, repair or replacement of any apparatus comprised in the Applicable Systems which is used for the provision of any telecommunication service in the market determined by the Director for the purposes of Part F of this Licence;
- (b) the Licensee may be deemed to have shown such undue preference or to have exercised such undue discrimination if it unfairly favours to a material extent a business carried on by it in relation to the provision of any telecommunication service referred to in paragraph 57.1(a) above so as to place at a significant competitive disadvantage persons competing with that business; and
- (c) any question relating to whether any act done or course of conduct pursued by the Licensee amounts to such undue preference or such undue discrimination shall be determined by the Director, but nothing done in any manner by the Licensee shall be regarded as undue preference or undue discrimination if and to the extent that the Licensee is required or expressly permitted to do such thing in that manner by or under any provision of this Licence.

Condition 58

PUBLICATION OF CHARGES, TERMS AND CONDITIONS

58.1 Where a determination has been made which applies to the Licensee for the purposes of Part A, B or F of this Licence, the Licensee shall, except in so far as the Director may otherwise consent in writing, publish prices and act in the manner set out below.

58.2 Within 28 days after the date the Director has made a determination which applies to the Licensee for the purposes of Part A, B or F above, the Licensee shall send to the Director a notice specifying, or specifying the method that is to be adopted for determining, the charges, terms and conditions on which it offers to:

- (a) provide each description of telecommunication service:
 - (i) which the Licensee is obliged to provide for the purposes of Part A or B; or
 - (ii) in the market determined by the Director for the purposes of Part F; and
- (b) maintain, adjust, repair or replace any apparatus comprised in the Applicable Systems which is used for the provision of any telecommunication service in the market specified by the Director pursuant to Part F of this Licence where that Part applies to the Licensee.

58.3 The Licensee shall provide the services referred to in paragraph 58.2 above at the charges, terms and conditions so published, and shall not depart therefrom except in the circumstances set out in paragraph 58.4 below.

58.4 The Licensee shall send to the Director:

- (a) a notice of any amendment to any charge, term or condition, or method of determining the same, referred to in the notice described in paragraph 58.2 above; and
- (b) a notice specifying, or specifying the method that is to be adopted for determining, the charges, terms and conditions on which it offers to provide each description of telecommunication service for the purposes of Part A or B or in the market specified by the Director for the purposes of Part F, which is materially different from any telecommunication service to which the notice under paragraph 58.2 above refers,

not less than 1 day (or 28 days where the Licensee is running a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services) before the amendment referred to in sub-paragraph 58.4(a) above is to come into effect, or the Licensee first provides the telecommunication service referred to in sub-paragraph 58.4(b) above.

58.5 The Licensee shall, as soon as practicable after sending to the Director each notice referred to in paragraphs 58.2 and 58.4 above, place a copy of such notice in a publicly accessible part of every Major Office of the Licensee in such manner and in such place that it is readily available for inspection free of charge by members of the general public during such hours as the Secretary of State may by order prescribe that the register of Licences and final and provisional orders is to be open for public inspection under section 19(4) of the Act, or in the absence of any such order having been made by the Secretary of State, during normal office hours.

58.6 The Licensee shall send a copy of any notice referred to in paragraphs 58.2 and 58.4 above to any person at that person's request (or such parts which have been requested).

PART H: REQUIREMENTS RELATING TO OPERATORS WITH AN INTERNATIONAL BUSINESS

Condition 59

PROPORTIONATE RETURN IN RESPECT OF THE PROVISION OF INTERNATIONAL SIMPLE VOICE RESALE SERVICES

59.1 This Condition applies where the Licensee acquires or has acquired an International Simple Resale Bearer Circuit from another person holding a Licence and provides International Simple Voice Resale Services by means of it and, for the purposes of this Condition, the Licensee shall not be treated as acquiring or having acquired an International Simple Resale Bearer Circuit only as a consequence of having acquired a Private Leased Circuit between the Applicable Systems and a telecommunication system run by another person who has acquired an International Simple Resale Bearer Circuit.

59.2 This Condition shall apply only:

- (a) if it appears to the Director to be requisite or expedient for this Condition to apply in the interests of maintaining or promoting effective competition in the conveyance of Messages to or from one or more countries and territories where, for a calendar quarter, the percentage by volume of the Messages delivered to the United Kingdom from a country or territory, that were comprised in International Simple Voice Resale Services, was greater than the percentage by volume of the Messages sent from the UK to that country or territory, that were comprised in International Simple Voice Resale Services; and
- (b) if the Director has:
 - (i) issued a notice informing the Licensee that this Condition shall apply in respect of such countries or territories and for such periods as he has specified in the notice from a date 28 days from the date of the notice; and
 - (ii) has not, by a further notice given before expiry of the first notice, varied or cancelled that specification.

59.3 Any notice given under sub-paragraph 59.2(b)(i) or 59.2(b)(ii), shall appear in a list kept by the Director and made available by him for inspection by the general public.

59.4 In respect of each country or territory specified in a notice given under sub-paragraph 59.2(b)(i) as varied by a notice (if any) given under sub-paragraph 59.2(b)(ii), the Licensee shall ensure that in each such period specified the ratio between:

- (a) the volume of Messages comprised in International Simple Voice Resale Services which are conveyed by means of the Applicable Systems and are delivered to the United Kingdom from that country or territory; and
- (b) the volume of Messages comprised in International Simple Voice Resale Services which are conveyed by means of the Applicable Systems and are sent from the United Kingdom to that country or territory,

shall not be greater than the reference ratio for that country or territory specified in the notice.

Condition 60

PROPORTIONATE RETURN IN RESPECT OF INTERNATIONAL CONVEYANCE SERVICES

60.1 This Condition shall apply in respect of International Conveyance Services provided to any country and territory in the world outside the European Economic Area and other than as specified from time to time by the Director or Secretary of State.

60.2 Except insofar as the Director may otherwise consent in writing, the Licensee shall ensure (using the most up-to-date information available) that over each quarterly period for each Accounting Rate Service the First Ratio shall be no greater than the Second Ratio.

60.3 Where it appears to the Director that in respect of any country or territory the obligation imposed by paragraph 60.2 is being breached, he may make a determination to that effect and the Licensee shall take such steps as the Director may direct for the purpose of remedying the situation. In particular, and without prejudice to the generality of the foregoing, any such direction may require the Licensee to cease to convey any Messages to that country or territory.

60.4 In this Condition:

- (a) "First Ratio" means the volume of Messages comprised in each Accounting Rate Service which

are conveyed by the Applicable Systems and are delivered to the United Kingdom divided by the volume of all Messages comprised in each Accounting Rate Service which are delivered to the United Kingdom; and

- (b) "Second Ratio" means the volume of all Messages comprised in each Accounting Rate Service which are conveyed by the Applicable Systems and are sent from the United Kingdom divided by the volume of all Messages comprised in each Accounting Rate Service which are sent from the United Kingdom.

Condition 61

INFORMATION TO THE DIRECTOR ABOUT INTERNATIONAL ACCOUNTING RATES ETC

61.1 The Licensee shall not enter into or vary any agreement or arrangement (nor remain a party to any such agreement or arrangement, or agreement or arrangement so varied) with a person running a telecommunication system authorised in any country or territory outside the European Economic Area and other than as specified from time to time by the Director or Secretary of State for or with a view to the provision of International Conveyance Services being an agreement or arrangement establishing or relating to international accounting methods, rates and divisions unless it has first given the Director notice, before those rates are put into operation.

61.2 As soon as practicably possible after making any correspondent arrangement with an overseas operator, the Licensee shall inform the Director and all other holders of a Licence authorising the provision of International Conveyance Services in the United Kingdom and who are operating, or who have announced an intention to operate on that particular route, of the terms of that arrangement, in particular and without prejudice to the generality of the foregoing, details of any changes to existing accounting rates or methods of settlement or the division of the accounting rates.

61.3 Where, whether as a result of receiving notice under paragraph 61.1 or otherwise, the Director considers that any, or any variation of, such an agreement or arrangement would be or is liable to prejudice the interests of providers and users of International Conveyance Services in the United Kingdom, he may, after consulting the Licensee, make a direction to the Licensee not to enter into or vary the agreement or arrangement, as the case may be, and the Licensee shall comply with such direction.

Condition 62

ACCOUNTING SEPARATION FOR INTERNATIONAL BUSINESS

62.1 Without prejudice to any other provision in this Licence relating to the maintenance of accounting records, the Licensee shall maintain such accounting records dealing separately with its International Business carried on in the United Kingdom as will enable it to show and explain, in response to any request from the Director under paragraph 62.4, all the transactions to which paragraph 62.2 refers.

62.2 This paragraph refers to all transactions between that International Business and:

- (a) any other business carried on by the Licensee whether in the United Kingdom or elsewhere; or
(b) the business of any Associated Person whether in the United Kingdom or elsewhere.

62.3 The Licensee shall update the accounting records referred to in paragraph 62.1 no less frequently than monthly and those records shall include in particular the costs (including capital costs), revenue and a reasonable assessment of assets employed in and liabilities attributable to that International Business and, separately, the amount of any material item of revenue, cost, asset or liability which has been either:

- (a) charged from or to any other business of the Licensee or Associated Person together with a description of the basis of the value on which the charge was made; or
(b) determined by apportionment or attribution from an activity common to the business and any other business of the Licensee or any Associated Person and, if not otherwise disclosed, the basis of the apportionment or attribution.

62.4 The Director may at any time request from the Licensee copies of any of the accounting records which the Licensee is obliged to maintain by this Condition, covering any period between:

- (a) the date on which the Licensee first carried on its International Business in the United Kingdom or, if later, the date of this Licence; and
(b) the date on which such records were, or should have been, last updated in accordance with paragraph 62.3.

The Licensee shall provide any such records requested by the Director within 28 days of receiving such a request in writing.

62.5 Accounting records submitted to the Director shall be prepared in the formats and in accordance with the accounting principles and rules which apply to the annual accounts of the Licensee and shall state the accounting policies used and where the Licensee is a body corporate incorporated outside the United Kingdom the preparation and adoption of those accounts shall comply with the requirements of sections 226 and 231 to 234A of the Companies Act 1985 as if that body corporate were incorporated in the United Kingdom.

62.6 Where it appears to the Director that to do so would be beneficial to the promotion or maintenance of competition he may direct the Licensee to publish the accounting statements submitted to the Director in such manner as he may specify. In so directing the Licensee the Director shall have regard to the need for excluding, so far as that is practicable, any matter where publication of that matter might, in the opinion of the Director, seriously and prejudicially affect the interests of the Licensee or any Associated Person.

Condition 63

MAINTENANCE OF EFFECTIVE COMPETITION

63.1 This Condition shall apply where the Licensee or any Associated Person is the operator of any telecommunication system or provides telecommunication services in a country or territory outside the United Kingdom.

63.2 Where it appears to the Director that as a result of any act or omission of the Licensee either by itself or with or through any Associated Person competition in the provision of any telecommunication service or any particular description of telecommunication services in the United Kingdom is being or is likely to be restricted, distorted or prevented he may make a determination to that effect.

63.3 Where the Director makes a determination under paragraph 63.2 the Licensee shall take such steps as the Director may direct for the purpose of remedying the situation. In particular (and without prejudice to the generality of the foregoing) any such direction may require compliance by the Licensee with any other Condition, as appropriate, including in particular any Condition providing for publication of charges, terms and conditions, or such direction may prohibit undue discrimination and undue preference, in relation to the provision of any telecommunication service within the United Kingdom notwithstanding that any condition precedent to the application of that Condition is not otherwise satisfied.

63.4 Without prejudice to any other provision in this Licence relating to the provision of information, and notwithstanding the provisions of Condition 33.2 the Licensee shall:

- (a) keep accurate records and copies of all agreements with any Associated Person and deliver copies of the same to the Director promptly in response to any request of the Director in respect of any agreement or arrangement; and
- (b) keep accurate records of all services, money and things transferred or supplied by the Licensee to any Associated Person or by an Associated Person to the Licensee, such records to include full details of the type and quantity, and the prices, charges and methodology of charging such prices.

PART I: EXCEPTIONS AND LIMITATIONS ON OBLIGATIONS IN SCHEDULE 1

Condition 64

EXCEPTIONS AND LIMITATIONS ON OBLIGATIONS IN SCHEDULE 1

64.1 Unless the context otherwise requires and subject to paragraph 64.10, the Licensee's obligations have effect subject to the following exceptions and limitations.

64.2 The Licensee is not obliged to do anything which is not practicable.

64.3 The Licensee shall not be held to have failed to comply with an obligation imposed upon it by or under these Conditions if and to the extent that the Licensee is prevented from complying with that obligation by any physical, topographical or other natural obstacle, by the malfunction or failure of any apparatus or equipment owing to circumstances beyond the control of the Licensee, by the act of any national authority, local authority or international organisation or as the result of fire, flood, explosion, accident, emergency, riot or war.

64.4 Subject to paragraph 64.10, the obligation to provide any service under Part A of this Licence shall not apply:

- (a) where there is no reasonable demand for it;

- (b) where the provision of the service requested would expose any person engaged in its provision to undue risk to health or safety;
- (c) where the Licensee is unable to obtain (either because it has not been developed or for some other reason beyond the Licensee's control) anything necessary to provide a service of the quality or standard required by the person who requests the provision of the service and, in the event of dispute, the Director's decision as to whether anything is necessary shall be final;
- (d) where the person to whom the Licensee would otherwise be under an obligation to provide any service requests a service at a place in which the apparatus necessary to provide that service in that area has not been installed (or in which the installation of such apparatus has not been completed) or as the case may be such apparatus has not been adapted or modified to make it capable of providing the service of the kind requested or the trained manpower necessary to provide the service is not available in that area, provided that in every case where the Licensee declines to provide a service to which this sub-paragraph relates it shall have published, or furnished to the Director, or within 28 days (or such longer period as the Director considers reasonable) following receipt by it of the request that service be provided shall have furnished to the Director, proposals for:
 - (i) progressively installing or completing the installation or the adaptation or the modification of such apparatus; or
 - (ii) the allocation of the trained manpower,
 necessary for the provision of that service in that area and the Director has not determined that those proposals are unreasonable or are not being effectively carried out; or
- (e) where the Licensee notifies the Director that it is not reasonably practicable in all the circumstances for the Licensee to provide the service requested at the time or place demanded and the Director agrees.

64.5 The obligation to provide any telecommunication service other than a service to which paragraph 64.4 applies shall not apply:

- (a) where any of the circumstances described in paragraph 64.4 apply;
- (b) where the person to whom the Licensee would otherwise be under an obligation to provide any service requests a service at a place in an area in which the demand or the prospective demand for the service is not sufficient, having regard to the revenue likely to be earned from the provision of the service in that area, to meet all the costs reasonably to be incurred by the Licensee in providing the service, including:
 - (i) the cost of apparatus necessary for the provision of the service there;
 - (ii) the cost of installing, maintaining and operating such apparatus for the purpose of providing the service there; and
 - (iii) the cost of the trained manpower necessary to provide the service there; or
- (c) where the Licensee notifies the Director that it is not reasonably practicable in all the circumstances for the Licensee to provide the service requested at the time or place demanded and the Director agrees.

64.6 The Licensee shall not be obliged to connect, or to keep connected to the Applicable Systems, or to permit to be so connected or kept connected any telecommunication system or telecommunication apparatus or to provide any telecommunication services or to permit the provision of any service if the person to or for whom that is done or is to be done:

- (a) has not entered or will not enter into a contract for the purpose with the Licensee for reasons other than the unreasonable refusal of the Licensee to agree terms for the purpose but this paragraph does not apply in a case where the Director is satisfied that:
 - (i) the Licensee has not published standard terms and conditions which it proposes to apply for the purpose in question, or the transaction is not fit to be governed by such terms and conditions; and
 - (ii) the Licensee has unreasonably refused to agree terms and conditions for this purpose;
- (b) is, or in the Director's opinion has given reasonable cause to believe that he may become:
 - (i) in breach of a contract with the Licensee for the provision of telecommunication services by the Licensee; or
 - (ii) in default in regard to any debt or liability owed to the Licensee in respect of any such contract;
- (c) is using, or permitting the use of, apparatus so connected for any illegal purpose or has done so in the past and is likely to do so again; or
- (d) has obtained, or attempted to obtain any telecommunication service from the Licensee by corrupt, dishonest or illegal means at any time.

64.7 Nothing in these Conditions shall prevent the Licensee from withdrawing from, or declining to provide to, any person any telecommunication service which the Licensee has notified the Director that it is providing in a limited area, or to a limited class of customers, for the purpose of evaluating the technical feasibility of, or the commercial prospects for, that service.

64.8 Nothing in these Conditions shall require the Licensee to provide any telecommunication service, or to provide any telecommunication service of any particular class or description, if it provides instead a service, or a service of a class or description, which satisfies the purposes of that requirement at least to the same extent.

64.9 This Condition shall apply without prejudice to any limitation or qualification of the requirements imposed by or under any other Condition.

64.10 This Condition does not apply to:

Condition 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7 (Directory Services);
Condition 4 (Access to Emergency Call Services and Operator Assistance);
Condition 7.1 (Publication of Charges, Terms and Conditions);
Condition 8 (Prohibition on Undue Preference and Undue Discrimination);
Condition 9 (Requirement to provide Connection Services);
Condition 10 (Requirement to offer contracts for Telephone Services);
Condition 11.1 (Metering Arrangements);
Condition 13 (Itemised Bills);
Condition 14 (Non-payment of Bills);
Condition 15 (Publication of Interfaces), but only so far as it relates to interfaces identified in Annex II part 1 of the Revised Voice Telephony Directive;
Condition 20 (Essential Requirements and Essential Public Interests);
Condition 21 (Standards for ISDN Network Termination Points);
Condition 28.7 (Number Portability);
Condition 29 (Obligation to Supply Numbering Information on Request);
Condition 30 (Accounting Separation for Special or Exclusive Rights in Non-Telecommunication sectors);
Condition 31 (Fair Trading);
Condition 32 (Conciliation and Resolution of Disputes);
Condition 33.4 and 33.5 (Requirement to Furnish Information to the Director);
Part A (Universal Service Conditions), except Conditions 41 (Schemes for Users with special social needs) and 42 (Provision of Public Call Box Services);
Part C (Operators with Significant Market Power for the purposes of the Interconnection Directive);
Part D (Operators with Significant Market Power for the purposes of the Revised Voice Telephony Directive and Operators which have been running a Fixed Public Telephone System for more than 18 months);
Part E (Leased Lines Directive Conditions); or
Part G (in relation to Part A, C, D, and E services).

64.11 Only paragraphs 64.1, 64.2, 64.3 and 64.9 apply to:

Condition 7.2; Condition 7.5(a) and 7.5(b) (Publication of Charges, Terms and Conditions);
Condition 11.2 and 11.3 (Metering Arrangements);
Condition 25 (Supply and Connection of Apparatus for Disabled People);
Condition 33.1, 33.2 and 33.3 (Requirement to Furnish Information to the Director);
Condition 35 (Licensee's Group); and
Condition 36 (Payment of fees).

64.12 Only paragraphs 64.1, 64.6(a) and 64.9 apply to Condition 19.2 (Consultation with Emergency Organisations and Provision of Services to Emergency Organisations).

64.13 Only paragraphs 64.1, 64.2, 64.3, 64.6 and 64.9 apply to Condition 26 (Numbering Arrangements).

64.14 Only paragraphs 64.1, 64.2, 64.3, 64.5(b) and 64.9 apply to Condition 24 (Public Call Box Services).

64.15 Only paragraphs 64.1, 64.2, 64.3, 64.5, 64.7 and 64.9 apply to Condition 19.1 (Consultation with Emergency Organisations and Provision of Services to Emergency Organisations).

64.16 Paragraph 64.2 does not apply to Condition 62 (Accounting Separation for International Business) or Condition 63 (Maintenance of Effective Competition).

SCHEDULE 2

Regulation 2

REVOCATION

1. Notwithstanding paragraph 3 of the Licence the Secretary of State may at any time revoke this Licence by at least 30 days' notice given to the Licensee in writing in any of the following circumstances:
- (a) if the Licensee agrees in writing with the Secretary of State that this Licence should be revoked;
 - (b) if either
 - (i) an undertaking has become a Parent Undertaking in relation to the Licensee; or
 - (ii) a change or acquisition of a description specified in paragraphs 34.2 and 34.3 of Condition 34 of Schedule 1 to this Licence has taken place;
 and either
 - (iii) the Licensee has duly notified the Secretary of State in accordance with those paragraphs; or
 - (iv) the Licensee has failed to notify the Secretary of State that such event, change or acquisition has taken place in accordance with an obligation under that Condition;
 and
 - (v) the Secretary of State has notified the Licensee in writing that he is minded to revoke this Licence on the grounds either that:
 - (A) the event, change or acquisition would in his opinion be against the interests of national security or relations with the government of a country or territory outside the United Kingdom; or
 - (B) the Licensee has committed a breach of Condition 34 of Schedule 1; and
 - (vi) the event, change or acquisition has not been reversed or remedied within 30 days of the receipt by the Licensee of such notification;
 - (c) if, following a change or acquisition of the type referred to in Condition 34 of Schedule 1 to this Licence, the Secretary of State considers, or the Director has notified the Secretary of State that the Director considers, that the Licensee is relying, has relied, or is likely to rely on this Licence in circumstances in which an effect of such reliance is, was or may be that the Licensee or any member of the Licensee's Group is or was relieved wholly or in part of any obligation, limitation or restriction imposed by a Licence issued to the Licensee or any member of the Licensee's Group;
 - (d) where the Licensee has failed to comply with a final order (or a provisional order confirmed) under section 16 of the Act and the Secretary of State has given the Licensee not less than 30 days' notice in writing that, if the Licensee fails to comply with the order within that period of 30 days, he intends to revoke the Licence, provided that no such notice of intention shall be given where the question of the validity of the order is the subject of any court proceedings and where that question becomes so subject during the 30 day notice period, that period shall cease to run until the final disposal of those proceedings (including any Appeal);
 - (e) if the Licensee:
 - (i) is deemed to be unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986 as applied for the purposes of this Licence by paragraph 2(b)), convenes any meeting with its creditors generally with a view to the general readjustment or rescheduling of its indebtedness or makes a general assignment for the benefit of its creditors generally;
 - (ii) enters into administration, receivership or liquidation; or
 - (iii) ceases to provide telecommunication services of the type authorised in paragraph 3 of Schedule 3 to this Licence;
 - (f) if the Licensee or any other person takes any action for the voluntary winding-up or dissolution of the Licensee;
 - (g) if the Licensee enters into any scheme of arrangement under the Insolvency Act 1986 (other than in any such case for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Secretary of State);
 - (h) if an administrator, receiver, trustee or similar officer of the Licensee, or of all or any material part of the revenues and assets of it, is appointed;
 - (i) if any order is made for the compulsory winding-up or dissolution of the Licensee; or
 - (j) if any amount payable under Condition 36 of Schedule 1 is unpaid 30 days after it becomes due and remains unpaid for a period of 14 days after the Secretary of State notifies the Licensee that the payment is overdue.
2. For the purposes of paragraph 1(e)(i) in applying section 123 of the Insolvency Act 1986:
- (a) if a written demand served on the Licensee is satisfied prior to the expiry of the notice of revocation the Secretary of State shall not revoke the Licence; and
 - (b) the figure of "£750", or such other money sum as may be specified from time to time pursuant to sections 123(3) and 416 of the Insolvency Act 1986, shall be deemed to be replaced by "£250,000" or such higher figure as the Director may from time to time determine.

3. In this Schedule:

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

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

4. For the purposes of this Schedule “Appeal” includes further appeal and application for leave to appeal or further to appeal.

SCHEDULE 3

Regulation 2

**AUTHORISATION TO CONNECT OTHER TELECOMMUNICATION
SYSTEMS AND APPARATUS TO THE APPLICABLE SYSTEMS AND TO
PROVIDE TELECOMMUNICATION SERVICES BY MEANS OF THE
APPLICABLE SYSTEMS**

1. Nothing in this Licence removes any need to obtain any other licence that may be required under any other enactment.

Connection Authorisation

2. Subject to paragraph 1, this Licence authorises the connection to the Applicable Systems of:
- (a) any telecommunication system run under a Licence;
 - (b) any telecommunication system outside the United Kingdom except a telecommunication system which the Secretary of State has notified the Licensee should not, or as the case may be should cease to, be connected to the Applicable Systems;
 - (c) any earth orbiting apparatus, provided that:
 - (i) the relevant requirements, if any, for consultation and compliance with specified operating parameters under the INTELSAT Agreement, Inmarsat Convention and EUTELSAT Convention have been and continue to be satisfied;
 - (ii) the relevant rules and standards, if any, issued under the INTELSAT Operating Agreement, Inmarsat Operating Agreement and EUTELSAT Operating Agreement have been and continue to be satisfied; and
 - (iii) it is not earth orbiting apparatus to which the Secretary of State has notified the Licensee that the Licensee should not, or as the case may be should cease to, connect the Applicable Systems;
 - (d) any telecommunication system run by the Crown;
 - (e) telecommunication apparatus of every description which is comprised in a telecommunication system mentioned in paragraphs 2(a) to 2(d);
 - (f) any telecommunication apparatus not comprised in the Applicable Systems which is for the time being Compliant Terminal Equipment or approved for connection to the Applicable Systems in accordance with section 22 of the Act; and
 - (g) any hearing aid.

Service Authorisation

3. Subject to paragraph 1 and as specified below, this Licence authorises the provision by means of the Applicable Systems of any telecommunication services except:

- (a) any service which consists in the conveyance by means of the Applicable Systems of Messages comprising any one or more of the services specified in paragraphs (a) to (cc) of section 72(2) of the Broadcasting Act 1990 for simultaneous reception in two or more Dwelling-Houses where either:
 - (i) the only Applicable Systems by means of which such service is conveyed are situated in a Single Building, a single Dwelling-House or in an Adjacent pair of Dwelling-Houses; or
 - (ii) the Applicable Systems by means of which the Messages comprising the service are conveyed and the particular telecommunication service fall within the descriptions of both the systems the running of which is authorised, and the services authorised to be provided by means of those systems, by
 - (A) the Licence granted on 31 December 1990 entitled "Class Licence to run Community Television Relay Systems"; or
 - (B) the Licence granted on 18 October 1997 entitled "Class Licence to Run Broadcast Relay Systems Carrying Terrestrial Channels Only"; or
 - (C) the Licence granted on 10 June 1991 entitled "Class Licence to Run Broadcast Relay Systems Covering No More Than One Thousand Homes For The Provision Of All Types Of Broadcast Service";
- (b) Conditional Access Services
 - (i) provided or intended to be provided to another person; or
 - (ii) provided for the Licensee's own use if it provides any Conditional Access Services to another person by means of telecommunication systems run under another licence but which could also come within the description of the Applicable Systems authorised to be run by this Licence;
- (c) Access Control Services
 - (i) provided or intended to be provided to another person; or
 - (ii) provided for the Licensee's own use; and

(d) any Mobile Radio Tails Service.

Definitions and interpretation

4. In this Schedule unless the context otherwise requires:

“Access Control Services” means those telecommunication services which are:

- (i) telecommunication services other than:
 - (A) Conditional Access Services; or
 - (B) Network Services,

provided to a person providing telecommunication services under a Licence, by means of which the supply to end-users of a Relevant Other Telecommunication Service of any description may be controlled;

and

- (ii) described in paragraph 4 of Schedule 3 to the Licence entitled “Class Licence for the Running of Telecommunication Systems for the Provision of Access Control Services” granted by the Secretary of State under section 7 of the Telecommunications Act 1984 on 27th August 1999 or any successor thereto;

“Adjacent” means sharing a common wall;

“Applicable Terminal Equipment” means apparatus which is applicable terminal equipment within the meaning of regulation 4 of the Telecommunications Terminal Equipment Regulations 1992;

“Compliant Terminal Equipment” means Applicable Terminal Equipment which satisfies the requirements of regulation 8 of the Telecommunications Terminal Equipment Regulations 1992;

“Conditional Access Services” means telecommunication services (including services which are treated as telecommunication services pursuant to regulation 8(2) of and paragraph 1(b) of Schedule 1 to the Advanced Television Services Regulations 1996 (S.I. 1996/3151)):

- (i) by means of which access to Digital Television Services may be controlled so that only those viewers who are authorised to receive such services do so; and
- (ii) fall within the definition of “Conditional Access Services” given in paragraph 4(b) of the licence entitled “Class Licence for the Running of Telecommunication Systems for the Provision of Conditional Access Services” granted by the Secretary of State under section 7 of the Telecommunications Act 1984 on 7 January 1997 or any successor thereto;

“Digital Television Services” has the same meaning as in Directive 95/47/EC of the European Parliament and the Council of 24 October 1995 on the use of standards for the transmission of television signals;

“Dwelling-House” has the same meaning as in section 202 of the Broadcasting Act 1990;

“Essential Component” means the smart card or other technological component in electronic or tangible form, which is necessary for the reception of authorisation signals and thus to enable consumers to access and use any Relevant Other Telecommunication Service, for insertion or incorporation into or other interoperation with any other telecommunication apparatus run by a consumer;

“EUTELSAT Convention” means the Convention establishing the European Telecommunications Satellite Organisation EUTELSAT including its Preamble and its Annexes, opened for signature by governments at Paris, France on 15 July 1982, and any subsequent amendments made to it;

“EUTELSAT Operating Agreement” means the Operating Agreement relating to the European Telecommunication Satellite Organisation EUTELSAT, including its Preamble and Annexes, opened for signature at Paris, France on 15 July 1982, and any subsequent amendments made to it;

“Inmarsat Convention” means the Convention establishing the International Mobile Satellite Organisation (formerly known as the International Maritime Satellite Organisation) Inmarsat including its Preamble and its Annexes, opened for signature by governments at London, England on 3 September 1976, and any subsequent amendments made to it;

“Inmarsat Operating Agreement” means the Agreement, including its Annex, opened for signature at London, England on 3 September 1976 by entities designated by governments party to the Inmarsat Convention, and any subsequent amendments made to it;

“INTELSAT Agreement” means the Agreement including its Annexes but excluding all titles of Articles, opened for signature by governments at Washington DC, USA, on 20 August 1971 by which the International Telecommunications Satellite Organisation INTELSAT was established, and any subsequent amendments made to it;

“INTELSAT Operating Agreement” means the Agreement, including its Annex but excluding all titles of Articles, opened for signature at Washington DC, USA, on 20 August 1971, by governments or telecommunications entities designated by governments in accordance with the provisions of the INTELSAT Agreement, and any subsequent amendments made to it;

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

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

“Mobile Radio Tails Service” means a telecommunication service consisting in the conveyance of Messages through the agency of Wireless Telegraphy to or from the Applicable Systems directly from or to any apparatus designed or adapted to be capable of being used while in motion;

“Network Service” means any of the following:

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

“Relevant Other Telecommunication Services” mean telecommunication services, whether supplied by the Licensee or any other party, but not including:

- (i) any of the services specified in section 72(2)(a) to (e), excluding paragraph (cc), of the Broadcasting Act 1990, or
- (ii) Network Services;

“Single Building” means a single building access to all regularly inhabited parts of which can be gained from one entrance; and

“Wireless Telegraphy” has the same meaning as in the Wireless Telegraphy Act 1949.

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

SCHEDULE 4

Regulation 2

EXCEPTIONS AND CONDITIONS RELATING TO THE APPLICATION OF
THE TELECOMMUNICATIONS CODE

PART 1:

DEFINITIONS AND INTERPRETATION RELATING TO THE CONDITIONS
IN SCHEDULE 4

1. In this Schedule unless the context otherwise requires:

“Agricultural” has the meaning given to it by paragraph 1 of Schedule 2 to the Act;

“Appropriate Authority” means a public authority of a type described in subsection 49(6) or, in Scotland, subsection 108(6) of the New Roads and Street Works Act 1991 or, in Northern Ireland, Article 7(5) of the Street Works (Northern Ireland) Order 1995;

“Area of Outstanding Natural Beauty” means an area in England or Wales designated and confirmed as such under section 5 or section 87 of the National Parks and Access to the Countryside Act 1949 or in Northern Ireland any area established in accordance with Section 10 of the Amenity Lands Act (Northern Ireland) 1965 or designated under Article 14(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (S.I. 1985/170 (NI 1));

“Area of Special Scientific Interest” means an area designated under Article 24(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (S.I. 1985/170 (NI 1)) as amended by Article 10 of the Nature Conservation and Amenity Lands (Amendment) (Northern Ireland) Order 1989 (S.I. 1989/492 (NI 3));

“the Broads” means the area in which the Broads Authority exercises power of development control;

“Carriageway” and “Footway” have the meanings given to them in England and Wales by section 329 of the Highways Act 1980, in Scotland by section 151 of the Roads (Scotland) Act 1984 and in Northern Ireland by Article 2(2) of the Roads (Northern Ireland) Order 1993;

“Condition” means a Condition in this Schedule;

“Conservation Area” means:

- (i) in relation to England and Wales, any area designated as a conservation area under sections 69 and 70 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
- (ii) in relation to Scotland, any area designated as a conservation area under section 61 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997; and
- (iii) in relation to Northern Ireland, any area designated as a conservation area under Article 50 of the Planning (Northern Ireland) Order 1991;

“Cost Price” means the cost of any item of Telecommunication Apparatus, including the full cost of its Installation, calculated before any charges for depreciation by the Licensee and modified to take account of any alteration in the CSO Price Index for Buildings and Works since it was installed;

“Duct” means a structure or apparatus (with appropriate entry points) installed underground in such a way that Lines can be installed in it without having to break up the surface of the highway;

“Emergency” means an emergency of any kind, including any circumstances whatever resulting from major accidents, natural disasters and incidents involving toxic or radio-active materials;

“Emergency Organisations” means in respect of any locality:

- (i) the relevant public police, fire, ambulance and coastguard services for that locality; and
- (ii) any other similar organisation in respect of which any public telecommunications operator licensed to operate in the locality in question is providing a Public Emergency Call Service on the day on which this Licence enters into force;

“Emergency Works” has the meaning given to it by section 52 or, in Scotland, section 111 of the New Roads and Street Works Act 1991 or, in Northern Ireland, Article 6 of the Street Works (Northern Ireland) Order 1995;

“Highway Authority” means, in England and Wales, the highway authority as defined in section 1 of the Highways Act 1980 and, in Northern Ireland, the Department of the Environment for Northern Ireland;

“Installation” includes “alteration” within the meaning of paragraph 1(2) of the Telecommunications Code;

“Limestone Pavement Area” means an area designated by the Secretary of State or relevant authority under section 34 of the Wildlife and Countryside Act 1981;

“Line” has the same meaning as in paragraph (a) of the definition of “Telecommunication Apparatus” in paragraph 1 of Schedule 2 to the Act;

“Local Nature Reserve” means an area designated as such under section 21 of the National Parks and Access to the Countryside Act 1949;

“Maintainable Highway” has the meaning given to it by paragraph 1 of Schedule 2 to the Act as amended by paragraph 113(1) of Schedule 8 to the New Roads and Street Works Act 1991, and in Northern Ireland has the meaning given to it by paragraph 1 of Schedule 2 to the Act as amended by paragraph 9(a)(i) of Schedule 3 to the Street Works (Northern Ireland) Order 1995;

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

“Marine Nature Reserve” means, in England, Wales and Scotland, an area designated by the Secretary of State under section 36 of the Wildlife and Countryside Act 1981 and in Northern Ireland, an area designated under Article 20(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (S.I. 1985/170 (NI 1));

“Natural Heritage Area” means any area in Scotland designated as such under the Natural Heritage (Scotland) Act 1991;

“National Nature Reserve” means any land in England, Wales and Scotland declared to be a national nature reserve under section 35 of the Wildlife and Countryside Act 1981 by:

- (i) in England, English Nature, established under the Environmental Protection Act 1990;
- (ii) in Scotland, Scottish Natural Heritage, established under the Natural Heritage (Scotland) Act 1991; and
- (iii) in Wales, the Countryside Council for Wales, established under the Environmental Protection Act 1990,

and in relation to Northern Ireland means any land declared to be a national nature reserve under Article 18(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (S.I. 1985/170 (NI 1));

“National Park” means any area in England and Wales designated and confirmed as such under section 5 of the National Parks and Access to the Countryside Act 1949 or any area in Northern Ireland designated as such under Article 12(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (S.I. 1985/170 (NI 1));

“National Scenic Area” means any area in Scotland designated as such under the Town and Country Planning (Scotland) Act 1997;

“the New Forest” means the area defined in the New Forest Act 1964;

“Planning Authority” means:

- (i) in relation to England and Wales, the local planning authority for the area in question within the meaning of section 1 of the Town and Country Planning Act 1990;
- (ii) in relation to Scotland, a planning authority within the meaning of section 1 of the Town and Country Planning (Scotland) Act 1997; and
- (iii) in relation to Northern Ireland, the Department of the Environment for Northern Ireland;

“Public Emergency Call Service” means a telecommunication service by means of which any member of the public may, at any time communicate as swiftly as practicable with any of the Emergency Organisations for the purpose of notifying them of an Emergency;

“Public Road” has the same meaning as in paragraph 1(1) of Schedule 2 to the Act, as amended by the Roads (Scotland) Act 1984 and the New Roads and Street Works Act 1991;

“Relevant Authority” means:

- (i) in relation to the Broads, the New Forest, a National Park, an Area of Outstanding Natural Beauty, or a Limestone Pavement Area, the Planning Authority;
- (ii) in relation to a National Nature Reserve, a Site of Special Scientific Interest or a Marine Nature Reserve;
 - (A) in England, English Nature, established under the Environmental Protection Act 1990;
 - (B) in Scotland, Scottish Natural Heritage, established under the Natural Heritage (Scotland) Act 1991;
 - (C) in Wales, the Countryside Council for Wales, established under the Environmental Protection Act 1990; and
 - (D) in Northern Ireland, in relation to a National Nature Reserve or a Marine Nature Reserve, the Planning Authority;
- (iii) in relation to an Area of Special Scientific Interest, the Department of Environment for Northern Ireland; and
- (iv) in relation to a Natural Heritage Area or a National Scenic Area, Scottish Natural Heritage, established under the Natural Heritage (Scotland) Act 1991;

“Relevant Event” means:

- (i) the revocation of this Licence;
- (ii) where the Licensee is not immediately granted another similar licence to run the Applicable Systems, the expiry of this Licence; or

(iii) any of the events specified in paragraph 1(e) to (i) of Schedule 2 to this Licence, provided that paragraph 2 of that Schedule shall have effect for the purposes of this definition as it has for the purposes of paragraph 1 of that Schedule;

“Relevant Owner” means any person who owns or operates electric lines for the transport of electricity;

“Relevant Supplier” means in relation to an area in which the Licensee has installed or proposes to install any apparatus the person who is authorised by a licence granted under paragraph (b) or (c) of section 6(1) of the Electricity Act 1989, or in the case of Northern Ireland, under Article 10(1) of the Electricity (Northern Ireland) Order 1992 to transmit or supply electricity;

“Relevant Undertaker” has the meaning given to it by paragraph 23(10) of Schedule 2 to the Act, and includes persons mentioned in paragraph 23(10)(b) in respect of services and apparatus for the supply of water, or disposal of sewage, and additionally includes any undertaking for the supply of heat;

“Road” has the meaning given to it in section 107(1) of the New Roads and Street Works Act 1991;

“Road Works Authority” has the meaning given to it in section 108(1) of the New Roads and Street Works Act 1991;

“Road Works Register” means a register of the kind kept by a Road Works Authority under section 112 of the New Roads and Street Works Act 1991;

“Roads Authority” has the same meaning as in section 151 of the Roads (Scotland) Act 1984;

“Service Line” means any Line placed or intended to be placed for the purpose of providing any telecommunication service to the occupier from time to time of any land, as distinct from a Line placed or intended to be placed for the general purposes of any telecommunication system;

“Service Line Distribution Point” means the point at which any Line placed or intended to be placed for the general purposes of any telecommunication system is connected to any Service Line;

“Site of Special Scientific Interest” means an area designated as such under section 28 of the Wildlife and Countryside Act 1981 or an area in respect of which the Secretary of State has made an order under section 29 of that Act;

“Statutory List of Buildings” means the list of buildings of special architectural or historic interest compiled by the Secretary of State under section 1(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 or under section 1(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 or in the case of Northern Ireland, compiled by the Department of the Environment for Northern Ireland under Article 42 of the Planning (Northern Ireland) Order 1991;

“Street” has the meaning given to it by paragraph 1 of Schedule 2 to the Act, as amended by paragraph 113(1) of Schedule 8 to the New Roads and Street Works Act 1991, or in the case of Northern Ireland, as amended by paragraph 9(a)(ii) of Schedule 3 to the Street Works (Northern Ireland) Order 1995;

“Street Authority” has the meaning given to it by section 49 of the New Roads and Street Works Act 1991, or in Northern Ireland by Article 7 of the Street Works (Northern Ireland) Order 1995;

“Street Works Register” means a register of the kind kept by a Street Authority under section 53 of the New Roads and Street Works Act 1991, or, in the case of Northern Ireland, a register kept by the Department of the Environment for Northern Ireland under Article 13 of the Street Works (Northern Ireland) Order 1995;

“Telecommunication Apparatus” shall have the extended meaning given to it by paragraph 1(1) of Schedule 2 to the Act;

“Traffic Authority” has the same meaning as in the Road Traffic Regulation Act 1984 or in Northern Ireland means the Department of the Environment for Northern Ireland; and

“Urgent Works” in relation to England, Wales and Northern Ireland, has the meaning given in regulation 2 of the Street Works (Registers, Notices, Directions and Designations) Regulations 1992 and, in relation to Scotland, has the meaning given in regulation 2 of the Road Works (Registers, Notices, Directions and Designations) (Scotland) Regulations 1992.

2. For the avoidance of doubt, it is hereby declared that the conditions in this Schedule apply in addition to any obligations of the Licensee in relation to England, Wales and Scotland under the New Roads and Street Works Act 1991 and the Public Utilities Street Works Act 1950, insofar as not superseded by the New Roads and Street Works Act 1991, and in relation to Northern Ireland under the Street Works (Northern Ireland) Order 1995.

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

PART 2:

EXCEPTIONS AND CONDITIONS RELATING TO THE APPLICATION OF
THE TELECOMMUNICATIONS CODE**Condition 1**

LINES

1.1 Without prejudice to Condition 5.1 and subject to paragraph 1.7, the Licensee shall take steps to ensure that, wherever practicable, taking into account the need to provide telecommunication services at the lowest reasonable cost, Lines (other than overhead Service Lines flown from poles in a locality where overhead Service Lines are already flown from poles) Installed after the date on which this Condition enters into force are Installed underground.

1.2 Notwithstanding paragraph 1.1, but subject to Condition 4, nothing in this Condition shall prevent the Installation on or above the ground in any area other than a Conservation Area of a Service Line which is:

- (a) affixed to and lying on the exterior surface of a building;
- (b) affixed to and lying on the exterior surface of any permanent structure on the land occupied by the person to whom the service is being provided;
- (c) flown from the eaves of one building to another provided that the distance between buildings is not more than eight metres.

1.3 Notwithstanding paragraph 1.1, but subject to Condition 4, nothing in this Condition shall prevent the Installation on or above the ground in any area other than a Conservation Area of a feeder cable connecting equipment for the provision of services by wireless telegraphy.

1.4 Notwithstanding paragraph 1.1, but subject to Condition 4, nothing in this Condition shall prevent the Installation of a Line in any area other than a Conservation Area which is affixed to and lying either on the exterior surface of a building or the surface of any structure and which terminates at a Service Line Distribution Point.

1.5 Where telecommunication services are to be provided to a person occupying or proposing to occupy a new development the Licensee shall use every reasonable endeavour to enter into an agreement with those responsible for the development and any Relevant Undertaker providing or proposing to provide a service to persons occupying that development to secure that Lines are Installed underground on a shared cost basis.

1.6 Lines Installed over the Carriageway of a Maintainable Highway or, in Scotland, a Public Road shall be placed at a height of not less than 5.5 metres above the Highway or Road (or in the case of a designated high load route not less than 6.5 metres), except where the Highway Authority or, in Scotland, the Roads Authority has previously otherwise agreed in writing.

1.7 Nothing in this Condition or Condition 5 shall prevent the Licensee from Installing new overhead Telecommunication Apparatus where that Apparatus is supported on poles or pylons belonging to a Relevant Owner and used by that Relevant Owner for the transport of electricity at a nominal voltage of at least 6,000 volts.

1.8 The Licensee shall consider carefully a request by any person that any Line which is already Installed above the ground be resited, either underground or in another position above the ground. If the Licensee is satisfied that the person making the request will pay the costs of resiting any such Line the Licensee shall, wherever it is reasonable and practicable, so resite the Line. In other cases, except where the request is frivolous, the Licensee shall be obliged within 28 days of receiving it, to give notice of its decision whether or not to accede to the request in writing to the person making the request giving, where it decides to refuse, reasons.

Condition 2INSTALLATION OF TELECOMMUNICATION APPARATUS OTHER THAN
LINES ABOVE THE GROUND

2.1 Subject to Condition 12.1, the Licensee shall, 28 days prior to the first occasion after the grant of this Licence on which the Licensee intends to Install any Telecommunication Apparatus other than Lines above the ground give to the particular Planning Authority written details of the expected location of any other Telecommunication Apparatus which, at the date of the notice, it intends to Install above the ground in the area covered by that Planning Authority.

2.2 Subject to Condition 12.1 the Licensee shall, before Installing radio masts, give to the Planning Authority written notice of its intention to do so describing the proposed Installation and identifying the place where it is proposing to Install the Apparatus and shall not Install the Apparatus until 28 days after the giving of the notice except with the written consent of the Planning Authority.

2.3 The Licensee shall Install the Apparatus in accordance with the notice referred to in paragraph 2.2 or, where the Planning Authority gives notice in writing within the period of 28 days beginning with the giving of that notice that the Apparatus should be Installed in accordance with conditions, the Licensee shall Install the Apparatus in accordance with such of those conditions as are reasonable in all the circumstances of the case taking into account the desirability of protecting the visual amenity of the locality in which the Apparatus is to be Installed, the technical requirements of the Licensee's system and the cost of Installing the Apparatus.

2.4 Subject to Condition 4, nothing in this Condition shall prevent the Installation, on or above the ground of cabinets, boxes, pillars, pedestals and other similar Apparatus, provided that the Licensee has given the Planning Authority 28 days written notice of its intention to Install the Apparatus in question describing the Apparatus and identifying the place where it is proposing to Install the Apparatus and the dimensions of the cabinets, boxes, pillars, pedestals or other similar Apparatus above the surface of the ground, excluding any plinth, do not exceed 1.8 metres in height by 2.0 metres in width by 0.8 metres in depth.

2.5 Nothing in paragraph 2.4 shall prevent the Installation of cabinets, boxes, pillars, pedestals and other similar Apparatus, the dimensions of which above the surface of the ground, excluding any plinth, exceed those at paragraph 2.4 with the prior written consent of the Planning Authority.

2.6 Subject to Condition 4, nothing in this Condition shall prevent the Installation of a Service Line Distribution Point which is affixed to and lying either on the exterior surface of a building or the surface of any structure provided that the Point is not in a Conservation Area.

2.7 The requirements in paragraph 2.2 and 2.4 do not apply where the Licensee has given notice to the Planning Authority under Condition 3.2, 4.1 or 5.1, or where the Installation of that apparatus is carried out in accordance with Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, or, in Scotland, Part 20 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or, in the case of Northern Ireland, Part 17 of the Planning (General Development) Order (Northern Ireland) 1993 as amended by the Planning (General Development) (Amendment) Order (Northern Ireland) 1998.

2.8 For the avoidance of doubt, nothing in this Condition applies to the Installation of Telecommunication Apparatus in relation to which planning permission is required from the Planning Authority.

Condition 3

CONSERVATION AREAS

3.1 Subject to paragraphs 3.2 and 3.5, without prejudice to Conditions 1.2 and 1.3 and except in the case of Emergency Works, Telecommunication Apparatus Installed by the Licensee in any Conservation Area after the date on which this Licence enters into force shall be Installed underground.

3.2 Notwithstanding paragraph 3.1, but subject to Condition 4, the Licensee may Install Telecommunication Apparatus on or above the ground in any Conservation Area provided that the Licensee has given the Planning Authority written notice of its intention to Install the Telecommunication Apparatus in question describing the Apparatus and identifying the location where it is proposing to Install the Apparatus. Where the Planning Authority notifies the Licensee in writing within 40 days of the giving of the notice that the Installation would detrimentally affect the character or appearance of the Conservation Area and that the Installation should not take place, the Licensee may Install the Apparatus only if the Planning Authority subsequently agrees in writing or, in the case of England, Wales and Scotland, if the Secretary of State, after having consulted the Planning Authority, so directs in writing.

3.3 Notwithstanding paragraphs 3.1 and 3.2 above nothing in this Condition shall prevent the Installation on or above ground of:

- (a) a Line or pole required temporarily for the purpose of Emergency Works;
- (b) a Line flown between poles or pylons belonging to a Relevant Owner and used by that Relevant Owner for the transport of electricity at a nominal voltage of at least 6,000 volts;
- (c) an overhead Service Line flown from a pole Installed:
 - (i) before the area was designated a Conservation Area; or
 - (ii) under paragraph 3.3(f) or 3.3(g);

provided that the Line is of not noticeably larger diameter than that of the majority of the Licensee's overhead Service Lines in the same locality;

- (d) an overhead Service Line flown from a building in a locality where overhead Service Lines attached to poles or buildings are already Installed in adjacent streets or on neighbouring land by the Licensee for the purpose of providing telecommunication services, provided that the Line is of a not noticeably larger diameter than that of the majority of such other overhead Service Lines;
- (e) any other Line replacing an existing Line provided that the replacement Line is of a not noticeably larger diameter than that of the Line it replaces;
- (f) a replacement pole in a position not substantially different from the pole it replaces;
- (g) subject to paragraph 3.4, a pole (other than one mentioned in paragraph 3.3(f), in a street or on neighbouring land where overhead Service Lines attached to poles are already Installed by the Licensee in that street or on that neighbouring land for the purpose of providing telecommunication services; or
- (h) a Service Line affixed to and lying on the surface of the exterior structure of a building provided that the Line is of a not noticeably larger diameter than the majority of Service Lines affixed to and lying on the surface of the exterior structures of buildings in the same locality.

3.4 Before Installing a pole under paragraph 3.3(g) the Licensee shall give the Planning Authority written notice of its intention to do so describing the proposed works and shall consider any written representations made by the Planning Authority within 40 days of the giving of the notice.

3.5 Notwithstanding paragraph 3.1, but subject to Conditions 4 and 5, the Licensee may Install Lines affixed to and lying on the exterior surface of a building in a Conservation Area provided that the Lines are Installed in accordance with the guidelines established under Condition 10.2.

3.6 For the avoidance of doubt, nothing in paragraph 3.2 applies to the Installation of Telecommunication Apparatus in relation to which planning permission or listed building consent is required from the Planning Authority or where notice is given in accordance with Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, or, in Scotland, Part 20 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or, in the case of Northern Ireland, Part 17 of the Planning (General Development) Order (Northern Ireland) 1993 as amended by the Planning (General Development) (Amendment) Order (Northern Ireland) 1998.

Condition 4

LISTED BUILDINGS AND ANCIENT MONUMENTS

4.1 Except in the case of Emergency Works, the Licensee shall before Installing Lines, poles or other Telecommunication Apparatus in proximity to a building shown as Grade 1 or, as the case may be, category A in the Statutory List of Buildings give written notice to the Planning Authority. Where the Installation would detrimentally affect the character or appearance of the building, or its setting, and the Planning Authority indicates within 40 days of the giving of the notice that the Installation should not take place, the Licensee may Install the Apparatus only if the Planning Authority subsequently agrees in writing or, in the case of England, Wales and Scotland, if the Secretary of State, after having consulted the Planning Authority, so directs in writing.

4.2 For the avoidance of doubt, nothing in paragraph 4.1 applies to the Installation of Telecommunication Apparatus in relation to which planning permission or listed building consent is required from the Planning Authority or where notice is given in accordance with Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, or, in Scotland, Part 20 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or, in the case of Northern Ireland, Part 17 of the Planning (General Development) Order (Northern Ireland) 1993 as amended by the Planning (General Development) (Amendment) Order (Northern Ireland) 1998.

4.3 For the avoidance of doubt it is hereby declared that nothing in this Licence affects:

- (a) the statutory requirement that the consent of the Secretary of State or, in the case of Northern Ireland, the Department of the Environment (NI), shall be obtained before any work is carried out which will affect the site of an ancient monument scheduled under sections 1 and 2 of the Ancient Monuments and Archaeological Areas Act 1979 or Article 3 of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 respectively; or
- (b) the obligation imposed on the Licensee by virtue of section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or, in the case of Northern Ireland, by virtue of Article 44 of the Planning (Northern Ireland) Order 1991 to obtain listed building consent for any works of alteration or extension which would affect the character of a listed building, or involve the demolition of any part of such a building.

Condition 5**NATIONAL PARKS ETC**

5.1 Subject to paragraph 5.2 and to Condition 1.7, and except in the case of Emergency Works, before carrying out any works involving the Installation of any Telecommunication Apparatus in any National Park, National Nature Reserve, National Scenic Area, Area of Outstanding Natural Beauty, Limestone Pavement Area, Area of Special Scientific Interest, Site of Special Scientific Interest, Marine Nature Reserve, Natural Heritage Area, the Broads or the New Forest, the Licensee shall give the Relevant Authority written notice of its intention to do so describing the proposed works.

5.2 Where the Relevant Authority notifies the Licensee in writing within 40 days of the giving of the notice under paragraph 5.1 that the proposed works would detrimentally affect the character or appearance of the area or be likely to destroy or damage the flora, fauna or geological or physiographical features by reason of which the land is of special interest, and that the proposed works should not take place, the Licensee may Install the apparatus only if the Relevant Authority subsequently agrees in writing or, except in the case of Northern Ireland, if the Secretary of State, after having consulted the Relevant Authority, so directs in writing.

5.3 The Licensee shall also comply with any direction given to it in writing by the Secretary of State or, in the case of Northern Ireland, the Department of the Environment (NI), relating to giving notice to and considering representations made by any other authority exercising statutory functions in relation to any of the areas specified in paragraph 5.1 or such other environmentally sensitive areas as may be specified in the direction.

5.4 The Licensee shall not be required to give notice pursuant to paragraph 5.1 where the Apparatus to be Installed consists solely of, or where works are to be undertaken on Apparatus consisting solely of:

- (a) an overhead Service Line affixed to and lying on the surface of the exterior structure of a building or flown from a pole provided that the Line is of a not noticeably larger diameter than that of the majority of such overhead Service Lines in the same locality; or
- (b) a replacement pole Installed in a position not substantially different from the pole it replaces,

but in carrying out any such Installation or works as are referred to in this paragraph the Licensee shall have regard to the need to liaise effectively with the Relevant Authority.

5.5 For the avoidance of doubt, nothing in this Condition applies to the Installation of Telecommunication Apparatus in relation to which planning permission or listed building consent is required from the Planning Authority or where notice is given in accordance with Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, or, in Scotland, Part 20 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or, in the case of Northern Ireland Part 17 of the Planning (General Development) Order (Northern Ireland) 1993 as amended by the Planning (General Development) (Amendment) Order (Northern Ireland) 1998.

Condition 6**NATIONAL TRUST AND NATIONAL TRUST FOR SCOTLAND**

6.1 Except in the case of Emergency Works, before Installing any Telecommunication Apparatus for the purpose of providing a service to the occupier of any land which the National Trust or the National Trust for Scotland has notified the Licensee in writing that it owns, or holds any interest in, the Licensee shall give the relevant regional office of that body written notice of its intention to do so, describing the proposed works; and shall consider any written representations made within 28 days of the giving of such notice to it by either of those bodies.

Condition 7**PLACING OF UNDERGROUND LINES IN DUCTS**

7.1 All Lines Installed underground after the date on which this Licence enters into force, in a part of a Maintainable Highway which is paved or in a Street which the Street Authority has notified the Licensee is to be paved, shall, whenever practicable, be Installed in Ducts.

7.2 In Scotland, all Lines Installed underground after the date on which this Licence enters into force, in a part of a Road which is paved or in a Road which the Road Works Authority has notified the Licensee is to be paved, shall, whenever practicable, be Installed in Ducts.

Condition 8**MAINTENANCE AND THE SAFETY OF APPARATUS**

8.1 The Licensee shall from time to time inspect its Telecommunication Apparatus which is not inside a building and which is on or above the surface of the ground with a view to ensuring that it will not cause physical harm to other persons or property; and the Licensee shall notify the Director, Highway Authority, or, in Scotland, the Roads Authority as appropriate, of its arrangements for inspecting such Apparatus.

8.2 In addition to carrying out inspections of its Apparatus on or above the surface of the ground, the Licensee shall investigate any report (other than a frivolous one) of any of its Apparatus (wherever situated) being in a dangerous state and shall remove any danger.

Condition 9**ARRANGEMENTS WITH ELECTRICITY SUPPLIERS**

9.1 Before exercising any rights under the Telecommunications Code in the authorised area of any Relevant Supplier, the Licensee shall use its best endeavours to enter into an agreement with that Relevant Supplier as to the engineering principles to be adopted and the allocation and apportionment of costs which arise:

- (a) when the Licensee Installs and keeps Installed apparatus in proximity to plant which is already Installed and which is the responsibility of the Relevant Supplier; and
- (b) when the Relevant Supplier gives notice to the Licensee that it proposes to install its plant in proximity to any of the Licensee's Apparatus which is already Installed.

9.2 Where the Licensee has not offered to enter into such an agreement as is mentioned in paragraph 9.1 being an agreement which makes reasonable provision for securing that:

- (a) the Licensee will, when Installing its Apparatus in proximity to plant of the Relevant Supplier which is already installed, protect its Apparatus from electrical interference from that plant; and
- (b) the Relevant Supplier will, when installing its plant in proximity to Apparatus of the Licensee which is already Installed, protect that Apparatus of the Licensee from electrical interference from that plant,

the Licensee shall only Install Apparatus of such a kind and in such a position as will not be adversely affected by, or itself adversely affect, any plant of the Relevant Supplier which is already installed.

9.3 In this Condition, the words "authorised area" have the meaning ascribed to them in section 6(9) of the Electricity Act 1989 and, in Northern Ireland, Article 3 of the Electricity (Northern Ireland) Order 1991.

Condition 10**INSTRUCTIONS FOR THE INSTALLATION OF APPARATUS**

10.1 Without prejudice to any of its statutory obligations and any other Condition in this Schedule the Licensee shall take all reasonable steps to secure (in particular by giving instruction to its employees and agents) that:

- (a) where Apparatus is to be Installed underground in a Maintainable Highway or Street or, in Scotland, a Road, the normal practice wherever practicable and subject to consultation with the Highway Authority or Roads Authority will be to place it in the verge or footway (or the prospective verge or footway in the case of a Street) if any rather than the Carriageway;
- (b) provision is made for any new Ducts Installed after the date on which this Licence comes into force to contain sufficient spare capacity to meet demand which is reasonably foreseeable by the Licensee for telecommunication services provided by it;
- (c) effective liaison is maintained with the Highway Authority or, in Scotland, the Roads Authority with a view to ensuring that works entailing the breaking up of a Maintainable Highway or Public Road, are carried out in advance of scheduled resurfacing works or together with other schemes affecting the Highway or Road;
- (d) effective liaison is maintained with the Street Authority or, in Scotland, the Road Works Authority in order to ensure that all works are executed in accordance with the provisions of, and made under, sections 65 to 69 or, in Scotland, sections 124 to 128 of the New Roads and Street Works Act 1991 or, in Northern Ireland, Schedule 3 to the Electricity Supply (Northern Ireland) Order 1972 as amended by the Telecommunications (Street Works) (Northern Ireland) Order 1984;
- (e) effective liaison is maintained with Relevant Undertakers with a view to avoiding the disruption of the services provided by those persons;

- (f) effective liaison is maintained with the Street Authority or, in Scotland, the Road Works Authority in order to ensure that, following the execution of works, the Licensee discharges its duties of reinstatement of the street under sections 70 to 73 or, in Scotland, sections 129 to 132 of the New Roads and Street Works Act 1991 or, in Northern Ireland, paragraphs 1 to 5 of Schedule 3 to the Electricity Supply (Northern Ireland) Order 1972 as amended by the Telecommunications (Street Works) (Northern Ireland) Order 1984;
- (g) before constructing new Ducts, and with a view to reducing to a minimum the need for the construction of new Ducts, the possibility of using Ducts or other conduits which are already Installed is investigated;
- (h) the minimum practicable number of items of Apparatus is Installed, allowing for estimated growth in demand for telecommunication services;
- (i) Lines and other items of Telecommunication Apparatus are placed so that they do not present safety hazards (in particular to disabled persons, including the blind and those with impaired sight);
- (j) the visual amenity of properties (in particular buildings in the Statutory List of Buildings which have been notified by the Planning Authority to the Licensee as deserving special consideration) in proximity to which Apparatus is Installed is protected as far as practicable;
- (k) where Apparatus is Installed underground in a Maintainable Highway or Street or, in Scotland, a Road, the Street Authority or, in Scotland, the Road Works Authority and Relevant Undertakers are consulted about the appropriate depth of cover of the Apparatus and its lateral position in the Highway, Street or Road;
- (l) the National Joint Utilities Group (NJUG) guidelines for the planning, installation and maintenance of utility services in proximity to trees are followed;
- (m) so far as is practicable, where a Line or other Telecommunication Apparatus is attached to a building, the fitting used to attach that Apparatus will not stain that building through corrosion;
- (n) effective liaison is maintained with the Street Authority or, in Scotland, the Road Works Authority in order to ensure that the Street Works Register or, in Scotland, the Road Works Register contains such information in respect of works carried out as may be prescribed under section 53 or, in Scotland, section 112 of the New Roads and Street Works Act 1991 or, in the case of Northern Ireland, under Article 13 of the Street Works (Northern Ireland) Order 1995;
- (o) effective liaison is maintained with the Planning Authority in respect of the arrangements for the Installation of Apparatus in Local Nature Reserves designated under section 21 of the National Parks and Access to the Countryside Act 1949;
- (p) underground Lines to be Installed in Agricultural land are Installed at such a depth that they will not interfere with the use of the land for Agricultural purposes, unless the occupier, any superior lessee and the freeholder agree otherwise; and
- (q) before erecting a new mast or pole the possibility is investigated of:
 - (i) using an existing mast or pole belonging to the Licensee or any other person (in particular any other public telecommunications operator);
 - (ii) replacing an existing mast or pole belonging to the Licensee or any other person (in particular any other public telecommunications operator) with a mast for the joint use of the Licensee and that other person; and
 - (iii) erecting, in co-operation with any other public telecommunications operator, a mast or pole for the joint use of the Licensee and that other operator.

10.2 Without prejudice to any other Condition in this Schedule and any of the Licensee's statutory obligations, the Licensee shall, in conjunction with the Planning Authority (and in the case of paragraph (a) below in conjunction also with the Highway Authority or, in Scotland, the Roads Authority), use every reasonable endeavour to establish guidelines to be followed by the Licensee in connection with the Installation (and in particular the positioning) of:

- (a) cabinets, boxes, pillars, pedestals and other similar Apparatus Installed on or above the ground;
- (b) Lines or Service Line Distribution Points affixed to and lying on the exterior surface of a building; and
- (c) Apparatus Installed on or above the ground in proximity to a building notified by the Planning Authority to the Licensee in writing as being in the Statutory List of Buildings.

10.3 The Licensee shall within three months of the date on which this Licence enters into force and thereafter from time to time as the Director may require furnish details to the Director of the instructions given in accordance with paragraph 10.1 above.

10.4 The requirement specified in paragraph 10.1(j) is without prejudice to the requirements of Condition 4.1.

Condition 11**RECORDS OF APPARATUS**

11.1 The Licensee shall keep records of the location of any of its Apparatus Installed in or under a Maintainable Highway or Street or, in Scotland, a Road, or under any other land, after the date on which this Condition enters into force and shall take all reasonable steps to ensure that those records are accurate for the purpose of those intending to undertake works in the vicinity of that Apparatus.

11.2 The Licensee shall keep records of any of its Apparatus Installed underground after the date on which this Condition enters into force which can be made available in the form of route plans based on Ordnance Survey map backgrounds of one of the following scales (1:500, 1:625, 1:1,250, 1:2,500, 1:10,000) according to the density of development in the area concerned.

11.3 The Licensee shall provide by means of a voice telephony or other telecommunication system, to any Highway Authority or, in Scotland, any Roads Authority, or other person who is intending to undertake works in the vicinity of any Telecommunication Apparatus it has Installed of the kind described in paragraph 11.1 above, a service furnishing information free of charge about the location of that Apparatus and shall, as soon as possible (but in any case within 28 days):

- (a) respond to bona fide enquiries; and
- (b) where requested by a Highway Authority or, in Scotland, a Roads Authority, or Relevant Undertaker confirm its advice in diagrammatic form and make trained staff available to indicate, on site, the location and nature of the Apparatus so Installed;

and shall also respond to any other reasonable request from a Highway Authority or, in Scotland, a Roads Authority or Relevant Undertaker for information about the location of the Licensee's Apparatus Installed in or under a Maintainable Highway or Street, or, in Scotland, a Road.

11.4 The Licensee shall co-operate in any joint projects involving the Highway Authority or, in Scotland, the Road Works Authority, or Relevant Undertakers which have as their purpose the recording and making available of information about the location of underground apparatus, unless the Director agrees that it would be inappropriate having regard to its existing practice in the area concerned for it to do so.

Condition 12**EMERGENCY WORKS AND URGENT WORKS**

12.1 Without prejudice to the duties of the Licensee under sections 55, 57 and 93 of the New Roads and Street Works Act 1991 or, in Scotland, sections 116 and 152 of that Act or, in Northern Ireland, paragraphs 6 and 6A of Schedule 3 to the Electricity Supply (Northern Ireland) Order 1972 as amended by the Telecommunications (Street Works) (Northern Ireland) Order 1984 concerning the giving of notice in respect of Emergency Works or Urgent Works, the Licensee shall provide, in addition to the information contained in any such notice, a reasonable estimate of the date by which the Emergency Works or the Urgent Works are expected to be completed and a statement of the grounds for the need to execute those Emergency Works or Urgent Works, as the case may be.

Condition 13**PUBLIC OR PRIVATE EVENTS AND CONSTRUCTION SITES ETC**

13.1 Where the Licensee is to provide telecommunication services for a limited period at the site of a public or private event or a construction site, it may Install Lines on or above the ground and any associated poles, notwithstanding Conditions 1, 3, 4, 5 and 6 provided that:

- (a) the Planning Authority is notified as soon as is practicable of the proposed Installation and is given a reasonable estimate of the date by which the Apparatus concerned will be removed; and
- (b) the Lines and poles are removed within a reasonable period after the end of the event or after the work at the construction site is complete.

Condition 14**EMERGENCY ORGANISATIONS**

14.1 Where the Licensee is to provide any telecommunication service for a limited period to an Emergency Organisation in an Emergency it may, notwithstanding Conditions 1, 2, 3, 5, 6 and 7 Install overhead Lines and associated poles for the purposes of providing such services as are made necessary by the Emergency provided that any such Line or pole is removed within a reasonable period after such services cease to be required.

Condition 15**PUBLIC INSPECTION OF CODE RELATED LICENCE CONDITIONS**

15.1 The Licensee shall place a copy of this Schedule and of every direction given to the Licensee under section 10(4) of the Act in a publicly accessible part of every Major Office of the Licensee in such a manner and in such a place that it is readily available for inspection free of charge by the general public during such hours as the Secretary of State may prescribe by order under section 19(4) of the Act that the register of Licences and final and provisional orders is to be open for public inspection or in the absence of any such order having been made by the Secretary of State, during normal office hours.

Condition 16**FUNDS FOR MEETING LIABILITIES**

16.1 In respect of the period commencing on the date of this Licence until 31 March 1999 and thereafter in respect of every period of one year beginning on 1 April the Licensee shall make such arrangements as will satisfy the Director (which arrangements shall be reviewed jointly by the Director and the Licensee at least every 2 years) that sufficient funds are available to the Appropriate Authorities after the occurrence of a Relevant Event to meet the liabilities described in paragraph 16.2 below which have arisen on or before the date on which that Event occurred or may arise thereafter from the exercise of rights conferred upon the Licensee by paragraph 9 of the Telecommunications Code.

16.2 The liabilities referred to in paragraph 16.1 above are :

- (a) liabilities, including for the payment of indemnities in respect of costs or expenses incurred, arising under the New Roads and Street Works Act 1991 or, in Northern Ireland, the Electricity Supply (Northern Ireland) Order 1972, as amended by the Telecommunications (Street Works) (Northern Ireland) Order 1984, towards:
 - (i) any Appropriate Authority, Traffic Authority or other responsible authority under that Act;
 - (ii) any other person having the authority to execute works in, or having apparatus in, a Street;
 - (iii) any concessionaire within the meaning of section 1 of that Act, or in the case of Northern Ireland within the meaning of Article 23(1) of the Roads (Northern Ireland) Order 1993;
- (b) any other costs or expenses reasonably incurred by any Appropriate Authority or other responsible authority in making good any damage caused by the Installation or removal of Telecommunication Apparatus, whether such damage occurs before or after the Relevant Event;
- (c) any other costs or expenses reasonably incurred by any Appropriate Authority or other responsible authority after the Relevant Event occurs in removing any Telecommunication Apparatus:
 - (i) which is Installed under, over, along or across a Street;
 - (ii) which is not, or is no longer, used for the purposes of any telecommunication system and in relation to which there is no reasonable likelihood that it will be so used; and
 - (iii) the removal of which is desirable having regard to any harm it may cause to other persons or property, or to the visual amenity of properties in proximity to which the Apparatus is Installed.

16.3 Where the Director is not satisfied that the arrangements made by the Licensee are adequate to secure that sufficient funds are available after the Relevant Event occurs for meeting the liabilities described in paragraph 16.2 above he may direct the Licensee to take such steps as he considers appropriate for the purpose of securing that such sufficient funds are available and the Licensee shall comply with any such direction.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the standard schedules to be included in licences granted by the Secretary of State under section 7 of the Telecommunications Act 1984 for the running of public telecommunication systems. Schedule 1 contains the standard conditions included in such licences relating to the running of telecommunication systems and the provision of telecommunication services, Schedule 2 contains the provisions relating to the revocation of licences, Schedule 3 contains the provisions relating to the connection authorisation and service authorisation in such licences and Schedule 4 sets out the conditions and exceptions relating to the application of the telecommunications code where that applies to such licences. The standard schedules form part of the amendments that are being made to these licences as part of the implementation in the United Kingdom of Directive 97/13/EC of the European Parliament and of the Council on a common framework for general authorisations and individual licences in the field of telecommunications (OJ No. L199, 26.7.97, p.32), which requires that conditions in all telecommunications licences of a similar type should be harmonised, except where objectively justified in particular instances.

A Regulatory Impact Assessment is available and can be obtained from Communications and Information Industries Directorate, Department of Trade and Industry, 151 Buckingham Palace Road, London SW1W 9SS.