

Subject to Contract/Contract Denied



REFERENCE INTERCONNECT OFFER

Between:

Tesco Mobile Ireland Limited

and

[To be inserted]

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THIS AGREEMENT is made on _____ day of _____ 2017
BETWEEN

Tesco Mobile Ireland Limited (registration number 421281) having its registered office at Gresham House, Marine Road, Dun Laoghaire, Co Dublin ("TMI")

AND

[To be inserted] ("the Operator"),

Each being a Party and together the Parties, and each shall include its respective Authorised Subsidiaries to which Services are provided under this Agreement.

WHEREAS

- (A) TMI is authorised under Irish Statutory Instrument 335 of 2011 (Authorisation Regulations 2011) to operate its own respective public telecommunication network and provide public network, voice telephony and other telecommunications services in Ireland.
- (B) The Operator is authorised under Irish Statutory Instrument 335 of 2011 (Authorisation Regulations 2011) to operate its own respective public telecommunication network and provide public network, voice telephony and other telecommunications services in Ireland.
- (C) The Parties agree with the terms and conditions of this Agreement and any Supplemental Agreement or commercial agreement governed by the terms of this Agreement.

1. DEFINITIONS

1.1 The following words and expressions shall, except where the context otherwise specifies, have the following meanings;

"Affiliate" Any holding company or subsidiary company as defined in sections 7 and 8 of the Companies Act 2014 as amended.

"Artificial Inflation of Traffic (AIT)" any situation where Calls:

- (a) are made, generated, stimulated, and/or prolonged for the direct or indirect benefit of any entity (including a natural person) operating, hosting or otherwise connected with a telecommunication service as a result of any activity by or on behalf of such entity; and
- (b) result in a calling pattern which is disproportionate to the overall amount, duration and/or extent of Calls which would be expected from:
 - i. a good faith usage; or
 - ii. an acceptable and reasonable commercial practice relating to the operation of telecommunications systems.

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“Authorised Operator”	Being a telecommunications operator authorized by the National Regulator to provide services in the Republic of Ireland.
“Authorised Subsidiary”	describing a trading name or subsidiary company of the Parties to this agreement authorised by the National Regulator to provide services in the Republic of Ireland.
“Busy Hour”	The hour of any calendar day that carries the maximum number of calls.
"Block Holder"	is defined as the Operator to whom the number range has been allocated by the National Regulator.
“Call(s)”	The establishment of a connection through a Network and the transmission and the delivery of a communication (being a communication of the type which each of the Party’s Networks are capable of conveying), from the terminal on which this communication has been generated to the terminal to which this communication is addressed, or to a network platform or to any other facility giving automatic answer in the cases where the connection cannot be established.
“Called Customer Answer Signal”	The signal which is provided by the terminating switch (to indicate that the called customer has answered) and which is passed to the originating switch to be used for the purpose of charging.
“Charges”	The fees payable for the provisions of the Services under the Agreement and as defined under the Service Description.
“Circuits”	A telecommunications transmission circuit capable of carrying an SIP channel or E1.
“CLI”	Calling Line Identification.
“CLI Guidelines”	European Telecommunications Platform (ETP) Issue 4 of “Guidelines for Calling Line Identification” [document number (02)51]9.
“Commencement Date”	From date of signature.
“ComReg”	Commission for Communication Regulation, telecoms licensing and regulatory body.
“Customer”	is defined as party that procures TMI Ireland Products and Services.
“Disclosing Party”	Party disclosing information under the Agreement.
“Dispute”	Any disagreement, conflict or claims arising out of or in connection with the Agreement or its validity.
“EURIBOR”	Euro Interbank Offered Rate.

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“Geographic Number”	a geographic number assigned to a geographic area.
“Geographic Number Portability (GNP Service)”	is defined as the service by which a customer can move their geographic number from one Network to another without significant service interruption.
“Industry Agreed”	is defined as agreed by the Number Portability Committee established pursuant to the National Regulator’s Decision Notice D1/99.
“In-Service Certificate”	The certificate signed by both Parties once the Point of Interconnection is fully established, satisfactory call traffic and bill testing has occurred and the Parties are ready to provide Services to each other in accordance with the Agreement.
“In-Service Date”	The date from which the Services are to be made available from one Party to the other in accordance with this Agreement and as specified in the In Service Certificate.
“Interconnection”	Physical and logical linking of the TMI Network with the Operator Network in accordance with this Agreement with a view to access and provision of the Services under this Agreement.
“Invoice Discrepancy”	Discrepancies in invoices, discrepancies between the invoices and the accounts of the Paying Party and/or any dispute related to the invoices.
“Invoicing Party”	The Party offering the Services under the Agreement and entitled to receiving payment of the Charges.
“ITU”	The International Telecommunications Union.
“Licence(s)”	Licences, permits and authorisations required for operating Networks and providing the Services.
“Network(s)”	Network means the telecommunications infrastructure operated by Parties to provide telecommunication services.
“Irish National Numbering Scheme”	A scheme operated by the regulatory authority for the allocation of number ranges for telecommunications services.
“Supplemental Agreement”	Means a supplemental Agreement which is governed by the terms of this Agreement, specifying the details of the Service and associated commercial terms, Minimum Period of Service and Charges.

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“Paying Party”	The Party that pays or is held to pay for the Charges under the Agreement.
“Point of Interconnection/POI”	A physical point where the Networks of both Parties are interconnected for the provision of service(s) as specified in Annex B. The POI is the boundary between the TMI and Customer domains of responsibility.
“Ready for Service Date”	The date agreed between the Parties by which the Service(s) will be ready for use to be no later than an agreed date.
“Receiving Party”	A Party who received any information, a notice and/or invoice from the other Party in relation to the Agreement.
“Service Description”	Means the details of each Service provided under this Interconnect Agreement, as set out in Annex A.
“Service(s)”	The services to be provided between the Parties as is more fully set out in Annex A.
“SIP”	IP-based interconnect paths.
“SIP-I”	As per “SIP”.
“Service Plan”	means the mutually agreed document (that is subject to change from time to time) setting out the technical configurations and the standards and methods of operation to be used by the Parties.
“VAT”	Value Added Tax.

2 SCOPE OF THE AGREEMENT

2.1 This agreement shall consist of these main body terms and conditions, and Annexes A, B and C as set out herein, and together with any amendments thereof, shall be hereinafter referred to as “the Agreement” or “this Agreement”. In the event of any inconsistencies between them, the order of precedence shall (unless expressly stated to the contrary) be as follows:

- (a) Annexes A, B and C.
- (b) Main body of this Agreement

2.2 The technical configurations and the standards and methods of operation to be used by the Parties in the provision of Services hereunder shall be agreed upon by the Parties and described in an agreed Service Plan. However, where and as far as the Parties have not described the technical configurations and the standards and methods of operation in writing, the Parties shall apply technical standards conforming to the relevant recommendations of the ITU/T (International Telecommunication Union Telecommunication Standardisation Sector).

It is hereby expressly agreed that the Service Plan is not legally binding. However, TMI and the Operator share operational responsibility for keeping the Service Plan up-to-date.

2.3 The Parties agree to provide and maintain Services as set forth in Annex B and any applicable Supplemental Agreement governed by the terms of this Agreement, between the TMI Network and the Operator Network in accordance with the terms and conditions of this Agreement.

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- 2.4 For the avoidance of doubt, this agreement applies to Authorised Subsidiaries of the Parties (unless otherwise specified in an Supplemental Agreement governed by the terms of this Agreement), however only in respect of those telecommunications or other services provided by either Party to the other, or between the Parties, as listed in the Annexes hereto (as may be amended by written agreement from time to time). This Agreement is independent of, and its scope does not include, any other agreement under which any telecommunications or other services are provided by either Party to any customer, unless that other agreement expressly references the terms of this Agreement.
- 2.5 The Services covered by this Agreement shall be provided through access to IP Interconnect ports located on the TMI network.
- 2.6 For operational purposes, technical and operating personnel will use English as the working language.

3 TERM AND TERMINATION

- 3.1 This Agreement shall enter in to force on the Commencement Date and shall continue for a period of 24 months ("Term"). After the Term, this Agreement shall continue on a rolling monthly basis until terminated by either Party giving not less than (3) three months written notice, such notice not to issue before the expiry of the Term or initial period of any Supplemental Agreement that is governed by the terms of this Agreement.

For the avoidance of doubt, termination of this Agreement for any reason shall not result in termination of any Supplemental Agreement governed by the terms of this Agreement.

- 3.2 Either Party may, upon written notice to the other, terminate the Agreement in the following circumstances:
- a) forthwith upon notice in writing, if the other Party shall be unable to pay its debts within the meaning of section 570 of the Companies Act, 2014 or have an examiner or receiver appointed over the whole or any part of its assets or go into liquidation (whether compulsory or voluntary) otherwise than for the purposes of amalgamation or reconstruction or shall make any agreement with its creditors or have any form of execution or distress levied upon its assets or cease to carry on business;
 - b) the expiry of 30 days from the date of service of written notice from one Party specifying a breach by the other Party of a material obligation and requiring that the breach is remedied (if capable of remedy), provided that the breach is not remedied during such period;
 - c) the expiry of either Party's Licence to run its Network, or where a renewal of such Licence has not been granted in a timely manner.
- 3.3 If either Party delays in acting upon a breach of this Agreement that delay will not be regarded as a waiver of that breach. If either Party waives a breach of this Agreement that waiver is limited to that particular breach only.
- 3.4 Notwithstanding any other provision of the Agreement, if a Party fails to pay a net balance due in accordance with the terms of the Agreement, the invoicing Party reserves the right forthwith upon notice in writing (such notice to be no less than fourteen days advance notice) to:
- a) restrict or suspend the Service and the non-breaching Party shall be released from its obligation under this Agreement until any balance due is paid without affecting the non-breaching Party's right to continue to send traffic to the defaulting Party; and/or
 - b) handle only calls that are billed to its own Customers, retain all revenue, and continue such practice until payment of any outstanding balance due has been paid; and/or

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c) terminate this Agreement without liability or right to compensation for the defaulting Party.

3.5 Upon the termination of this Agreement each Party shall refund to the other a fair and equitable proportion of those sums paid to the other Party under this Agreement which are periodic in nature and have been paid for a period extending beyond the date of termination in order to balance any over-payment.

4. INTERCONNECT SERVICES AND ADDITIONAL SERVICES

4.1 The Services shall consist of the Services set out in Annex B, which are provided by TMI to the Operator

Or as otherwise amended by the Parties from time to time as set out in Section 4.8.

4.2 The Parties agree to provide the above Services to each other in accordance with:

- (a) the terms and conditions herein; and
- (b) any applicable law or regulation or any direction or decision of any appropriate regulatory authority.

4.3 Each Party shall undertake to ensure that:

- (a) they will not use or permit others to use any Interconnect Service for any improper or unlawful purpose; and
- (b) they will hold at all relevant times for the duration of the Agreement all licences which are appropriate or necessary in order for the Interconnect Services to be provided and will not cause the other Party to breach any such licence.

4.4 Each Party agrees that they should not hand over or convey any calls destined for a service for which there is no agreement between the Parties.

4.5 The details of how interconnection between the TMI Network and the Operator's Network shall be achieved, and the design and planning of the Interconnect Network are set out in the Technical Plan. The Service Plan shall be continuously reviewed and updated as necessary by the Parties as agreed between the Parties. Network alterations and data reconfigurations as is necessary for the access routing and charging of Calls may be requested by either Party in accordance with the processes set out in the Service Plan.

4.6 The procedures for the initial installation and testing of the Interconnect Network as well as for the continued operation and maintenance thereof shall be governed by the Service Plan.

4.7 Separate Interconnect Paths shall be provided to carry the Call traffic for each Party. Each Party shall be wholly responsible for forecasting its capacity requirement and the Parties have a responsibility for meeting the forecast requirements. Switch port capacity may only be increased in units of 1 x SIP Channel or multiples thereof.

4.8 Additional services as may be agreed by the Parties from time to time may be provided on the Interconnect Network and the details of such services shall be provided in new Service Schedules to be inserted in Annex B of the Agreement, on mutual written agreement of the Parties.

5 WAYLEAVES AND EQUIPMENT RECOVERY

5.1 Upon termination of this Agreement, each Party shall be entitled, after reasonable prior notice in writing to the other Party, to enter the premises of such other Party for the purposes of carrying out, under the reasonable control and guidance of the Party owning or using the respective premises,

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any necessary disconnection works and repossessing any plant, equipment or apparatus which is its property or is the property of another person and has been installed by or for such Party.

- 5.2 The Party on whose premises such plant, equipment or apparatus was installed shall compensate to an agreed amount the other Party for any such plant, equipment or apparatus belonging to such other Party or any other person as aforesaid which are not so delivered up or repossessed in good condition (fair wear and tear excepted).
- 5.3 The Party entering and carrying out such disconnection works shall indemnify the other in respect of any damage thereby caused to the premises, fixtures and fittings of the other, subject to Clause 15 of this Agreement.
- 5.4 Either such Party desiring to enter and carry out works as aforesaid shall give the other reasonable notice requesting the other to carry out the disconnection and to return any such plant equipment and apparatus and shall enter the premises for such purposes only if such other Party shall have failed to comply with such request.
- 5.5 A Party so entering the premises of the other shall observe the reasonable requirements in respect of health and safety while at the premises.
- 5.6 Each Party shall at its own expense obtain such wayleaves as may reasonably be required by the other from any third party in respect of the premises it uses for the purpose of effecting Interconnection.
- 5.7 Each Party (in exercising rights obtained under Clause 5.6) shall comply with the terms of the wayleaves.
- 5.8 The provisions of this Clause 5 shall apply for the duration of this Agreement and for so long thereafter as may be necessary for the Parties to disconnect and remove their respective equipment, however, for the avoidance of doubt each Party shall be obliged to disconnect and remove its respective equipment within six months from termination of this Agreement.

6. FORECASTING

- 6.1 Each Party shall provide to the other (unless otherwise agreed), quarterly estimates of the total traffic for the next year (specifying total minutes, number of calls and seven day profile) which it could convey to the other.
- 6.2 If, during a period of 6 months, the traffic conveyed by one Party to the other differs in any material respect from that Party's forecast for that period, the other Party may request a revised forecast, such forecast to be provided within 30 days of such request.
- 6.3 Without prejudice to Clauses 6.1 and 6.2, each Party shall give the other as much notice as is reasonably practicable of material changes in traffic volumes. For the avoidance of doubt, all volumes provided under this clause are estimates only and shall not be interpreted as binding commitments.

7. ARTIFICIAL INFLATION OF TRAFFIC (AIT)

- 7.1 Neither Party shall withhold any payment due to the other Party on the basis that AIT or fraudulent calls by third parties comprised a portion of the traffic volume, unless otherwise agreed or directed to do so by ComReg or other competent or equivalent authority in other regulatory jurisdictions. The Parties agree to comply with the process in respect of AIT set out in the ComReg Regulation 23(2) Process.

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- 7.2 Each Party shall use reasonable endeavours to detect, identify, prevent and notify the other Party of the occurrence of AIT, and to develop, implement and maintain appropriate procedures to identify and prevent AIT. If either Party reasonably considers that the agreed safeguards in respect of AIT under this Agreement are not adequate, then such Party may require the other Party to review and update their AIT procedures.

8 CHARGES AND SETTLEMENT

- 8.1 Each Party shall prepare a monthly invoice for each Service provided under this Agreement and in accordance with the terms of the Billing Procedures defined under Annex C. Each Party shall forward such monthly invoices to the other Party after the calendar month to which the invoice relates.
- 8.2 All invoices shall be paid in full within 30 days of the invoice date, subject to the provisions of Clause 9 in relation to disputed invoices.
- 8.3 The Parties shall implement and observe the provisions in respect of billing and payment of charges set out in Annex C and the Charges for the Services as described in Annex B.
- 8.4 The primary responsibility for traffic measurement shall reside with the Invoicing Party for any particular Interconnect Service. However, both Parties shall ensure that they each record measurements of traffic in sufficient detail to meet their obligations as set out herein.
- 8.5 The currency of settlement shall be Euro or as defined in any related agreement. The Charges as described in Annex B refer to charges excluding VAT. All tariffs, rates, charges and any other payment as may be applied to the amounts under this Agreement are quoted exclusive of all taxes and duties levied in any jurisdiction on the Services of the Parties (including but not limited to Value Added Tax and any Sales or Turnover tax). All such taxes and duties shall be borne and paid by the Party at the rate and in the manner prescribed by law in the Party's country.
- 8.6 The invoice shall be sent by email and shall be deemed received after the fifth (5) day sent if no other evidence of receipt is available.
- 8.7 After expiry of not less than seven (7) days' notice stating a Party's intention to claim interest on sums not paid in accordance with the Agreement, the Party claiming interest shall be entitled to charge and receive interest in respect of any amount due or deemed to be payable under this Agreement (which shall be subject to a separate invoice containing the information set out in Section 1.3 of Annex C) at a rate of 5% per annum over the base lending rate of the ECB from the date due until payment. Interest shall accrue daily but shall not be compounded.
- 8.8 All payments shall be either made directly via wire transfer or by direct debit as specified on the Supplemental Agreement.
- 8.9 Either Party shall be entitled to deduct from or set off against any money due by it to the other Party any sums which are due by the other Party to it.

9 INVOICE DISCREPANCIES

- 9.1 Each Party ("Paying Party") will review invoices issued by the other Party ("Invoicing Party"). The procedure described hereunder shall apply to any Invoice Discrepancy. If the Paying Party wishes to raise an Invoice Discrepancy, it shall promptly notify the Invoicing Party in writing as soon as it becomes aware of any such discrepancy. Provided that an Invoice Discrepancy is raised within twenty one days (21) of the date of an invoice, payment of the invoice may be withheld, unless the Invoice Discrepancy relates to less than 5% of the total amount of traffic volume in which case the full invoice must be paid pending resolution of the Invoice Discrepancy. Both Parties shall use their

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best endeavours to resolve the dispute through consultations within 14 days after notification.

9.2 The Parties shall aim to reach an agreement on any Invoice Discrepancy at Level I or Level II of the Dispute Resolution procedure set forth in Clause 10. The Parties may at any time agree on a time schedule modifying or replacing the time schedule provided for under Clause 10. The Paying Party may at any time withdraw its notification of an Invoice Discrepancy.

9.3 If a dispute is investigated and resolved in favour of the Paying Party then no late payment interest shall be applied. In the event the dispute is resolved in favour of the Invoicing Party then the Invoicing Party reserve the right to apply late payment interest from the date such payment was originally due until paid.

10 DISPUTE RESOLUTION

10.1 The Parties will use all reasonable efforts to amicably resolve any dispute. The Parties will, at a minimum, use the following procedure in the event a dispute arises with respect to any aspect of this Agreement. Upon written notification by one Party to the other that a dispute exists, working level managers of the respective Parties will attempt in good faith to work out a resolution within thirty (30) days following the day of written notification of a dispute. If an agreement cannot be reached by the end of this period, the Parties shall prepare a document containing information that is designed to assist resolution of the dispute containing what has been agreed and what remains in dispute between them. No later than two weeks thereafter, or at some other time as mutually agreed by the Parties, representatives of the Parties at Director level or above shall meet to further attempt to resolve the matter or to agree on a course of action to resolve the matter. Such course of action may include use of formal dispute resolution processes, including but not limited to non-binding mediation or binding or non-binding arbitration. In the event that the Parties are unable to resolve the matter or agree on a course of action at this executive level within thirty (30) days, either Party shall have the right to pursue legal or equitable remedies as it sees fit. Nothing contained herein shall preclude either Party from seeking equitable relief at any time in a court having jurisdiction under the terms of this Agreement in the event that a risk of imminent harm to that Party exists and no appropriate remedy for such harm exists under the Agreement.

11 NETWORK SAFETY AND PROTECTION

Each Party is responsible for the safe operation of its Network and shall take all reasonable and necessary steps in its operation and implementation of this Agreement to ensure that its network does not:

- Endanger the safety or health of employees, contractors, agents or customers of the other Party; or
- Damage, interfere with or cause any deterioration on the operation of the other Party's Network.

12 NUMBERING / CLI / PREMIUM RATE AND SHARED REVENUE SERVICES

12.1 Each Party shall use numbers in accordance with the Irish National Numbering Scheme.

12.2 Each Party must comply at all times with the Irish numbering obligations (General Conditions and Users Rights) including as outlined by ComReg from time to time. In particular the use of the network CLI and presentation CLI fields must be compliant with the Irish regulations at all times. If either Party detects Calls that contravene these regulations, originated from the other Party's network, it shall be entitled not to convey those Calls.

12.3 Where CLI is passed for presentation purposes, the presentation shall comply with all the requirements of the applicable data protection legislation and the requirements of individual

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customers of the Parties. i.e. where the caller has requested for the CLI to be withheld from presentation to the called customer, this request must be adhered to.

- 12.4 A Party who's Network receives CLI shall only use the CLI for the following purposes:
- 12.4.1 the management of traffic;
 - 12.4.2 the management of billing;
 - 12.4.3 to the extent that it relates to the management of traffic or billing agreed administrative use in accordance with accepted industry practice from time to time (which includes, at the date of this Agreement, Call trace, malicious Call identification) and in anonymised form the compilation of statistics relating to Call origin; and
 - 12.4.4 display to Customers subject to compliance with the CLI Guidelines; and
 - 12.4.5 activities relating to Customer enquiries; and
 - 12.4.6 prevention and detection of fraud.
- 12.5 Notwithstanding any other provision of this Agreement and any preference expressed by a calling user or subscriber, a Party may present the identity of the calling line when an emergency (999/112) Call is made and use CLI to pass telephone numbers to emergency organisations.
- 12.6 The cost of generating and conveying CLI is included in the relevant conveyance rates for Calls. Neither Party shall apply additional charges for CLI.
- 12.7 If there is a change in law or regulation relating to CLI, the Parties shall change the operation of CLI to the extent necessary to comply with the applicable law or regulation.

13. QUALITY OF SERVICE

Neither Party warrants or represents that its' Network or the Services provided by it are or will be free from faults. Each Party shall notify the other Party as soon as possible of any facility failure which will arise, or will be likely to arise, from a cause originating within the Party's Network and which is expected to result in a protracted interruption of any or all of the Services hereunder described. In the event of a fault within a Party's Network which adversely affects the provision by either Party of the Services, the relevant Party shall notify the other Party of the fault as soon as is reasonably practicable and shall use all reasonable endeavours to correct the fault in accordance with the engineering practices accepted in the industry. Each Party shall give the other Party not less than fourteen (14) working days' notice in respect of any planned outage of its Network which may affect the performance of its obligations under this Agreement and, in any event, such notice shall give the other Party sufficient time and outage details to enable that Party to make provision for the outage.

14. GOVERNANCE MEETINGS

The Parties shall procure that their respective representatives will meet or have conference calls regularly to discuss the progress of the Agreement in accordance with a schedule to be agreed between the Parties.

15. LIABILITY

- 15.1 If a Party is in breach of any obligations under this Agreement to the other Party or otherwise

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(including liability for negligence or breach of statutory duty or under any indemnities provided in this agreement) or if any liability is arising, such Party's liability to the other Party shall be limited to Euro 1,000,000 (one million Euro) for any one event or series of connected events and to Euro 2,000,000 (two million Euro) for all events (connected or unconnected) in any period of 12 (twelve) consecutive calendar months.

- 15.2 Neither Party shall be liable to the other in contract, tort (including negligence or breach of statutory duty) or otherwise for indirect loss (including, without limiting the foregoing, any special, indirect or consequential losses, whether or not known, foreseen or foreseeable) or direct or indirect loss of profits, business, revenue, goodwill or anticipated savings, business interruption, wasted expenditure, loss corruption or destruction of data or for any indirect or consequential loss whatever, arising in connection with the performance of this Agreement, whatsoever shall be the cause of same and however long it shall last.
- 15.3 Neither Party excludes or restricts in any way its liability for death or personal injury resulting from its own negligence.
- 15.4 Neither Party shall be liable for any loss or damage sustained by the other Party or its end users (other than damages intentionally or negligently caused) by reason of any failure in or breakdown of the communication facilities associated with the Circuits used in providing the Service under this Agreement or for any interruption or degradation of Service, whatsoever shall be the cause of such failure, breakdown, interruption or degradation and however long it shall last.
- 15.5 Neither Party shall be liable to the other Party against any actions, proceedings, claims or demands in any way connected with this Agreement brought or threatened against the other Party by any third party, unless the grounds for the actions, proceedings, claims or demands arise from default by the other Party.
- 15.6 The provisions of this Clause 15 shall continue to apply to matters arising out of this Agreement notwithstanding the termination of this Agreement.

16 AUTHORISATIONS

As may be required by each Party, all undertakings and obligations assumed hereunder by either Party are subject to the issuance and continuance of all necessary governmental licenses, consents, permits, registrations, authorisations or approvals.

17 NOTICES

All notices under this Agreement shall be made in writing and shall be deemed to have been received ten (10) calendar days after the date of mailing and shall be deemed validly delivered if sent by hand or by registered mail to the following persons:

For TMI: David O'Hanlon (Head of Finance) TMI

For the Operator: [To be inserted]

18 ENTIRE AGREEMENT

- 18.1 This Agreement including its Annexes, and any Supplemental Agreement that is governed by the terms of this Agreement represents the entire understanding between the Parties in relation to the subject matter hereof and supersedes all other or prior agreements and representations made by

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either Party, whether oral or written, and this Agreement may only be modified if such modification is in writing and signed by a duly authorised representative of each Party hereto. For the avoidance of doubt, this Agreement shall supercede any prior Interconnect Agreement in place between the Parties.

- 18.2 If any term or provision hereof is determined to be invalid or unenforceable in a final court or proceeding or competent regulatory authority, (i) the remaining terms and provisions hereof shall be unimpaired and (ii) the invalid or enforceable term or provision shall be deemed replaced by a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision.

19 NO WAIVER

Failure by either Party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof or of any other right on any later occasion.

20 ASSIGNMENT

Neither Party shall transfer or assign its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld, delayed or conditioned. However, either Party may, without the prior written consent of the other Party, assign its rights and obligations under this Agreement to an Affiliate provided ten (10) days prior notification is given to the other Party.

21 FORCE MAJEURE

- 21.1 Neither Party shall be liable for interruptions in the provision of the Service caused by or resulting from force majeure which shall include but not be limited to such unpredictable events such as any flood, earthquake, storm, lightning, fire, epidemic, war, outbreak of hostilities (whether or not war is declared), riot, strikes, or other trade dispute, civil disturbance, sabotage, expropriation by governmental authorities, interruptions by regulatory or judicial authorities or other act or any event that is outside the reasonable control of the concerned Party.
- 21.2 Either Party may however immediately by written notice terminate that part of the Agreement relating to a Service if any event of Force Majeure prevents the performance of the whole or a substantial part of the other Party's obligations in relation to that Service for a continuous period of 3 months non-performance.

22 NON DISCLOSURE

- 22.1 Neither of the Parties hereto shall divulge or communicate to any person (other than those with proper lawful authority to compel such disclosure as provided in Clause 22.4) or use or exploit for any purpose any of the trade secrets or confidential information or any financial or trading information of or relating to the other Party hereto or to this Agreement which such Party may receive or obtain as a result of or in connection with this Agreement. Each Party shall mark such information as proprietary or as confidential. Each Party shall limit access to such information to employees who need to know it for the purposes of this Agreement. The obligation of confidentiality shall equally apply to the existence and content of this contract.
- 22.2 The duty to treat data and information in confidence pursuant to this Confidentiality Agreement shall not apply to data and information:

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- a) which was independently developed by the receiving Party or its affiliated companies or lawfully received free of restriction from another source having the right to furnish such information or data;
- b) which at the time of disclosure to the Receiving Party or its affiliated companies was known to the Receiving Party or its affiliated companies free of restriction and evidenced by documentation in the Receiving Party's possession;
- c) which the Disclosing Party agrees in writing is free of such restrictions.

22.3 This restriction shall continue to apply for three (3) years after the termination of this Agreement.

22.4 In the event that the receiving Party or anyone to whom it has transmitted the confidential information becomes legally compelled to disclose any of this information, the Receiving Party shall provide the other Party with prompt written notice (not less than 24 hours) so that the disclosing Party may seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, the receiving Party shall furnish only that portion of the confidential information which the receiving Party is legally required to disclose and shall exercise his best efforts to obtain reliable assurance that confidential treatment will be accorded the confidential information.

22.5 Received confidential information, including all copies thereof, shall be returned to the disclosing Party or destroyed after the Receiving Party's need for it has expired or upon termination of this Agreement and upon reasonable request of the disclosing Party.

22.6 Neither Party shall make any public announcement, statement, press release or communicate with any third party about the existence and/or contents and/or performance of this Agreement without the other Party's prior written consent and any non-compliant disclosure by a Party shall entitle the other Party to terminate this Agreement forthwith without any liability.

23 MODIFICATIONS AND ADDITIONS

This Agreement (including any of its Annexes) may be amended only by written instruments signed by duly authorised persons of each Party.

24 NO PARTNERSHIP

The Parties to this Agreement are independent contractors. Neither Party is an agent or representative of the other Party. Nothing in this Agreement shall be deemed to create a partnership, joint venture or other relationship other than a vendor customer relationship but without underlying international mercantile law.

25 INTELLECTUAL PROPERTY

25.1 The Parties agree that all patents, trademarks, copyrights, trade secrets, registered designs, service marks, trade names, logos, inventions and all other intellectual property shall remain the property of the person or Party originating the same and that nothing in this Agreement or any Services Annex grants either Party any ownership, license, or any other right, either express or implied, in the intellectual property of the other.

25.2 Neither Party shall use any advertising, sales, promotions, or other publicity materials (including, without limitation, publicity regarding this Agreement or any Services Annex) that use the other Party's name, logo, trademarks or service marks without the prior written approval of the other Party, which may be granted or withheld in that Party's sole discretion.

26 INTELLECTUAL PROPERTY RIGHTS INDEMNIFICATION

Subject to Contract/Contract Denied

- 26.1 Subject to Clause 15, each Party (the “Indemnifying Party”) shall indemnify the other Party (the “Indemnified Party”) against all claims and proceedings arising directly from infringement (or alleged infringement) of any Intellectual Property Rights enforceable in any country in which Service is provided, by reason of the Customer's use of any Service or any item provided as part of the Service. As a condition of this indemnity the Indemnified Party shall:
- i. notify the Indemnifying Party promptly in writing of any allegation of infringement;
 - ii. make no admission relating to the infringement; and
 - iii. allow the Indemnifying Party to conduct all negotiations and proceedings and give the Indemnifying Party all reasonable assistance.
- 26.2 If at any time an allegation of infringement of the Intellectual Property Rights is made, the Indemnifying Party may at its own expense modify the Service, or any item provided as part of the Service, so as to avoid the infringement, provided that any such modification does not materially affect the performance of the Service.
- 26.3 The indemnity in Clause 26.1 does not apply to infringements occasioned by the Indemnified Party's use of the Service, or any item provided as part of the Service, in conjunction with other apparatus or software not supplied by the Indemnifying Party or to infringements occasioned by designs or specifications made by the Indemnified Party. The Indemnified Party shall indemnify the Indemnifying Party against claims, proceedings and expenses arising from such infringements.

27 GOVERNING LAW AND JURISDICTION

- 27.1 This Agreement shall be governed by and construed and enforced in accordance with the laws of the Republic of Ireland.
- 27.2 Any dispute controversy or claim arising out of or relating to this Agreement and its Annexes or the breach, termination or invalidity thereof, shall be brought to the Courts of the Republic of Ireland, having exclusive jurisdiction.

Subject to Contract/Contract Denied

Made up in two originals, for which each Party declares having received a valid and signed version.

FOR: TMI

FOR: [To be inserted]

Subject to Contract/Contract Denied

Annex A – Voice Call Termination Services

1. Voice Call Termination Services means the service provide by TMI for termination of voice call traffic destined for the TMI network. The specific termination fees for Voice Call Termination Services are shown in Annex B.
2. The Operator will pass to TMI the full CLI (calling line identification) for originating calls. Neither Party shall modify the CLI except in line with technical specifications previously agreed by the Parties.
3. TMI will continue to provide Interconnect capacity free of charge as per existing policy.

Charges and Billing

4. The Operator will pay the charges due to TMI in accordance with the rates specified in Annex B of this Schedule and for the avoidance of doubt in accordance with the terms of the Interconnect Agreement. All rates are exclusive of VAT and other sales taxes, duties or levies imposed on TMI by law. Where such a tax, duty or levy becomes due the amount will be added to the charges payable.
5. TMI will provide seven (7) calendar days written notice (by fax or email) to TMI of any rate changes to the following contacts:

TMI:- Email: david.ohanlon@tescomobile.ie

TMI:- Email: [To be inserted]

6. Billing and settlement will be done in accordance with the provisions of the Interconnect Agreement.

Quality of Service

7. TMI will monitor traffic volumes on its switches. Based on this monitoring TMI will propose capacity extensions. The trigger will be (non-incident) congestion during busy hour above 1% at which point TMI will carry out an analysis and advise TMI of its findings. Any capacity increase which TMI thereafter wishes to implement will be subject to change control (i.e. written agreement by both parties of costs and terms).
8. In some cases (e.g. force majeure) at the terminating side, temporary solutions can be applied to terminate traffic via an overflow construction via a third party, not via a virtual direct link, after consultation with the originating party.

Subject to Contract/Contract Denied

ANNEX B SERVICES AND CHARGES

1. TMI Points of Interconnection

[To be inserted]

Transmission Capacity

Transmission capacity to present interconnect paths to either Party (either TDM or IP) is not covered within the scope of this Agreement.

Where the Operator provides TMI with transmission capacity to present interconnect paths (either TDM or IP), the Parties shall enter into a separate order for such capacity which shall be governed by the terms and conditions of that order. The Operator shall be entitled to charge for these data transmission services at a market rate.

Where TMI provides the Operator with transmission capacity to present interconnect paths (either TDM or IP), the Parties shall enter into a separate order for such capacity which shall be governed by the terms and conditions of that order. TMI shall be entitled to charge for these data transmission services at a market rate.

1.1 The Operator Points of Interconnection

The TMI point of interconnect is currently located at [To be inserted].

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2. Index of Interconnect Services

Service Schedule Number	Service Title
TMI Services	
A1	Voice Call Termination Services

3.0 Rates and Charges

- 3.4 Important: All Charges stated in this Agreement are subject to change from time to time due to charges as a result of changes in law/regulation (which includes a judgement of a court of competent jurisdiction), and such changes shall be effective from the date of the application of the rate change on TMI or the Operator as appropriate, which for the avoidance of doubt may be retrospective.

It is understood that charges are subject to change for both Parties, and that both Parties will advise the other Party in writing of any rate change as soon as is reasonably practicable however such obligation to notify the other Party in writing is procedural only and does not alter the fact that such changes shall be effective from the date of the application of the rate change.

Table 1: Category A1 – Voice Call Termination Services

Price List Name	WCC Name	Tariff Period	PPM	Charge Band Description
TESCO MOBILE IRELAND LTD	Voice Call Termination Services	Peak, Off-peak and Weekend	From 1 January to 31 December 2020: 0.55 Euro cent	MOBILE

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ANNEX C MUTUAL BILLING PROCEDURES

1. The Billing Party shall record Calls which are passed to the Paying Party Network and shall invoice the Paying Party for such Calls in accordance with the provisions of this Annex. Where it is impracticable for the Billing Party to record the details of a Call, records of Call details of the Paying Party shall be used. Notwithstanding this however, in the case of Calls to Irish National Mobile numbers that have ported from one mobile network operator to another mobile network operator, the Billing Party records shall be used to verify the destination network based on the Mobile Number Portability central database.
- 1.1 The invoice submitted by the Billing Party shall be delivered to the Paying Party by e-mail and shall contain the following information:
 - (a) invoice date;
 - (b) Billing Period;
 - (c) billed amounts broken down into standard, exempt and zero Vatable amounts;
 - (d) VAT amounts per invoice for standard amounts only;
 - (e) VAT registration number and company number;
 - (f) VAT rates used; and
 - (g) total amount payable.
- 1.2 The Billing Party shall provide, at the same time that it delivers to the Paying Party an invoice in respect of charges for Services, a summary statement relating to such invoice containing the following information:
 - (a) number of Calls;
 - (b) total duration of Calls;
 - (c) and total charge.
- The Pricing bands are as follows daytime peak which is Monday – Friday 8.00am – 5.59pm (Peak); off-peak which is Monday-Friday 6.00 pm – 7.59am (Off-Peak); weekend which is Friday – Monday 6.00 pm – 7.59am (Weekend), Timezone: Ireland
- 1.3 Each Party shall maintain and retain for a period of two years from its submission of each invoice true and accurate books of account and such information as may reasonably be required for calculation or verification of the amounts payable under such invoice (excluding information on individual Calls).
- 1.4 Charges for conveyance of Calls shall accrue only when:
 - (a) the Call is conveyed through the Operator Network and the TMI Network or vice versa and connection is made to the called CLI and the Called Customer Answer Signal is received by the system on which the Call originated;
 - (b) the Call cannot be conveyed in accordance with paragraph 5 (a) and as a consequence is diverted to a service or Network in accordance with arrangements previously agreed with the called Party;
 - (c) a Called Customer Answer Signal is received from another national operator; or
 - (d) as otherwise agreed by the Parties from time to time.
- 1.5 Charging shall cease on the earlier of the detection of the calling or called Party release signal. This release signal shall be generated:
 - (a) by the Operator of the system of the calling Party immediately after the calling Party has cleared the connection;

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- (b) in the case of the Operator of the system of the called Party, immediately after the called customer held time-out (that is the period of time between the called Party clearing the connection and the connection being released as agreed between the Parties); or
- (c) immediately after the called Party clears the connection.
- 1.6 Conveyance charges specified in Annex A are expressed either per minute (when Call duration is measured in minutes and seconds) or as a flat charge, however, billing will be on a per second basis.
- 1.7 Subject to paragraphs 10 and 11 the charge for conveyance of a Call is calculated by the following formula:
$$D = (A \times B) + C$$
Where:
A = the Call duration in minutes and seconds
B = the cent per minute charge
C = the flat charge
D = the total charge.
- 1.8 Where the duration of the Call extends across more than one time band, the total charge will be comprised of the sum of the component duration multiplied by the rates relevant to each individual time band.
- 1.9 Where it is impractical for both Customer and TMI to record the duration of a Call, Customer and TMI may agree to use the following algorithm to calculate the charges payable:
$$D = (N \times B) + (N \times A \times C)$$
Where:
N = the agreed number of Calls of a particular class (charge band)
A = the agreed duration of Calls (in seconds)
B = the cent per call charge
C = the cent per minute charge
D = the total charge for all Calls
- 1.10 Subject to Clauses 5 and 6, all charges payable under this Agreement shall be paid within 30 days of the date of invoice.