

OPERATOR (PTY) LTD

- and -

ORANGE BOTSWANA (PTY) LTD

INTERCONNECTION OFFER

Notwithstanding the date of signature hereof, this Agreement is made on the.....of.....2010

BETWEEN:

1. Orange Botswana (**Pty**) **Ltd** whose place of business is at Plot 166 Main Mall Gaborone of P/Bag BO 64, Gaborone represented herein by Elisabeth Medou-Badang in her capacity as Chief Executive Officer, duly authorised. (hereinafter referred to as "Orange")

and

2. **Operator** whose place of business is at Plot of P.O. Box represented herein by in his capacity asduly authorised. (hereinafter referred to as the "Operator")

WHEREAS:

- A. Under the Telecommunications Act No. 15 of 1996 (Amended 2004), Orange was granted a Public Telecommunications Operator licence no PTO 002/07-08 dated 11th April 2007 and
- B. Operator was granted a VANS Licence no dated..... A copy of which is attached hereto with the company documents of Operator.
- C. Pursuant to their rights granted under the said Act the Parties are desirous of entering into an interconnection agreement and wish to record same in writing.

NOW IT IS HEREBY AGREED as follows:

1 DEFINITIONS

1.1 In this Agreement, the following terms shall have the meaning assigned to them hereunder, namely:

| | |
|--------------------------|--|
| "The Act" | means Telecommunications Act No. 15 of 1996 (Amended 2004) |
| "This Agreement" | means this agreement and all Schedules and Annexes hereto |
| "Associated Company" | in relation to a party means any Subsidiary and Holding Company and any Subsidiary of such Holding Company; |
| "Billing Period" | the period of one calendar month or such other period as is agreed in writing between the parties |
| "BTA" or "The Authority" | means the Botswana Telecommunications Authority, established under the Act |
| "Busy Hour" | means a continuous one hour period lying wholly in the interval concerned for which the traffic or number of call attempts is the greatest |
| "Bypass" | means sending unauthorised traffic or traffic at an unauthorised rate under an interconnection agreement and "Refilling" shall have the same meaning |
| "Call" | means a transmission path through a licensed telecommunication system for the sending of Messages and the conveyance of a Call by a party and the subsequent establishment by that party of a transmission path through that party's System and the conveyance by that party of a Message over such transmission path. |

| | |
|--------------------------|---|
| "Capacity" | means the circuit capacity to be made available from time to time at the Points of Connection |
| "Charge Band" | cost group for a particular class of calls |
| "Charge Periods" | the charge periods specified in the standard tariffs of the parties |
| "Customer" | means a person (other than a person running a public telecommunication system which - (a) in the case of a Message conveyed to or to be conveyed from the Orange System by Orange, is directly connected to the Orange System and (b) in the case of a Message conveyed to or to be conveyed from the Operator by Orange is directly connected to the Operator System |
| "Holding Company" | means a company which holds more than half of the issued share capital of another, or in respect of which it controls, whether by way of agreement or otherwise, the voting of shareholders at a meeting of shareholders, or the appointment of the majority of directors to its board of directors or the voting of its directors at a meeting of its directors. |
| "Direct Interconnection" | means an interconnection carrying strictly the traffic of the end-users of the two interconnected carriers. |
| "Interconnection" | means the physical linking of Telecommunications Terminal Equipment and/or Private Telecommunications Networks to Public Telecommunications Networks in order to allow Users of the Private Telecommunications Network or the Users of the Telecommunications Terminal Equipment to communicate with Users of a Public Telecommunications Network or Users |

of the same or another Private Telecommunications Network or to access services provided on a Public Telecommunications Network as appropriate.

“Interconnect Route”

a transmission path (which traverses a Point of Connection from a Switch location in Operator System to a Switch location in the Orange System or vice versa) for carrying specified Telecommunication Services;

“In-Service Date”

the agreed date or dates from which the Telecommunications Services are to be made available by one Party to the other in accordance with this Agreement,

“ITU-T”

the Telecommunications Standardization Bureau of the International Telecommunication Union

"Orange Licence"

means the licence granted to Orange as referred to in Recital A including any modifications to or replacement thereto.

“Message”

includes any communication whether in the form of speech or other sound, data, text, visual image, signal or code, or in any other form or combination of form

"Point of Connection"

means any point at which the Orange System and the OPERATOR are connected in accordance with this Agreement, as referred to in Clause 2.

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"Signalling Protocol"

Means the technical procedures and methods by which calls are set up, maintained and cleared down.

| | |
|--|---|
| “Subsidiary” | in relation to another ‘Holding’ company means a company in which the Holding Company holds more than half of its issued share capital, or in respect of which the Holding Company controls, whether by way of agreement or otherwise, the voting of shareholders at a meeting of shareholders, or the appointment of the majority of directors to its board of directors or the voting of its directors at a meeting of its directors. |
| “Switch” | telecommunication apparatus within a System which performs the function of switching and routing Messages between two or more points within such System and between one such point and another System. |
| "System" | means the Orange System or the OPERATOR system as the context so admits or requires and "Systems" means both the Orange System and the OPERATOR. |
| “Third Party System” | means the telecommunications system run by a party other than OPERATOR or Orange |
| “Point of Interconnection Link” or “POIL” | means a dedicated telecommunications link established for the purpose of conveying messages between the PSTN and the PLMN; |

1.2 Any word or expression used in this Agreement shall have the same meaning as it has in the Act or in the Orange Licence or Operator License unless a different meaning is applied to it under this Agreement.

- 1.3 In the event of any inconsistency between the meaning of any word or expression used in this Agreement and the meaning it has in the Orange Licence or Operator Licence the meaning it has in the Act shall prevail.
- 1.4 References herein to Clauses, Schedules and Annexes are to clauses in and schedules and annexes to this Agreement.
- 1.5 References in this Agreement to "Orange" and "Operator" shall include their respective successors (whether by operation of law or otherwise) and permitted assigns.

2 COMMENCEMENT AND DURATION

- 2.1 This Agreement shall commence on the date of the last Party signing and shall remain in force until terminated by either Party in accordance with its Terms.
- 2.2 The operation of this Agreement and all interconnections and the provision of specific apparatus equipment and/or services provided under or pursuant to this Agreement may be terminated or suspended in whole or in part forthwith by either party in the event that and for so long as the other party shall be in material breach of this Agreement (including non-payment of any sums due there under) and shall fail to remedy such breach within 15 days after receipt of a notice specifying the breach and requiring it to be remedied provided that in case of emergency such suspension may be implemented without prior notice but such suspension shall only apply to such services provided under this Agreement as are affected by the emergency.

3 INTERCONNECTION

- 3.1.1 Orange and OPERATOR shall, subject to the terms and conditions of this Agreement, each connect and keep connected their Systems in order to enable Messages to be conveyed to and from their respective Customers OPERATOR. Interconnection shall be established at two points of Connection located in Gaborone and Francistown. The parties may, if agreed between them from time to time, establish additional Points of Connection and on such terms and conditions as may be agreed. The parties shall agree appropriate tests of the Interconnection and the parties shall co-operate in carrying out such tests. Calls may be conveyed by means of Interconnection only when such tests have been completed to the satisfaction of both parties.
- 3.1.2 Interconnection of the Systems shall be in accordance with interface specifications and the operational procedures and other provisions in Schedules 1 and 2 and as developed by agreement between the parties from time to time. Each party shall be responsible for installing and

maintaining, at its own cost and expense their equipment. The interconnection shall strictly be direct interconnection and does not allow Refilling by OPERATOR except through a specific written agreement between the parties. Notwithstanding any other provision of this agreement any type of Refilling shall be considered as a Bypass and shall result in the termination of the contract on 5 days notice.

- 3.1.3 It is specifically agreed that this interconnection agreement is strictly for Calls between Orange and OPERATOR and the OPERATOR shall not act as a wholesaler for calls from other Operators or Entities. Notwithstanding any other provision of this agreement, breach of this clause shall result in the termination of the contract on 5 days notice to the Operator.
- 3.2 Subject to the terms and conditions of this Agreement:
 - 3.2.1 Orange shall use its reasonable endeavours to convey Calls, addressed to a number falling within one of those number groups in Schedule 3 Part 1, which may be received by the Orange System from the OPERATOR System.
 - 3.2.2 OPERATOR shall use its reasonable endeavours to convey Calls, addressed to a number falling within one of those number groups in Schedule 3 Part 2, which may be received by the OPERATOR System from the Orange System
 - 3.2.3 Neither party shall be under any obligation or liability for any Call once it is handed over to another telecommunications system. Nothing in this Agreement shall be construed as imposing any requirement or obligation on either party to convey Calls to the System of a Third Party.
- 3.3 Orange and OPERATOR will continue, by discussion between the Parties, to forecast and measure traffic in real time.
- 3.4 Neither party shall make or permit to be made any alterations or adjustments or addition to the connection of the Systems or to any plant, equipment or apparatus of the other party used in connection therewith in such a way as materially to impair the operation of the System of the other party or otherwise materially to affect the conveyance of Messages through Interconnection.
- 3.5 Each party undertakes to the other that Calls conveyed by either party to the System of the other shall, in respect of routing arrangements, facilities and quality of network performance, be treated and conveyed by the other party from the Point of Connection and within its System on a basis and priority equivalent to that for equivalent Calls originating on its System.
- 3.6 Neither party warrants that its System will be free from faults. In the event of any fault in the Interconnection, the party within whose System such

fault arises shall use its best endeavours to ensure compliance with the Act and all reasonable endeavours to ensure restoration of service in accordance with the targets and other procedures as may be agreed between the parties from time to time.

- 3.7 Orange shall inform the other about any proposals for changes to its System or to any apparatus comprised therein, to any stored commands or protocol. a) The parties shall periodically deliberate on the cumulative Capacity required by each of them at a Point(s) of Connection, including forecasts of anticipated traffic growth.

4 PAYMENTS

- 4.1 In consideration of the Interconnection and other services to be provided under this Agreement:-

4.1.1 Orange shall pay OPERATOR charges; and

4.1.2 OPERATOR shall pay Orange's charges determined in accordance with the provisions of this Clause. The charges set out in Schedule 3 are payable on a net basis, exclusive of Value Added Tax, which shall be payable in addition to the rate prevailing from time to time.

4.2 Orange's charges for calls conveyed through the Orange System from the OPERATOR System to the called Customer shall be as set out in Schedule 3. Orange may vary such charges by giving 30 days written notice to the OPERATOR.

4.3 OPERATOR charges for calls conveyed through the OPERATOR from the Orange System to the called Customer shall be as set out in Schedule 3. OPERATOR may vary such charges by giving 30 days written notice to Orange.

4.4 Charges shall apply to calls in respect of which the called party answer signal is returned across the interface between the two Systems but charges shall not apply to calls made to:

4.4.1 an invalid number

4.4.2 a called station which is already engaged unless the called party has invoked call forward on busy.

4.5 Charges for Calls conveyed from one System to the other under this Clause will commence when the telecommunication System run by the called Customer answers or apparatus within the System conveying the call to the called Customer answers the call on behalf of that Customer.

Charging shall cease on the earlier of the calling or called party's release signal.

- 4.6 Orange shall be responsible for recording and shall send invoices to - OPERATOR in respect of calls from the -OPERATOR System to the Orange System. OPERATOR shall be responsible for recording and shall send invoices to Orange in respect of calls from the Orange System to the OPERATOR System. Charges for all calls referred to in Schedule 3 shall be calculated on bulk traffic (not call by call). An accounting summary report shall be sent with each invoice. This accounting summary report will detail for each calendar month by call type and charge band the number of calls, total chargeable call duration, pula per minute rate and the total chargeable call duration ("total chargeable call duration") means the aggregate number of minutes of all calls.
- 4.7 The provision of invoices referred to in Clause 4.6 shall be carried out on a monthly basis, within 7 days after month end. Invoices shall be payable within 30 days of receipt.
- 4.8 If either party shall fail to pay any amount due within the said 30 day period, the payee shall from the expiry of such period be entitled to charge and receive interest at the rate of 2 per cent above the Bank of Botswana Prime Lending rate from the date that payment was due. Neither party shall have the right to charge interest in accordance with this clause unless it has given the other party at least 7 days prior written notice of its intention to do so.
- 4.9 Each party shall maintain and retain for a period of Five years from its submission of each invoice true and accurate books of account and information contained in or on discs tapes document or other records as may reasonably be required for calculation or verification of the amounts payable under such invoice.
- 4.10 Parameters for settlement of invoices for traffic shall, in the case of differences in the traffic figures between the parties shall be as follows:

| <u>Difference</u> | <u>Settlement basis</u> |
|-------------------|--|
| Less than 1% | The mean of the figures |
| Between 1% and 3% | The mean of the figures, but an analysis should be carried out to identify and correct the differences |
| More than 3% | The figures have to be reconciled and corrected, within a maximum period of |

30 days from notification that an excessive difference exists

- 4.11 Failing resolution of a disputed invoice any dispute may be referred by either party for investigation and determination by a certified Accountant of more than 15 years experience (“the accountant”) to act as an expert and not as an arbitrator and whose decision, in the absence of evidence of manifest error, shall be final and binding. The parties shall co-operate in such investigation and any sum thus found to be due or overpaid shall be promptly paid or refunded (including any interest payable as the case may be). Such finding to be concluded within a time frame of 60 days from reference of the matter for determination
- 4.12 Each party shall permit the Accountant in the circumstances referred to above to have access to its premises, upon giving reasonable notice to either party, solely for the purpose of inspecting the apparatus used for recording and charging calls made between the Systems. Any such inspection shall be made in such a way as to cause the minimum inconvenience. The party whose premises are being visited for such inspection shall provide the Accountant with reasonable facilities and assistance for such purpose.
- 4.13 The Invoiced Party shall within 30 days of the invoice date, pay the amount of Invoice not in dispute.
- 4.14 It is agreed that OPERATOR shall furnish a Bank Guarantee of P500,000.00 (Five Hundred Thousand Pula) in favour of Orange within 30 days of signing the Agreement. The Bank guarantee shall be reviewed and adjusted every 3 months based on traffic evolution.
- 4.15 Orange shall only call on the guarantee if Operator fails to pay on the due date and provided that Orange gives 5 working days notice to call on the bond.
- 4.16 Each party shall have an obligation to take all necessary actions to minimize and/or prevent any potential debts.

5 STANDARDS AND OPERATIONAL MATTERS

- 5.1 The parties shall consult together on a timely basis relating to the operation of this Agreement and in particular shall set up an interconnect liaison structure with terms of reference to be agreed between the parties.

- 5.2 The Signalling Protocol between the Systems shall be in accordance with Schedule 4.
- 5.3 Each party shall use its reasonable endeavours to adhere to the standards for connection, operation and maintenance of their respective Systems as may be set out from time to time in Schedule 1. Technical and operational guidelines shall be contained in manuals developed by the parties and shall constitute "best working practices" but shall not, by virtue of this Clause or otherwise, be legally binding on the parties, unless the parties specifically agree otherwise in writing in each case.
- 5.4 In the practical implementation of connection, the parties shall at all times apply standards and operating guidelines which in the first instance have due regard to any legal requirements imposed upon them and thereafter wherever practicable shall apply the relevant international standards (in particular but not limited to those of the CCITT). Whether alternative international standards exist, in making their selection, the parties shall give preference to those adopted by European telecommunications administrations. Where the international standards are not available on reference, the parties shall develop their own common standards or other agreed solutions.

6 PROTECTION OF THE ORANGE SYSTEM

- 6.1 OPERATOR shall not do or permit to be done or omit or permit the omission of anything in relation to the Orange System which will either cause damage to the Orange System or will, save as permitted under or pursuant to this Agreement, result in modification of the proper and normal operation of the Orange System.
- 6.2 OPERATOR shall upon reasonable written request from Orange provide Orange with all necessary facilities including rights of access to the point of connection in order that Orange may ensure that OPERATOR is complying with its obligations under this Agreement provided always that Orange shall not in so doing do anything which may inhibit or interfere with the proper and normal operation of the OPERATOR System

7 PROTECTION OF THE OPERATOR SYSTEM

Orange shall not do or permit to be done or omit or permit the omission of anything in relation to the OPERATOR System which will either cause damage to the OPERATOR System or will, save as permitted under or pursuant to this Agreement.

8 SAFETY

Orange and OPERATOR shall take all necessary and prudent steps to ensure that the implementation of this Agreement will not endanger the health or safety of any person(s) including each other's employees, agents, sub contractors and customers and in this respect each party shall be responsible for the safe operation of the equipment within its System on its side of the Point of Connection between the Orange System and the OPERATOR System.

9 TESTING

1. The procedures for testing and clearance of faults occurring between the Systems or otherwise affecting Interconnection shall be as agreed between the parties from time to time.
2. Interconnection between the Parties shall only commence after satisfactory conduct of tests

10 INTELLECTUAL PROPERTY RIGHTS

- 10.1 Trademarks, inventions, patents, copyrights, registered designs and other intellectual property ("the intellectual property") shall remain in the ownership of the party originating or which has acquired the same and nothing herein shall confer or be deemed to confer on either party any rights or licences in the intellectual property of the other party. Each party further agrees that it shall not use in connection with its business or in any advertising, publicity releases or sales presentations the name, service marks, trade marks or any other symbol or logo used by the other party or an Associated Company of the other party without the other party's written consent. Each party agrees that it will not take any actions that will in any manner compromise the registered trade marks and/or service marks of the other party or its Associated Companies.
- 10.2 Where the intellectual property is developed in connection with performance of this Agreement then in the absence of any other agreement between the parties of the ownership of the intellectual property shall remain in the party who developed the same provided that in consideration of this Agreement the other party shall have a licence at no cost to use the intellectual property for the purposes of implementation of this Agreement.

11 COMPLIANCE WITH GOVERNMENT DIRECTIVES

The parties hereto shall co-operate in complying with the Act, the requirements of the BTA in pursuance or in terms of the Act, and such other regulatory, statutory or Governmental requirements as may be applicable to them.

12 CALLER LINE IDENTIFICATION ADMINISTRATIVE AND CALL DISPLAY USE

- 12.1 Subject as set out below, each party shall pass any CLI and / or Call Forwarding information received to the other party in respect of Calls handed over by the first mentioned party to that other party, for display, routing Calls, billing and agreed administrative use (including for Call trace, malicious Call identification); Notwithstanding any other provision hereto, breach of clause 12.1 shall entitle the party not in default to terminate the contract forthwith with notice to the Defaulting Party.

13 MALICIOUS CALL IDENTIFICATION

Where either party is required by the terms and conditions of the relevant Licence to give assistance to the law enforcement agencies in identification of Callers with malicious intent, such assistance is usually given by operational procedures involving CLI. Each of the parties shall co-operate in offering CLI for this purpose.

14 FORCE MAJEURE

- 14.1 Neither party to this Agreement shall be liable for any breach of this Agreement caused by force majeure which expression shall mean act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts and/or omissions of Government, fire, lightning, or other circumstances beyond the reasonable control of the Party affected.
- 14.2 The party affected by force majeure shall promptly notify the other of the estimated extent and duration of such inability to perform its obligations.
- 14.3 Upon the cessation of the delay or failure resulting from force majeure, the party affected by force majeure shall promptly notify the other of such cessation.
- 14.4 If as a result of force majeure the performance by either party of such party's obligation under this Agreement are only partially affected, such party shall, subject to the provisions of Clause 14.5 below, nevertheless remain liable for the performance of those obligations not affected by force majeure.

- 14.5 In the case of either party making a force majeure notification then:
- 14.5.1 If the event of force majeure event lasts 30 days or less from the date of the force majeure notification (whether or not notice of cessation has been given pursuant to Clause 14.3) any obligation outstanding shall be fulfilled by the party affected by the force majeure event, as soon as reasonably practicable after the force majeure event has ended, save to the extent that such fulfilment is no longer possible or is not required by the other party.
- 14.5.2 If the force majeure event lasts for more than 30 days from the date of the force majeure notification and a notice of cessation has not been given pursuant to Clause 14.3 and such force majeure event prevents the affected party from performing its obligations in whole or in part during that period, the unaffected party shall be entitled (but not obliged) to terminate this Agreement forthwith by giving written notice to the other party, such notice to expire at any time following the expiry of the said 30 days period, provided that such notice shall be deemed not to have been given in the event that notice of cessation of the force majeure event given pursuant to Clause 14.3 is received by the unaffected party prior to the expiry of the notice to terminate as aforesaid.
- 14.6 The affected party shall use all reasonable endeavours to mitigate the effect of each event of force majeure.

15 LIABILITY

- 15.1 Neither party excludes liability for death or personal injury attributable to its own negligence.
- 15.2 Orange shall not be liable to OPERATOR for claims, proceedings or actions brought or made against OPERATOR by a user of telecommunications equipment which is directly connected to the OPERATOR System and OPERATOR shall not be liable to Orange for claims, proceedings or actions brought or made against Orange by a user of telecommunications equipment which is directly connected to the Orange System. The provisions of this shall apply notwithstanding that such claims, proceedings, or actions arise from the actions or omissions of Orange or OPERATOR respectively.
- 15.3 Each party's total aggregate liability to the other party in respect of all causes of action arising in each calendar year in contract, delict or otherwise in connection with or arising out of the supply or non-supply of

Services under this Agreement shall be limited to (i) one million pula (1,000,000) for any one incident or series of incidents arising from a single incident; and (ii) damages equal to two million pula (2,000,000) for all incidents occurring in any 12 month period.

15.4 In no event shall either Party be liable for unforeseeable, indirect, incidental or special damages arising either directly or indirectly as a result of the performance of this Agreement. The Parties shall be liable for the consequences of errors and omissions arising from negligence or wilful misconduct on its part or on the part of its agents and employees.

15.5 Liability operates separately and survives independently of the other clauses.

16 CONFIDENTIALITY

16.1 Subject to Clause 16.2 each party will treat and procure that its directors and employees treat as confidential all information whether of a technical or business nature or otherwise relating in any manner to the business or affairs of the other party or relating to this Agreement and will not disclose such information to any person, firm or company and will not use such information other than for the purposes of this Agreement.

16.2 The provisions of Clause 16.1 shall not apply to any information which:-

16.2.1 is in the public domain other than by default of the recipient party;

16.2.2 is obtained by the recipient party from a bona fide third party having free right of disposal of such information;

16.2.3 is properly disclosed pursuant to and in accordance with a relevant statutory obligation or to the BTA in accordance with a request under the Act

16.3 Information which is the subject of the provisions of Clause 16.1 shall only be used for the purpose for which it was delivered and/or for the purposes of performing the obligations of the parties under this Agreement.

16.4 Information which is the subject of the provisions of Clause 16.1 may be disclosed to agents and sub-contractors of the parties hereto provided that all such agents and sub-contractors shall prior to receiving such information enter into a confidentiality undertaking with the disclosing party.

- 16.5 Upon request, each party shall promptly return all confidential information (or any designated portion thereof) including all copies thereof to the other party or, if so directed by that party, destroy such confidential information.
- 16.6 The provisions of this Clause 16 shall apply for a period of ten years from the date of disclosure.

17 PUBLICITY

Neither party shall without the prior approval in writing (such approval not to be unreasonably withheld) of the other directly or indirectly make any public announcement or give any release or statement to the press, television, radio or other media relating to or in any way connected with this Agreement.

18 NO PARTNERSHIP

The parties hereto declare that it is not the intention of either of them to enter into a joint partnership between the parties hereto or constitute one party the agent of the other for any purpose whatsoever.

19 WAIVERS

Failure by either party at any time to enforce any of the provisions of this Agreement shall not be construed as a waiver by such party of any such provision or in any way affect the validity of this Agreement or any part hereof.

20 AMENDMENT/MODIFICATION

Either Party may give the Other Party 60 days notice to amend or modify this Agreement. The amendments or modification may only take effect after signature of both Parties.

21 ASSIGNMENT

- 21.1 This Agreement is personal to the parties hereto, neither party shall without the prior consent in writing of the other assign, transfer, charge, encumber or otherwise deal with the whole or any part of this Agreement or its rights and obligations hereunder.
- 21.2 Neither party shall unreasonably withhold its written consent to an assignment by the other party to an Associated Company provided that in the case of any assignment by Orange, its assignee is licensed or

otherwise authorised to run the Orange System and in the case of any assignment by OPERATOR its assignee is licensed or otherwise authorised to run the OPERATOR System;

21.3 This Agreement may be terminated forthwith by either party;-

21.3.1 by notice in writing to the other if a resolution or petition to wind up the other party is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or a receiver of any of the other party's assets or undertaking is appointed or if the other party becomes unable to pay its debts within the meaning of the Insolvency Act [CAP: 42:02] or other circumstances arise which entitle the Court or a creditor to appoint a judicial manager or final liquidator or to make a winding-up order in respect of the other party;

21.4 Upon the termination or expiry of this Agreement either party shall be entitled after reasonable prior notice in writing to the other party to enter the premises of the other party for the purposes of carrying out any necessary disconnection works and repossessing any plant equipment or apparatus belonging to the party or a third party installed by or for that party provided that the party seeking to enter the premises shall give the other reasonable notice requesting that the other party carry out the disconnection and to return any such plant equipment or apparatus and shall only enter the premises of the other party if that other party shall have failed to do so.

21.5 The party on whose premises such plant equipment or apparatus was installed shall be responsible for compensating the other party for any such plant equipment apparatus or things belonging to the other party or such third party which are not so delivered up in good condition (fair wear and tear excepted) and the party carrying out such disconnection works shall indemnify the other in respect of any damage thereby caused to the premises fixtures and fittings or such party. Neither party shall be responsible for any damage to plant equipment or apparatus belonging to the other or such third party which has been caused by any failure by the other party or such third party to perform necessary and timely maintenance.

21.6 Termination or expiry of this Agreement shall not operate as a waiver of any breach by a party hereto of any of the provisions hereof and shall be without prejudice to any rights, liabilities or obligations of either party which have accrued up to the date of such termination or expiry and the following provisions of this Agreement shall continue in full force and effect notwithstanding such termination.

22 WAYLEAVES

Each party shall in so far as it is reasonably able to do so, grant or procure the grant to the other party of such way-leaves over land owned or occupied by it at a Point of Connection as are reasonably necessary to enable the parties to exercise the rights granted under this Agreement.

Each party shall comply with the terms of such way-leaves.

A party entering the premises of the other shall observe the reasonable requirements in respect of health and safety while at the premises. OPERATOR shall give Orange at least 42 hours prior notice to enter the Orange premises

23 SEVERABILITY

23.1 The invalidity or unenforceability for any reason of any party of this Agreement shall not prejudice or affect the validity or enforceability of the remainder of this Agreement.

23.2 If further lawful performance of this Agreement or any part hereof shall be rendered impossible by the final judgement or final order of any court of competent jurisdiction, commission or governmental agency or similar authority having jurisdiction over either party the parties undertake that they will forthwith thereupon use their best endeavours to agree on an amendment or amendments to this Agreement or on modifications of their practices hereunder in such manner as will fully comply with such judgement or order and render further performance lawful.

24 RESOLUTION OF DISPUTES

24.1 The Parties shall make their best efforts to resolve any problems or issues howsoever encountered or arising out of this Agreement. In the case of disputes about the validity or accuracy of an invoice for interconnect the parties agree to follow the procedure in Clauses 4.11 and 4.12

24.2 Each of the parties shall appoint a representative who together shall oversee the organisation of the day to day practical implementation of this Agreement; each of them shall liaise with the other and report to the party appointing him/her on any problem or issue which has not proved capable of resolution. On receipt of such a report, the parties shall enter into good faith discussions with a view to achieving a mutually acceptable solution to such a problem.

24.3 In the event that the parties are unable to resolve a dispute within a reasonable period of time, either party may declare a dispute and refer the matter for arbitration by the Botswana Telecommunications Authority

25 GOVERNING LAW

This Agreement and all matters relating to it shall be governed, construed and take effect in accordance with the laws of Botswana.

26 NOTICES

26.1 Any notice or other communications required to be given for the purposes of this Agreement shall be hand-delivered or sent by e-mail and immediately confirmed by a hand-delivered letter

Any letter sent for the purposes of this Agreement shall, if addressed to Orange be sent to:

Orange Botswana (Pty) Ltd

For the attention of:

The Chief Executive Officer
Plot166 Main Mall,
Gaborone
P/Bag BO 64
Gaborone

Tel: 3163370
Facsimile: 3163372

and if addressed to OPERATOR be sent to:

For the attention of:
.....
.....

Tel: + 267
Facsimile: + 267

or such other address and/or facsimile number as may be notified in writing by either party to the other.

26.2 Any notice sent by hand-delivered letter shall be deemed (in the absence of evidence to the contrary) to have been delivered on the day of despatch and in proving the fact of receipt it shall be sufficient to show that the envelope containing such notice was receipted by the Reception or other relevant employee at the offices of the Party addressed. Any notice by facsimile shall be deemed to have been delivered on the first working day following its despatch provided the letter of confirmation has also been sent.

27 PRECEDENCE

In the event of any inconsistency between the numbered Clauses of this Agreement and the Schedules, the numbered Clauses shall prevail.

28 THIRD PARTIES

A person who is not a party to this Agreement has no right to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available under the Act

29 HEADINGS

The headings and the index to this Agreement shall not be deemed to be part of this Agreement and shall not be taken into consideration in the interpretation or construction hereof.

30 ENTIRE AGREEMENT

30.1 This Agreement supersedes all previous understandings, commitments, agreements or representations whatsoever, whether oral or written, in relation to the subject matter of this Agreement.

AS WITNESSES the hand of a duly authorised representative of each of the parties the day and year first before written.

Signed for and on behalf of ORANGE BOTSWANA (PTY) LTD

.....
(Signature)

.....
(Name).

Date:.....

As Witnesses:

Company Stamp:

1.....

2.....

Signed for and on behalf of OPERATOR

By

.....
(Signature)

.....
(Name)

On: (date).....

As Witnesses:

Company Stamp:

1.....

2.....

|

SCHEDULE 1

Part A: Service Level Agreement

1. Purpose of SLA

This Service Level Agreement (“SLA”) sets out the levels of service provided by one party to the other under this Agreement and the consequences of failures to meet those service levels.

2. Service Definition

The Service to which this SLA applies is the Call conveyance services provided by the Orange System to the OPERATOR System, or by the OPERATOR System to the Orange System.

3. Service Metrics

The quality of the Services provided by one System to the other System shall be measured against the following objective criteria:

Answer-Seizure Ratio (“ASR”);

Mean Fault Clearance Time (“MFCT”)

Average monthly Route utilization for traffic (Should be less than 80%)

Average monthly Traffic Congestion (Should be less than 3%)

Average monthly Signalling utilization (should be less than 30%)

4. ASR

ASR is the percentage ratio of:

The number of calls to a country or network destination in a calendar month answered by a natural person; to

The number of calls initiated to such a country or network destination in such calendar month.

5. MFCT

5.1 The MFCT for a month is the sum of all Correction Times for such month divided by the number of Service Affecting Faults in such month.

5.1.2 A Service Affecting Fault is any failure in the transmission or terminating equipment of one parties’ System, which causes full or partial call failure in one or both transmission directions. Examples include: no incoming calls; no outgoing calls; noise on every call; post dial delay on every call; echo on every call.

- 5.1.3 For any Service Affecting Fault the Correction Time shall be the time in minutes between; The time when the fault is registered by one Party with the other Party; and
The time the fault is resolved and confirmed as resolved by one Party or to the other Party.
- 5.2 Target Service Levels
 - 5.2.1 The target ASR percentages (which should be equalled or exceeded) for each destination are as agreed between the parties from time to time. The target MFCT is four hours or less in each calendar month
 - 5.2.2 For any planned maintenance, the responsible party undertaking the activity should inform the other party, in no less than 5 working days the intended changes and their full impact.
 - 5.2.3 Emergency maintenance is a type of maintenance work that needs to be carried out immediately due to the impact or potential impact to services. If this work affects or has the potential to affect the Orange or Operator Services, then, as much advance notice will be given as the situation permits.
 - 5.2.4 Advice of proposed work will be provided by email or hand delivered, the receiving Party should acknowledge receipt of the advice within 24 hours.

6 Point of Interconnection

- 6.1 The Point(s) of Connection shall be established by reference to a Line of Demarcation, which Line of Demarcation will be constituted by the Digital Distribution Frame (DDF) of Orange and OPERATOR respectively and as sited within that party's premises
- 6.2 It is the responsibility of each party to maintain at its own cost, the installation and ongoing maintenance of their equipment on that parties side of the Line of Demarcation.
- 6.3 Notwithstanding the above and any other provision in this agreement, any cost which Orange will incur as a result of the request for Interconnection by the Operator shall be covered by the Operator and Orange shall not grant access to its network until the costs are paid in full.

7. Transmission

- 7.1 Interconnect capacity will be based on digital technology operating at 2.048 MBit/s in accordance with CCITT Recommendations G.702 and G.703.
- 7.2 All network elements shall comply with the relevant ITU-T Recommendations in respect of jitter and wander. These include the ITU standards: G.823, G825 and G921.

8. Synchronisation

The network is synchronised in accordance with the G.811, G812 and G.813 recommendations

9. Hosting of Equipment

- 9.1 Each Party shall be responsible for planning, provision, Operation and maintenance of all Equipment and facilities located on its side of the interface at the point of interconnection.
- 9.2 Where a Party's equipment or facilities are located at the Other Party's premises (Hosting Party) the other Party shall pay the Hosting Party all reasonable expenses for hosting the equipment including rental for space occupied by the equipment and charges for the usage of Power.
- 9.3 The Other Party shall give the Hosting Party at least 48 hours prior notice to access their equipment located in the Hosting Party's premises and shall be accompanied by employees of the Hosting Party, at all times during the stay in the premises.
- 9.4 The Hosting Party shall approve all Equipment located in its premises prior to installation and shall have access to the Equipment at all times.
- 9.5 Either Party reserves the right to charge the Other Party, their normal hourly rates for time spent assisting the other Party in installing or in any way working on the Other Party's equipment or assisting the other Party to effect the terms of the agreement
- 9.6 Where the Other Party is unable to offer the Other Party internal space for the hosting the Equipment, the Other Party shall procure at its own cost an external shelter to house the equipment.

10. Redundancy

- 10.1 Each Party shall provide for redundancy of its system. The Parties will provide for the different levels of redundancy being at physical level

(therefore two points) and at Protocol level, i.e different signalling links.

SCHEDULE 2

Billing Procedure

1. Orange shall record Calls which are passed to the Orange System from the OPERATOR System and shall invoice OPERATOR for such Calls in accordance with the provisions of this Schedule. Where it is impracticable for Orange to record the details of a Call, OPERATOR and Orange shall use OPERATOR's records of Call details.
2. OPERATOR shall record Calls which are passed to the OPERATOR System from the Orange System and shall invoice Orange for such Calls in accordance with the provisions of this Schedule. Where it is impracticable for OPERATOR to record the details of a Call, OPERATOR and Orange shall use Orange's records of Call details
3. Peak and Off-Peak times will be as defined in Schedule 3.
4. Settlement will be made on the net amount due and the Party who is the net debtor for that month shall pay the balance.
5. The invoice submitted by each party shall be delivered by hand and email to the other party and shall contain the following information:
 - (a) invoice Number
 - (b) invoice date;
 - (c) billing Period;
 - (d) billed amounts broken down into standard, exempt and zero VAT table amounts;
 - (e) VAT amounts per invoice for standard amounts only;
 - (f) VAT registration number and company number;
 - (g) VAT rates used; and
 - (h) total amount payable.
 - i) Caller details including number calling, number called, call duration, opening and closing time shall be availed upon request by the other Party.

6. Each party shall provide to the other, at the end of each month, a summary statement containing the following information (by Interconnect Route, with an aggregate figure for all Interconnect Routes, split between time bands for each of the Telecommunication Services):
 - (a) number of Calls;
 - (b) total duration of Calls; and
 - (c) total termination charges.
7. Each party shall maintain and retain for a period of 5 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
8. Charges for conveyance of Calls shall accrue only when:
 - (a) the Call is conveyed through the Orange System and the OPERATOR System or vice versa and connection is made to the called Customer's System 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 80 and as a consequence is diverted to a service or System in accordance with arrangements previously agreed with the called Customer;
 - (c) a Called Customer Answer Signal is received from another national or international Operator; or
 - (d) as otherwise agreed by the parties from time to time.
9. Charging shall cease on the earlier of the detection of the calling or called parties 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;
 - (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.
10. Conveyance charges specified in this agreement are expressed as per minute, since Call duration is measured in minutes and seconds

11. Subject to paragraphs 12 and 13, the charge for conveyance of a Call is calculated by the following formula:
 $C = (A \times B)$
Where:
A = the Call duration in seconds converted to minutes
B = the pula per minute charge
C = the total charge in pula.
12. 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.
13. Where it is impractical for both Orange and OPERATOR to record the duration of traffic for any period, the parties shall calculate traffic using data for the immediately previous period using the following formula to calculate the charges payable:
 $D = N \times A \times B$
Where:
N = the agreed number of Calls of a particular class (charge band)
A = the average duration of Calls (in minutes)
B = the pula per minute charge
D = the total charge for all Calls in pula
14. All charges payable under this Agreement shall be paid within 30 days from the date of invoice.
15. After the expiry of not less than seven days' notice stating that the billing party intends to claim interest on sums not paid in accordance with paragraph 14, the billing party shall be entitled to charge and receive interest in respect of any amount due or deemed to be payable hereunder (which shall be the subject of a separate invoice containing the information set out in paragraph 16) at the rate of two per cent above the Bank of Botswana Prime Lending Rate (on the date that payment is due) until the date of payment in full, whether before or after any judgement.
16. Each invoice claiming interest shall contain the following information:
- (a) invoice number
 - (b) invoice date;
 - (c) date, number of original invoice on which interest is being charged and amount due;
 - (d) start date and end date for interest period being invoiced;
 - (e) interest rate applied; and
 - (f) interest charged.

17. In the event that either party disputes the amount of any invoice (a "disputed invoice") delivered by the other party under this Agreement that party ("the disputing party") shall use its reasonable endeavours to issue a notice in writing setting out its objection to the disputed invoice, within 30 days of receipt of the disputed invoice. Such notice shall contain the information set out below:
 - (a) date and number of disputed invoice;
 - (b) amount in dispute;
 - (c) reason for dispute; and
 - (d) supporting documentation as appropriate.
18. The parties shall co-operate in an investigation of the disputed invoice and any sum found to be due from the disputing party shall be promptly paid (including any interest payable) within 30 days of the date of determination by the expert.
19. Notwithstanding the reference of any dispute for investigation and determination, if the amount in dispute represents less than three percent of the total amount of the invoice (excluding VAT), the invoiced amount shall, for the purposes of paragraph 14, be deemed payable in full. If the amount in dispute represents three percent or more of the total amount, such undisputed amount of the invoice shall be payable pending the determination of the matter.
20. The charges specified in this are exclusive of value added tax which shall be paid at the rate and in the manner prescribed by law from time to time.
21. Either party may in a separate invoice (containing the information referred to in paragraphs 5 and 0) make Backdated Claims for amounts outstanding from the previous two Billing Periods which were not previously invoiced for technical or other reasons.
22. Any disputed Backdated Claims shall be dealt with in accordance with paragraph 4.
23. If the billing party's billing system cannot be used to record Calls for the purpose of preparing invoices, then the paying party's billing system shall, if practicable, be used for such purpose until such time as the billing party's billing system returns to availability subject to the billing party paying the paying party's reasonable costs for the use thereof.

24. If a day on which payment falls due is not a business day the due day for such payment shall be deemed to be the following day.
25. Prior to Operation of the Agreement, the Parties shall each test their Billing Systems and deliver test Invoices to each other in order to establish proper operation of the Billing Process. The dates and the procedures for testing will be agreed by the Parties.
26. The billing address for Invoices sent by OPERATOR to Orange is;
- FinancePayable
Orange Botswana (Pty) Ltd
Plot 166 Main Mall
Gaborone
- Email; financepayable@orange.co.bw
27. The billing address for Invoices sent by Orange to OPERATOR is
- OPERATOR (Pty) Ltd

28. Any change in billing address of a party shall be notified to the other Party at least 2 (two) calendar months before the change becomes effective.

SCHEDULE 3

Charging

1. Charges for National Originated Calls Terminating on the OPERATOR or on the Orange System

All Rates are specified in BWP per minute and exclude VAT

| National Number Group (NNG) | Peak | Off-Peak |
|--|-------|----------|
| Termination rate for calls terminating on the Orange network | | |
| 72 xxx xxx (Orange) | 0.75 | 0.60 |
| 74 xxxxxx (Orange) | | |
| 75 xxxxxx (Orange) | | |
| Termination rate for calls terminating on OPERATOR | | |
| 79xxx xxx (OPERATOR) | 0.171 | 0.171 |
| | | |

2. Peak/Off-Peak Times

On Mondays to Fridays, Peak shall refer to the period of time from 0700hrs to 1900hrs and Off-Peak shall refer to the period of time from 1900hrs to 0700hrs the following day. During weekends, Peak shall refer to the period of time from 0700hrs to 1300hrs on Saturday and Off-Peak shall refer to the period of time from 1300hrs on Saturday to 0700hrs on Monday. Public Holidays, as defined by the appropriate Government authority, shall also be Off-Peak.

3. Volume based fixed cost

Should the OPERATOR fail to generate a minimum of 300 000 (Three Hundred Thousand) minutes per month after 3 months of Interconnection, Orange shall at its sole discretion charge a fixed amount to recover the cost of operation and maintenance of the interconnection. The fixed cost shall be a sum of P100, 000 (One Hundred Thousand Pula) per month which shall be added to any cost per minute due under the current agreement. The threshold shall be reviewed every 12 months.

SCHEDULE 4

Signalling Protocols

1 GENERAL

- 1.1 The parties shall consult together on a timely basis relating to the practical implementation of this Agreement. They shall apply their reasonable endeavours to resolve any technical and operational problems encountered in relation to this Agreement.
- 1.2 Without prejudice to the provisions of paragraph 1.1 above, each of the parties shall appoint a representative who shall together oversee the organisation of the day-to-day practical implementation of this Agreement; each of them shall liaise with the other and report to the party appointing him on any problem which has not proved capable of resolution. On receipt of such report the parties shall consult with a view to achieving a mutually acceptable solution to such problem.
- 1.3 In the practical implementation of interconnection the parties shall at all times apply standards and operating guidelines which in the first instance have due regard to any legal requirements imposed upon them and thereafter wherever practicable shall apply the relevant international standards (in particular but not limited to those of ITU-T). Where alternative international standards exist, in making their selection, the parties shall give preference to those adopted by European telecommunication administrations. Where the international standards are not available as reference, the parties shall develop their own common standards or other agreed solutions.

2 SIGNALLING

- 2.1 Orange and OPERATOR shall each ensure that signalling arrangements between their respective Systems conform to BTNR146 (IUP) and BTNR147/Blue Book (MTP)
- 2.2 Signalling links shall be carried in time slot 1 of a Circuit. Each Circuit which is required to carry signalling shall also be capable of conveying Calls. Time slot 0 will be skipped and be used for synchronization.
- 2.3 Signalling links shall be carried in the first and second Switch Connections of an Interconnect Route, depending on the architecture proposed.

- 2.4 Initial Interconnection is inclusive of a C7 or SS7 signalling link (two Switch Connections) which will accommodate up to 40 Switch Connections. Capacity above this will require a further signalling link.
- 2.5 Since Orange and OPERATOR operate their Switch Connections in a bi-directional manner, either Switch may seize the free traffic channels and one or both Switches shall clear the seizure and re-attempt the Call set-up. Priority on dual seizure shall be given to Orange. In order to minimise the number of simultaneous traffic seizures, each Switch shall search its traffic channels in the reverse sequence to the other Switch. The Orange switch shall seize channels in ascending order and the OPERATOR Mobile Switch shall seize channels in descending order.
- 2.6 The connection between Orange and OPERATOR shall be through compatible Media Gateways using Quasi signalling.
- 2.7 Orange and OPERATOR shall ensure that they do not use Point Codes already in use by other Operators.

3 AVAILABLE SERVICES

3.1 ORANGE

Orange shall convey each Owned NNG (Named Number Group) Call received from the OPERATOR System to the appropriate Network Termination Point on the Orange System to which such Call(s) has been addressed.

Orange shall convey such Calls from the In-Service Date.

3.2 OPERATOR

OPERATOR shall convey each Owned NNG (Named Number Group) Call received from the Orange System to the appropriate Network Termination Point on the OPERATOR System to which such Call(s) has been addressed.

OPERATOR shall convey such Calls from the In-Service Date.

4 ROUTING AND ARCHITECTURE

- 4.1 Each party shall use all reasonable endeavours to manage its System by taking real time network management actions agreed between the parties and appropriate network management centres to protect the Systems in the event of national emergencies, system failures, mass calling events and any event having a similar impact on the System.
- 4.2 Wherever possible advance warning should be given to the other party when a party becomes aware of a mass calling event likely to introduce higher than normal traffic levels across a particular traffic route.
- 4.3 Should either party (the "first party") fail to take appropriate network management actions in accordance with paragraph 4.2 above then the other party may in order to protect all or part of its System arrange to disconnect any traffic routes creating or helping to create such failure. Such action shall be notified to the first party prior to disconnection.
- 4.4 The Parties shall interconnect on one point being the Orange Gaborone switch until the volume of traffic between the Parties dictates otherwise
- 4.5 All traffic from OPERATOR towards Orange shall be National traffic.
- 4.6 All traffic between OPERATOR and Orange shall at all times be Circuit switched traffic, and shall not be transmitted via Internet protocol.

5. NUMBERING

- 5.1 Both parties shall conform to the national and international numbering formats in place from time to time.
- 5.2 Both parties shall at all times notify the other in writing giving details of new number ranges allocated to them and amendments to existing number ranges.
- 5.3 When conveying a Call to the other party's System, each party shall convey to the other the complete number including the national and international trunk prefix.
- 5.4 Each party (the "first party") shall use its reasonable endeavours to notify the other party in writing, giving details of new number ranges allocated to the first party and amendments to or deletions of existing number ranges, in each case at least 30 days prior to the implementation of the same. Each party shall allocate numbers in order to align with the Botswana national numbering plan.

