



Český telekomunikační úřad
Czech Telecommunication Office

Sokolovská 219, Praha 9
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Annex 2B

To the Invitation to Tender for Granting of the Rights to Use Radio Frequencies to Provide
Electronic Communications Networks
in the 700 MHz and 3400–3600 MHz Frequency Bands

Declaration of Acceptance of Commitments by the Applicant

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This Annex 2B (hereinafter referred to as “**Declaration**”) is an integral part of the Application for Granting of the Rights to Use Radio Frequencies (hereinafter referred to as “**Application**”) pursuant to Section 21 of Act No. 127/2005 Coll., the Electronic Communications Act (hereinafter referred to as “**Act**”) submitted according to the Invitation to Tender for Granting of the Rights to Use Radio Frequencies to Provide Electronic Communications Networks in the 700 MHz and 3600–3800 MHz Frequency Bands (hereinafter referred to as “**Invitation to Tender**”) announced on **12.12.2019**

by the Czech Telecommunication Office,

registered office in Sokolovská 219, Praha 9, P.O. Box 02, Postcode 225 02, Praha 025

(hereinafter referred to as “**CTU**”)

Identification data of the Applicant accepting the commitment:

Company:

Address:

Company Registration No. (IČO):

Person authorized to act on behalf of the Applicant:

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(hereinafter referred to as “**Applicant**”)

Terms not defined in this Declaration shall have the same meaning as the terms defined or mentioned in the Invitation to Tender and/or in the Application.

Content of the Commitment Accepted by the Applicant:

I, the Applicant, hereby accept the following commitments associated with the granting of right to use radio frequencies in the 700 MHz and 3600–3800 MHz frequency bands based on the tender described in the Invitation to Tender (hereinafter referred to as “**Tender**”) and undertake to comply with these commitments in due and timely fashion.

1 Commitment to Provide Wholesale Offer

I, the Applicant, hereby accept the commitment to provide wholesale offer in case I acquire a block allocation in the 700 MHz frequency band in the Tender.

I acknowledge that the purpose of the commitment to provide wholesale offer is to create conditions which will allow all Applicants Interested in Access who are not holders of frequencies in the 700 MHz frequency band and who enter into an agreement on access with the Allocation Holder holding a block allocation in the 700 MHz frequency band to provide electronic communications services by means of electronic communications networks operated in the 700 MHz frequency band. The goal of CTU is to maintain and support as much as possible the commitments to provide wholesale offer imposed in the past tenders and their effects.

I am aware of the fact that my commitment to provide wholesale offer is limited to the period from the date of entering into force of the decision granting the block allocation of radio frequencies in the 700 MHz frequency band addressed to me until 24 February 2026.

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In order to comply with the commitment to provide wholesale offer, I undertake to negotiate, upon request, in good faith with every Applicant Interested in Access about an agreement on access to the public communication network operated using radio frequencies in the 700 MHz frequency band acquired on the basis of this Tender for the purpose of provision of a high-speed Internet access service by the Applicant Interested in Access.

I hereby accept an unconditional commitment not to put any administrative, legal or other obstacles in the way of the Applicants Interested in Access in the process of negotiating the agreement on access and not to require fulfilment of conditions which are not absolutely necessary for the conclusion of the agreement on access, not necessary for proper provision of electronic communications services under the agreement on access, and not common for entering into commercial agreements.

I undertake to provide an access that will allow the Applicant Interested in Access to provide independent and nationwide electronic communications services in the scope, quality and with geographic coverage of the territory and population of the Czech Republic which are not worse than the scope, quality and geographic coverage of the territory and population of the Czech Republic of services of high-speed Internet access provided by me to my customers, or in a lower scope, quality and with lower geographic coverage of the territory and population of the Czech Republic if the services are specified and required as such by the Applicant Interested in Access. In addition, I undertake to negotiate with the Applicants Interested in Access regardless of the scope of their own infrastructure and operating systems of the Applicant Interested in Access operated for the purpose of the access and for the purpose of provision of retail and/or wholesale services provided by the Applicant Interested in Access under the agreement on access, among others, with (potential) mobile virtual network operators (MVNO), either mobile virtual network enablers (MVNE), Full MVNOs, MVNOs with lower share of own infrastructure and operating systems, or MVNOs without the share of own infrastructure and operating systems (e.g., branded reseller).

I undertake to set wholesale prices of the individual services (minute, SMS, MB, etc.) provided under the agreement on access in accordance with the methodology for determining prices based on the principle of prohibition of margin squeeze¹ published by CTU, so that they correspond with the scope of the infrastructure operated by me and used by the Applicant Interested in Access for the purpose of the services provided by it and that they do not act as an obstacle to the development of competition and that allow the Applicants Interested in Access who are equally effective as me, the Applicant, to provide services which are subject of the wholesale offer in the downstream market(s) under similar conditions as I, the Applicant.

In order to fulfil the commitment to provide wholesale offer, I undertake to prepare and appropriately publish a binding reference offer for access to the network in the form, scope and with essential elements laid down in Section 82(4) of the Act². I undertake to prepare the reference offer in the scope of the wholesale services provided by me to the Applicant Interested in Access which operates a full public electronic communications network required for the provision of the required electronic communications services other than its own radio network (so-called "full MVNO"), provided that regardless of the scope of the reference offer, the Applicants Interested in Access may also request a broader scope of wholesale services requiring a lower share of own infrastructure and operating systems on the part of the Applicant Interested in Access.

¹ The current version of this methodology is available at http://www.ctu.cz/cs/download/ostatni/cenove_vyhodnocovani_postup_ctu_cj_ctu-43738_2011-611.pdf

² Specific terms of the reference offer are laid down in Measure of General Nature No. OOP/7/07.2005-12 as amended by the Measures of General Nature No. OOP/7/01.2006-1 and No. OOP/7/07.2011-10.
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In addition, I undertake to publish the reference offer in the required scope no later than the date when I start providing commercial services through the networks in the 700 MHz frequency band.

If, within the above-mentioned time period, I am not yet aware of some technical parameters of the reference offer, I undertake to publish the reference offer based on reasonable assumptions. I also undertake to provide in the reference offer a full list of the information which the Applicant Interested in Access must submit together with the request for conclusion of an agreement based on the reference offer so that I could amend the reference offer to make it a complete draft agreement respecting the parameters specified by the Applicant Interested in Access. I undertake to submit such complete draft agreement to each Applicant Interested in Access no later than 3 months after the submission of the request of the Applicant Interested in Access containing all information required in the reference offer. Should the request of the Applicant Interested in Access not include all essential information required in the reference offer, I will ask the Applicant Interested in Access to provide the missing information. I am aware of the fact that in such case, the three-month time limit will be stopped upon the delivery of the call to the Applicant Interested in Access and will be renewed after I receive the amended request from the Applicant Interested in Access.

I undertake to enter into an agreement on access for a term in duration of at least 2 years unless the Applicant Interested in Access requests a shorter term. Should this minimum two-year term of the agreement exceed the validity of my commitment to provide wholesale offer, I undertake to conclude the agreement with a term at least from the end of the validity of my commitment, unless the Applicant Interested in Access and I agree on a longer term.

In addition, I undertake to ensure that the reference offer and the agreements on access signed on the basis thereof meet the conditions and requirements (including price requirements) of the commitment to provide wholesale offer according to chapter 1 of this Declaration.

I also undertake not to discriminate without reason, i.e., without objectively justifiable reasons, between individual Applicants Interested in Access and/or other parties with whom I have entered or will enter into an agreement on access to wholesale services comparable with the services according to this commitment to provide wholesale offer.

I undertake to inform CTU in writing about each request for access in the form of the wholesale offer, and about the basic parameters of each request, within 15 business days of the date of receipt of the request. In addition, I undertake to inform CTU in writing continuously, but at least once a month, about the development of the negotiations concerning the provision of access. I acknowledge that this commitment is without prejudice to other notification obligations with respect to CTU which may apply to me. I am aware of the fact that I am not entitled to deny this information to CTU by reason of confidential nature thereof.

I understand and accept the fact that CTU prefers that the agreements on access be concluded based on commercial negotiations.

I also acknowledge that CTU is prepared to settle, upon the parties' request, a dispute, if any, about the consistency of the draft agreement on access with the reference offer or the conditions of the commitment to provide wholesale offer using the procedure pursuant to Section 127 of the Act. If the dispute settled by CTU is related to the consistency of the amount of the wholesale prices with the conditions of the commitment to provide wholesale offer, CTU will proceed in particular according to the methodology for determination of prices based on the principle of prohibition of margin squeeze³.

³ The current version of this methodology is available at http://www.ctu.cz/cs/download/ostatni/cenove_vyhodnocovani_postup_ctu_cj_ctu-43738_2011-611.pdf

I am aware of the fact that a breach of the commitment to provide wholesale offer will be considered a failure to comply with the obligations laid down by the decision to grant the block allocation pursuant to Section 22b(1)(b) of the Act. If CTU finds a breach by me of the commitment to provide wholesale offer, CTU will ask me to provide remedy pursuant to Section 114 of the Act.

If I fail to provide remedy within the time limit set by CTU according to Section 114 of the Act, the Chairman of the Council of CTU will proceed according to Section 22b of the Act.

I also acknowledge that this is without prejudice to the rights of CTU to use other tools available under the law.

2 Commitments related to PPDR

I hereby accept the following commitments related to PPDR communication needs, in case I acquire a block allocation in the 700 MHz frequency band in the Tender:

- a) Commitment to allow Priority BB-PPDR according to chapter 2.1 of this Declaration, and
- b) Commitment to provide National Roaming for PPDR according to chapter 2.2 of this Declaration.

Joint provisions for the commitments related to PPDR are provided in chapter 2.3 of this Declaration.

2.1. Commitment to allow Priority BB-PPDR

2.1.1 Contents of the commitment to allow Priority BB-PPDR

In case I acquire an allocation of frequencies in the 700 MHz frequency band in a segment with a size of at least 2 x 10 MHz, I undertake, throughout the validity of my block allocation of radio frequencies in the 700 MHz frequency band, to fulfil the following commitments (“**Priority BB-PPDR**”) for the purposes laid down in chapter 2.3.1 of this Declaration:

- a) Upon a request of the Legitimate Applicant Interested in PPDR, provide the Legitimate Applicant Interested in PPDR with access to the networks operated by me using the radio frequencies in the 700 MHz frequency band in order to ensure the services of Priority BB-PPDR at least to the extent defined in chapters 2.1.3 and 2.1.4 of this Declaration while ensuring interoperability with the core of the BB-PPDR network of the Legitimate Applicant Interested in PPDR and ensuring operation management support by the Legitimate Applicant Interested in PPDR. I am entitled to expand the access to the network also to include networks operated on radio frequencies in the 800 MHz frequency band and, as the case may be, in other frequency bands if they are included by the Legitimate Applicant Interested in PPDR in the public contract specification or otherwise approved; and
- b) Upon a request of the Legitimate Applicant Interested in PPDR, ensure coverage of the border crossings defined in chapter 5 of Annex 4 to the Invitation to Tender, and
- c) Negotiate in good faith about the coverage of other areas, sites and buildings which are not explicitly listed in chapter 5 of Annex 4 of the Invitation to Tender. I am aware of the fact that an act where I, as the Provider Obligated to Provide Priority BB-PPDR refuse the request of the Legitimate Applicant Interested in PPDR for coverage of other areas, sites and buildings which are not explicitly listed in chapter 5 of Annex 4 of the Invitation to Tender without a reasonable justification of such refusal will not be considered negotiation in good faith for the purpose of compliance with the commitment.

I acknowledge that an access for the purposes of the commitment to allow Priority BB-PPDR shall mean access to the electronic communications networks with an architectural model with

S1/S1 flex interface according to the technical specification of 3GPP/ETSI⁴ within the scenario of MOCN, e.g., GWCN according to the technical specification of 3GPP/ETSI⁵.

I also acknowledge that coverage for the purposes of the commitment to allow Priority BB-PPDR shall mean operation of public electronic communications networks using the radio frequencies specified in paragraph a) above.

I also acknowledge that coverage near state borders and border crossings is subject to conditions and rules and to limits permissible according to international agreements which are binding upon the Czech Republic, agreements entered into by and between CTU and the telecommunication administrations of the neighbouring countries on coordination of radio frequencies on state border, in particular with respect to harmful interference and output in the border regions. The scope of the coverage may be limited with respect to the requirements and limitations under these international agreements, covenants and other related documents.

I am aware of the fact that the obligation to cover border crossings defined in chapter 5 of Annex 4 to the Invitation to Tender will not apply if:

- a) the building of the network in the area in question is inconsistent with the applicable laws and regulations (e.g., protective zones) or inconsistent with the applicable administrative decision of another administrative act; and/or
- b) the fulfilment of the coverage requirement requires cooperation or consent of a third party (e.g., owners of the land or other properties) and the third party refuses to grant such cooperation or consent.

In the cases according to paragraph a) above, I undertake to submit to the Legitimate Applicant Interested in PPDR the administrative decision or the administrative act based on which it is not possible to comply with the coverage requirement or, as the case may be, prove an analysis demonstrating the inconsistency with the applicable laws and regulations. In the cases according to paragraph b), I undertake to prove that I have asked the relevant third party for the cooperation or consent and the third party did not respond to the request for the period of at least 30 days or refused to grant or provide the cooperation or consent. In both cases according to paragraphs a) and b) above, I undertake to provide the Legitimate Applicant Interested in PPDR with an analysis of the impact on the coverage requirement and a proposed alternative solution with which the coverage requirement will be fulfilled fully or at least partially.

2.1.2 Monitoring of the Coverage

The compliance with the commitment to ensure coverage of border crossings defined in chapter 5 of Annex 4 to the Invitation to Tender will be checked by CTU according to the documents entitled *Measurement of Network Data Parameters Using a TCP Protocol and Methodology for Measurement and Evaluation of Data Parameters of Mobile Electronic Communications Networks*⁶.

2.1.3 Scope of the Services of Priority BB-PPDR

I undertake to enable, through my radio access network, the Legitimate Applicant Interested in PPDR to provide the following services and functionalities in the scope and under technical conditions based on the version of the 3GPP standard implemented in my network, but at least

⁴ 3GPP TS 32.130, https://www.arib.or.jp/english/html/overview/doc/STD-T63V12_20/5_Appendix/Rel12/32/32130-c00.pdf, ETSI TS 123 402: https://www.etsi.org/deliver/etsi_ts/123400_123499/123402/10.04.00_60/ts_123402v100400p.pdf

⁵ 3GPP TS 23.251: https://www.arib.or.jp/english/html/overview/doc/STD-T63v9_60/5_Appendix/Rel6/23/23251-660.pdf, ETSI TS 123 251: https://www.etsi.org/deliver/etsi_ts/123200_123299/123251/11.04.00_60/ts_123251v110400p.pdf

⁶ <https://www.ctu.eu/measuring-transfer-data-speed>

with 3GPP Release 15, including but not limited to the relevant parts of the standard defining the standards of PPDR and the related services:

- a) Broadband data services for emergency communication and voice services provided by means of broadband connection for emergency communication, including but not limited to
 - (i) Mission Critical Push to Talk (MCPTT),
 - (ii) Mission Critical Video (MCV),
 - (iii) Mission Critical Data (MCD),
 - (iv) Mission Critical Common Functionalities (MCX) including evolved Multimedia Broadcast Multicast Services (eMBMS),
 - (v) Isolated E-UTRAN Operation for Public Safety (IOPS),
 - (vi) QoS, priority, pre-emption, access-class barring (QPP) and enhanced Multimedia Priority Service (eMPS),
 - (vii) Location Based Services (LCS),
 - (viii) Public Warning System (PWS) using Cell Broadcast Service (CBS),
 - (ix) High Power User Equipment (HPUE),
 - (x) Communication in the direct mode of ProSe (Proximity Services), and
- b) Standard scope of services provided by the Provider Obligated to Provide Priority BB-PPDR to their commercial users by means of the networks which are available through the commitment to allow Priority BB-PPDR.

I undertake not to limit the purpose, scope (including area), quality and composition of the services provided to the Legitimate Applicant Interested in PPDR through the access in any way in comparison with the services offered to the other users based on the 4G and/or 5G technologies.

I acknowledge that I am entitled to reduce the scope of a certain service if the full provision thereof is inconsistent with the applicable laws and regulations.

2.1.4 Priority Operation

I undertake to ensure priority operation of the PPDR communication in my electronic communications network to which the Legitimate Applicant Interested in PPDR gains access by means of the commitment to allow Priority BB-PPDR. Within the priority operation, I undertake to provide all services according to chapter 2.1.3 of this Declaration to the Legitimate Applicant Interested in PPDR with the highest priority in accordance with the QPP concept, such that these services would have priority for the users specified by the Legitimate Applicant Interested in PPDR under all circumstances over provision of commercial services provided to other users. In case the Legitimate Applicant for PPDR specifies different levels of priority of operation for different groups of users defined by Legitimate Applicant for PPDR, the level of priority of provision of the services under the commitment to allow Priority BB-PPDR will be determined in accordance with the specification of the Legitimate Applicant for PPDR. I undertake to comply with other obligations in connection with the prioritization of the operation under the applicable laws and regulations.

2.2. Commitment to provide National Roaming for PPDR

In case I acquire a block allocation in the 700 MHz frequency band in the Tender, I accept the commitment to provide National Roaming for the purpose laid down in chapter 2.3.1 of this Declaration according to the conditions laid down in chapter 2.2 of this Declaration (“**National Roaming for PPDR**”).

I undertake to provide to the Legitimate Applicant Interested in PPDR over the validity of the block allocation access to public communications networks operated by me in the 700 MHz frequency band in the form of National Roaming for PPDR using at least all radio frequencies in the 700 MHz and 800 MHz frequency bands which I am or will be authorized to use at any time during the validity of my block allocation of radio frequencies in the 700 MHz frequency band.

Within the National Roaming for PPDR, I undertake to provide access to these public communications networks to the extent of the so-called "Full-MVNO" with architectural roaming model with S8 interface, Home Routed Roaming defined according to the technical specification of 3GPP/ETSI.

I undertake to provide National Roaming for PPDR on my electronic communications networks without any area or quality limitations. In addition, I undertake not to limit the purpose, scope, quality and composition of the services provided to the Legitimate Applicant Interested in PPDR in comparison with the services offered to the other users based on the 4G and/or 5G technologies.

I acknowledge that the commitment to provide National Roaming for PPDR will not apply to me for the period when I provide Priority BB-PPDR according to chapter 2.1 of this Declaration.

2.3. Joint Provisions for the Commitments related to PPDR

I acknowledge that the joint provisions in chapter 2.3 of this Declaration apply to the commitment to allow Priority BB-PPDR according to chapter 2.1 of this Declaration as well as to the commitment to provide National Roaming for PPDR according to chapter 2.2 of this Declaration.

2.3.1 Purpose of the commitments related to PPDR

I understand and accept the fact that the purpose of the commitments related to PPDR according to chapter 2.3 of this Declaration is to ensure mobile emergency communication of the PPDR services.

I acknowledge that mobile emergency communication shall mean communication through a non-public mobile electronic communications network for the purposes defined in Section 3 of Act No. 239/2000 Coll., on integrated rescue system and on amendment of certain acts (the Integrated Rescue System Act), Section 1(1) of Act No. 240/2000 Coll., on emergency management and on amendment of certain acts (the Emergency Act), Section 2 of Act No. 273/2008 Coll., on Police of the Czech Republic, Section 1(2) of Act No. 553/1991 Coll., on municipal police, Section 4 of Act No. 300/2013 Coll., on military police, Section 2 of Act No. 341/2011 Coll., on general inspection of law-enforcement services, and Section 2 of Act No. 153/1994 Coll., on intelligence services of the Czech Republic.

I also acknowledge that the maximum number of active terminals of the Legitimate Applicant Interested in PPDR must not exceed 200,000, unless the Legitimate Applicant and I agree otherwise in a contract.

I also acknowledge that the Legitimate Applicant Interested in PPDR must not use the commitments related to PPDR according to chapter 2 of this Declaration to a different purpose or for higher number of active terminals, unless the Legitimate Applicant and I agree otherwise in a contract.

2.3.2 Method of Fulfilment of the commitments related to PPDR

For the purpose of fulfilment of the commitments related to PPDR, I undertake, among other things, to submit a Bid in the Tender called by the Legitimate Applicant Interested in PPDR and to provide services based on the fulfilment of the commitments related to PPDR.

- a) Obligation to submit a bid

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I acknowledge that the commitments related to PPDR include my commitment to participate in good faith

- (i) within the commitment to allow Priority BB-PPDR, in a tender based on a public contract called by the Legitimate Applicant Interested in PPDR for the provision of Priority BB-PPDR, and
- (ii) within the commitment to provide National Roaming for PPDR, in a tender based on a public contract called by the Legitimate Applicant Interested in PPDR for the provision of National Roaming for PPDR,

and in particular to submit a bid in both tenders at least in the scope and under the conditions laid down in the Invitation to Tender, negotiate in good faith with the Legitimate Applicant Interested in PPDR about a conclusion of an agreement, and sign with the Legitimate Applicant Interested in PPDR an agreement on provision of Priority BB-PPDR and an agreement on provision of National Roaming for PPDR under the conditions laid down in this Invitation to Tender or, as the case may be, under conditions which are more favourable for the Legitimate Applicant Interested in PPDR or approved in writing by me as well as the Legitimate Applicant Interested in PPDR as an admissible variation from the Invitation to Tender.

I acknowledge that the commitment to submit a bid in a tender for provision of Priority BB-PPDR lasts seven years from the date of entering into force of the decision granting to me the block allocation of frequencies in the 700 MHz frequency band.

I also acknowledge that the offers according to the commitments related to PPDR must allow the parties to enter into an agreement at least for a term corresponding to my block allocation in the 700 MHz frequency band acquired in this Tender.

I also acknowledge that unless the Legitimate Applicant Interested in PPDR provides otherwise in the tender documentation for the public contract, I undertake to make a binding offer to the Legitimate Applicant Interested in PPDR for access to the network in similar form, scope and with similar essential elements as defined for the reference offer by the Measure of General Nature No. OOP/7/07.2005-12, as amended, which was issued by CTU under Section 82(4) of the Act.

I also acknowledge that binding offers for the fulfilment of the commitments related to PPDR according to chapter 2 of this Declaration must be made within the time limits according to the tender documentation of the public contracts called by the Legitimate Applicant Interested in PPDR.

I also acknowledge that if some technical parameters are not yet known at the time of submission of the offer, I undertake to submit an offer based on reasonable assumptions.

I undertake not to put any administrative, legal or other obstacles in the process of the public procurement, negotiating the agreement, or the subsequent performance of the agreement based on the commitments related to PPDR and not to require fulfilment of conditions which are not absolutely necessary for the conclusion of the agreement or fulfilment of the commitment, not necessary for proper provision of electronic communications services under the agreement, and not common for entering into commercial agreements.

I also acknowledge that the Legitimate Applicant Interested in PPDR may request supply of Priority BB-PPDR and supply of National Roaming for PPDR together within one public contract or as two separate public contracts.

b) Commitment to provide services based on the commitments related to PPDR

If I enter into an agreement or agreements for the purpose of provision of Priority BB-PPDR and/or National Roaming for PPDR with the Legitimate Applicant Interested in PPDR, I undertake to fulfil the commitment to allow Priority BB-PPDR and/or the

commitment to provide National Roaming for PPDR according to the agreement(s) signed, to the extent to which this agreement(s) regulates the obligations according to the conditions of this Tender. I acknowledge that a breach of the commitment to fulfil the commitments related to PPDR will be enforced in accordance with the applicable laws and regulations, as specified in chapter 2 of this Declaration.

In addition, I undertake to commence the provision of the services according to the commitments related to PPDR within one year of signing of the agreement with the Legitimate Applicant Interested in PPDR regulating the fulfilment of the commitments according to the individual commitments. I acknowledge that the time limit for the fulfilment of the commitments of coverage according to chapter 2.1.1(b) of this Declaration is two years from signing of the agreement with the Legitimate Applicant Interested in PPDR containing the coverage requirement, unless it has been agreed otherwise with the Legitimate Applicant Interested in PPDR.

I am aware of the fact that the fulfilment of the commitments related to PPDR does not include and CTU will not assess performance of the contractual arrangements between me and the Legitimate Applicant Interested in PPDR differently from or beyond the contents of the commitments related to PPDR according to chapter 2 of this Declaration.

2.3.3 Pricing Terms

I undertake to ensure that the price for the provision of the services in chapters 2.1 and 2.2 of this Declaration under the commitments related to PPDR will not exceed the price determined according to the principle of cost-oriented wholesale unit prices of the services which are subject of the commitments related to PPDR. I acknowledge that the cost-oriented wholesale unit prices of the services must be based on the methodology of long-run average incremental cost LRAIC+ taking into account the return of the capital invested according to the current value of pre-tax WACC determined by CTU in the Measure of General Nature No. OOP/4, as amended,⁷ and also based on the following principles:

- The optimization shall be of the “Scorched Node” type, i.e., the actual topology of the network of the Incumbent Operator in the given year (actual number of nodes and technological equipment thereof) will be taken into account;
- It will be possible to add the incremental cost related to the active technology in sites with high use of the capacity for the 4G and 5G technology;
- If relevant, the costing must take into account, in addition to the functionality of the national roaming, also a functionality of the national roaming for PPDR and functionality of the required coverage within the commitment to allow Priority BB-PPDR;
- Total costs (corresponding to the current technological equipment of the network, increased by the incremental costs for sites with high use of capacity for the 4G and 5G technology and taking into account the PPDR functionality) will be calculated on the basis of the current values of the invested inputs taking into account the expected development in the following period (up to 3 years);
- The capacity optimization on backhaul level will be taken into account;
- The assets necessary for the provision of the service will be defined using the MEA method (Modern Equivalent Asset), using the current purchase value thereof for the valuation;
- Economic depreciation will be determined using the method of modified tilted annuities;

⁷ <https://www.ctu.cz/opatreni-obecne-povahy>
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- Costs will be allocated using the methodology of ABC (Activity Based Costing) which takes into account the causal relationship between the occurrence of the cost and the target cost object (i.e., ultimately the service provided);
- The wholesale process costs and the corresponding share of the common and overhead costs will be allocated using Equi-Proportional Mark-Up (EPMU);
- The costing will take into account MORAN/MOCN sharing (if implemented in the network of the Incumbent Operator or if considered for the purpose of calculation of unit prices in the commitment to provide National Roaming and the commitment related to PPDR), including the consideration of the cost allocation to the service of Priority BB-PPDR (if relevant);
- The resulting unit costs calculated in the commitment to provide National Roaming and the commitment related to PPDR must take into account the required representation of the different technologies (2G, 3G, 4G, 5G);
- No duplicate counting of any operation or cost may occur within the costing.

I am aware of the fact that in addition to the unit prices, I am entitled to charge for the services included in the commitments related to PPDR also a lump sum for the set-up of the service in the amount corresponding to actually incurred costs.

In addition, I undertake to ensure that the wholesale unit prices for the provision of services under these commitments related to PPDR will be re-calculated after the conclusion of the agreement on regular basis in accordance with the above-described methodology of Long-Run Average Incremental Cost (LRAIC+) as follows, unless the Legitimate Applicant Interested in PPDR and I agree otherwise: The Legitimate Applicant Interested in PPDR will submit by 30 July of the respective calendar year an updated operation plan for the next calendar year. I, as the Applicant and – at the same time - Provider Obligated to Provide Priority BB-PPDR and/or the Allocation Holder in the 700 MHz frequency band will re-calculate the wholesale unit prices taking into account the updated operation plan of the Legitimate Applicant Interested in PPDR and taking into account the update of the values of the other inputs to the costing, and submit the proposed amendment to the agreement updating the wholesale unit prices to the Legitimate Applicant Interested in PPDR by 30 September of the respective calendar year, provided that the updated prices will apply from 1 January of the following calendar year.

I undertake to prove to the Legitimate Applicant Interested in PPDR the cost orientation of the price in the offer according to chapter 2.3.2(a) of this Declaration and the subsequently updated prices according to the principles laid down in chapter 2.3.3 of this Declaration.

I acknowledge that in the event of a dispute regarding the prices between the Legitimate Applicant Interested in PPDR and me, as the Applicant and also the Provider Obligated to Provide Priority BB-PPDR and/or the Allocation Holder in the 700 MHz frequency band, each party may contact CTU which will determine the maximum amount of the cost-oriented price for the services according to the commitments related to PPDR according to the principles laid down in chapter 2.3.3 of this Declaration.

I am aware of the fact that for the purpose of dispute resolution according to Section 127 of the Act and for the purpose of verification of compliance with the obligations stipulated by the decision on granting block allocations of radio frequencies according to Section 114 and 22b par. 1 let. a) or b) of the Act related to compliance of wholesale unit prices offered or charged for provision of national roaming including updates of this prices with the above-mentioned principles of cost orientation CTU will act in accordance with the issued methodology for determination of cost oriented wholesale unit prices for the purpose of National Roaming Obligation and PPDR obligation⁸.

⁸ The methodology will be subject to separate public consultation.
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3 Commitment to Refarming

3.1. Refarming of the 3400–3800 MHz Frequency Band

I, the Applicant, acknowledge that the objective of CTU within this Tender is to ensure effective use of radio frequencies not only in the 3400–3600 MHz frequency band but also in the entire 3400–3800 MHz frequency band by allowing unification of the block allocations radio frequencies of individual Allocation Holders within the entire 3400–3800 MHz frequency band.

In order to achieve this objective, CTU laid down a commitment to refarming for Allocation Holders holding the block allocations issued based on the Tender for Granting of the Rights to Use Radio Frequencies to Provide Electronic Communications Networks in the 3600–3800 MHz Frequency Band of 27 March 2017, so that, after the allocations in the 3600–3800 MHz frequency band have been issued and based on this Tender the entire 3400–3800 MHz frequency band could be refarmed, i.e., that the radio frequencies allocated in this frequency band could be redistributed such that the integrity of the radio frequency allocations issued to a single Allocation Holder in this frequency band is ensured to the maximum possible extent.

I, the Applicant, hereby accept the commitment to refarming in case I acquire a block allocation in the 3400–3600 MHz frequency band within the Tender.

3.2. Commitment to File a Request for a Change of Allocation Based on the Call

I undertake to submit to CTU, upon the Call of CTU in accordance with Section 22a of the Act or a similar provision of the Act in effect at the time of issue of the Call which allows the Allocation Holder to request a change to the block allocation, within 60 days of the receipt of the Call a full request for change of its allocation of radio frequencies issued on the basis of this Tender meeting all legal requirements and content requirements described below in chapter 3 of this Declaration.

I acknowledge that CTU permits the possibility of an agreement of all Allocation Holders of radio frequencies in the 3400–3800 MHz frequency band on the specific location of their undivided radio frequency segments. I understand and accept the fact that in such case, all Allocation Holders of radio frequencies in the 3400–3800 MHz frequency band must submit a joint Agreement on Final Distribution to CTU as an attachment to each request for a change of block allocation according to chapter 3 of this Declaration. I acknowledge that this shall be without prejudice to the time limit for submitting the request according to this commitment to refarming.

I undertake to ensure that the requests according to this commitment to re-farming will include the change of specification of radio frequencies such that the specification of the radio frequencies correspond to the Agreement on Final Distribution or information on the final distribution of radio frequencies in the 3400–3800 MHz frequency band specified by CTU in the Call, unless the Agreement on Final Distribution is concluded within the sixty-day time limit for the submission of the requests for a change of the allocations starting on the date of receipt of the Call.

In addition, I undertake to take all steps and measures within the procedure concerning my request according to this commitment and to provide all assistance and cooperation necessary to ensure that CTU is able to comply with the requests by way of a final decision and change the allocations of radio frequencies of the individual Allocation Holders in the 3400–3800 MHz frequency band, as mentioned above.

I also undertake to discontinue the use of the radio frequencies which are no longer allocated to me after the decision of CTU on the change of the allocation of radio frequencies has entered into force. I am aware of the fact that further use for a period necessary for re-tuning of the radio network is possible only with the consent of the new holder of an allocation of the radio frequencies concerned.

3.3. Refarming Procedure

I acknowledge that CTU is entitled to call on me to submit the request according to chapter 3.2 of this Declaration if the following conditions are met:

- (i) Use of the 3400–3800 MHz frequency band is subject to harmonization plans of the European Union for the use of radio spectrum; and at the same time
- (ii) CTU has issued a final decision to issue all allocations of radio frequencies in the 3400–3600 MHz frequency band allocated within this Tender.

I acknowledge and accept the fact that CTU may issue the Call at any time within sixty days of the date of entering into force of the last allocation of radio frequencies in the 3400–3600 MHz frequency band based on the results of the Tender. CTU may issue the Call following the fulfilment of the conditions according to this chapter 3.3 of this Declaration by posting it on their website and subsequently delivering it to all Allocation Holders. I am aware of the fact that my time limit for the submission of the request starts on the date of my receipt of CTU's Call.

I also acknowledge that the Call will also include information on the final distribution of radio frequencies showing the change of specification of radio frequencies which I should request. If I am not a holder of any allocation in the 3600–3800 MHz frequency segment as of the date of delivery of the CTU's Call based on this Tender, I acknowledge that the information on the final distribution of radio frequencies cannot determine that the specification of radio frequencies within my block allocation acquired within the Tender will be outside of the scope of the 3600–3800 MHz frequency segment which is the subject of the Tender.

I am aware of the fact that I have the option to agree with the other holders of radio frequency allocations in the 3400–3800 MHz frequency band within the sixty-day period for the submission of the requests for a change of the block allocations starting from the date of receipt of the Call on the final distribution of the segments of radio frequencies in the 3400–3800 MHz frequency band. I acknowledge that such Agreement on Final Distribution must be made by all Allocation Holders holding allocations in the 3400–3800 MHz frequency band freely and solely for the purpose of distributing effectively the segments of radio frequencies in this frequency band. I also acknowledge that the Agreement on Final Distribution must respect the requirement of integrity of the allocations.

I undertake to do the following within the period of sixty days of the receipt of the Call:

- (i) submit to CTU a request for a change of my block allocations of radio frequencies in accordance with the commitment to refarming and with the specification of the radio frequencies according to the Agreement on Final Distribution, together with one counterpart of the Agreement on Final Distribution; or
- (ii) in the event of a failure to submit the Agreement on Final Distribution, submit a request for a change of the block allocations of radio frequencies in accordance with the commitment to refarming and with the specification of the radio frequencies according to the information on the final distribution of radio frequencies in the 3400–3800 MHz frequency band provided by CTU in the Call.

I undertake to submit a request according to chapter 3.3 of this Declaration on a form attached to the Invitation to Tender as Annex 6.

I am aware of the fact that should any Allocation Holders submit the request according to paragraph (i) above and others according to paragraph (ii) above or should the requests for a change of the block allocation be mutually incompatible for any other reason, CTU is entitled to issue a new call on some or all of the Allocation Holder to change their requests for a change of the block allocation, rectify the defects of the requests or submit new requests in order to fulfil the goal of refarming.

In addition, I undertake to comply with this second call of CTU within 10 days of the receipt thereof.

I also acknowledge and accept the fact that CTU will determine the final distribution of radio frequencies in the 3400–3800 MHz frequency band according to the following rules:

- 1) The placement of the block allocation of the radio frequencies of the Allocation Holder in the 3400–3600 MHz frequency band who was the Auction Winner of a concrete Auction Block B1 will be preserved. A block allocation, if any, of radio frequencies in the 3600–3800 MHz frequency band will be added to this block allocation;
- 2) CTU will subsequently place the block allocations of the radio frequencies of the Allocation Holders in the 3400–3600 MHz frequency band who are not holders of block allocations of radio frequencies in the 3600–3800 MHz frequency band, namely such that these block allocations are connected with the block allocation of radio frequencies placed according to paragraph 1) above. If there are more than one of such Allocation Holders in the 3400–3600 MHz frequency band, CTU will decide on the sequence of their block allocations by drawing lots;
- 3) CTU will subsequently place the block allocations of the radio frequencies of the Allocation Holders who acquired a block allocation of radio frequencies solely in the 3600–3800 MHz frequency band, namely such that their block allocations will be placed from the end of the 3600–3800 MHz frequency band. If there are more than one of such Allocation Holders CTU will preserve the order of their allocations according to their existing order in the 3600–3800 MHz frequency band and place them in the same order from the end of the 3600–3800 MHz frequency band;
- 4) Finally, the block allocations of the Allocation Holders who acquired an allocation in both parts of the 3400–3800 MHz frequency band, i.e., both in the 3400–3600 MHz part and in the 3600–3800 MHz part, will be placed. These unified block allocations will be placed gradually from the top, in connection with the block allocations placed according to paragraph 3) above, namely in descending order according to the number of operated base station sectors in the 3600–3800 MHz frequency band registered by CTU as at the end of the calendar month preceding the date of sending of CTU's Call. The Allocation Holders with a higher number of stations will be placed closer to the end of the 3400–3800 MHz frequency band. In the case of equal number of base station sectors, the decision on the order of these Allocation Holders will be made by drawing lots.

I acknowledge that each Allocation Holder will bear its costs associated with the fulfilment of the commitment to refarming and the subsequent implementation, if any, within its own communication network.

4 Additional Conditions

4.1. Restrictions for Both Frequency Bands

I acknowledge that a holder of the Individual Authorisation to use radio frequencies which are subject of this Tender may always only be the Holder of the block allocation of these radio frequencies.

I also acknowledge that in the Individual Authorisation to use radio frequencies which are subject of this Tender, lease of the rights under the Individual Authorisation will be possible, in accordance with Section 18(1)(h) of the Act, only with CTU's prior consent. I am aware of the fact that by leasing the rights under the Individual Authorisation with respect to the frequencies in the 700 MHz frequency band, the lessee of the rights or, as appropriate, the Business Group of which the lessee is member, shall not exceed the Spectral Limit. I also acknowledge that a change of the holder of the Individual Authorisation or the lease of the rights under the Individual Authorisation to the reserved radio frequencies by the New Operator for the benefit of any Incumbent Operator is inadmissible for the entire period of the block allocation of the radio frequencies.

I acknowledge and accept the fact that a change, expiration, subrogation, transfer and lease of the block allocation of the radio frequencies are regulated in Section 22a, 22c, 22d and 23 of the Act.

I acknowledge that the actions of CTU pursuant to Section 23(5) of the Act are not affected by the terms and conditions according to chapter 4 of this Declaration.

4.2. 700 MHz Frequency Band

In order to prevent any distortion of competition or impairment of effective use of the radio spectrum as a result of the transfer, if any, of the block allocation of radio frequencies, I acknowledge that the transfer of the block allocation in the 700 MHz frequency band will only be allowed according to the terms laid down in Section 23 of the Act subject to fulfilment of the following conditions:

- (i) A segment with the size of 2 x 5 MHz will be considered the smallest transferrable unit in the 700 MHz frequency band;
- (ii) Over the period of validity of the block allocation of the radio frequencies determined according to chapter 7.8.1 of the Invitation to Tender, the New Operator must not transfer or lease a block allocation which includes the reserved radio frequencies according to chapter 6.1 of the Invitation to Tender or any part thereof to the Incumbent Operator or a member of its Business Group.

I acknowledge that with respect to Section 19(4)(a) and Section 22b(1) of the Act, it is necessary that I, as the Applicant and, at the same time, the Allocation Holder, and/or my successor or another party to whom my radio frequency allocation may be transferred, pass, or be leased, do not cease to fulfil, over the entire validity of the block allocation, any of the conditions under which the radio frequencies had been allocated to me. This concerns adherence to the commitments accepted in accordance with chapters 1 (wholesale offer) and 2 (PPDR communication) of this Declaration regardless of the disposal of the frequencies to which the obligations pertain, compliance with the Spectral Limits specified in chapter 6.1 of the Invitation to Tender, compliance with the conditions of economic independence of the holders of the block allocation of the radio frequencies set as a condition for participation in chapter 9.5 of the Invitation to Tender, and also compliance with the condition that the Business Group of which I, as the Applicant, am a member, may hold the block allocation of the radio frequencies acquired on the basis of this Tender only through me, as the Applicant, who have acquired the block allocation of the radio frequencies based on this Tender.

I also acknowledge that throughout the validity of the block allocation of the radio frequencies, I must meet the conditions of participation laid down in chapter 9.5 of the Invitation to Tender which applied to me as the Applicant.

4.3. 3400–3600 MHz Frequency Band

In order to prevent any distortion of competition or impairment of effective use of the radio spectrum as a result of the transfer, if any, of the block allocation of radio frequencies, I acknowledge that the transfer of the block allocation in the 3400–3600 MHz frequency band will only be allowed according to the terms laid down in Section 23 of the Act subject to fulfilment of the condition that a segment with the size of 5 MHz will be considered the smallest transferrable unit in the 3400–3600 MHz frequency band.

I acknowledge that with respect to Section 19(4)(a) and Section 22b(1) of the Act, it is necessary that I, as the Applicant and, at the same time, the Allocation Holder, and/or my successor or another party to whom my radio frequency allocation may be transferred, pass, or be leased, do not cease to fulfil, over the entire period of validity of the block allocation, any of the conditions under which the radio frequencies had been allocated to me, regardless of the disposal of the frequencies to which the obligations pertain. This concerns compliance with the commitment to re-farming accepted in accordance with chapter 3 of this Declaration,

Declaration of Acceptance of Commitments by the Applicant

compliance with the Spectral Limits specified in chapter 6.2 of the Invitation to Tender, compliance with the conditions of economic independence of the holders of the block allocation of the radio frequencies set as a condition for participation in chapter 9.5 of the Invitation to Tender, and also compliance with the condition that the Business Group of which I, the Applicant, am a member, may hold the block allocation of the radio frequencies acquired on the basis of this Tender only through me, the Applicant, who have acquired the block allocation of the radio frequencies based on this Tender and the condition that the Business Group whose member is the holder of the block allocation in the 3600–3800 MHz frequency band may hold the block allocation of the radio frequencies acquired on the basis of this Tender only through this holder of the block allocation.

I acknowledge that throughout the validity of the block allocation of the radio frequencies, I must meet the conditions of participation laid down in chapter 9.5 of the Invitation to Tender which applied to me as the Applicant.

5 Consequences of a Breach of Commitments

I acknowledge that a breach of any commitment according to the commitment accepted by me in this Tender will be considered by CTU a failure to comply with the conditions of the decision granting the block allocation of radio frequencies based on the Tender.

I also acknowledge that if I as an Allocation Holder fail to provide remedy of the breach of the commitments according to the commitments accepted in this Tender within a time limit specified by CTU according to Section 114 of the Act, the Chairman of the Council of CTU will proceed according to Section 22b(1)(b) of the Act.

I also acknowledge that the provisions of this Article are without prejudice to the rights of CTU to use other tools available under the law.

In, dated

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Applicant

(commercial name of the Applicant, name, surname, title and signature of the person authorized to act on behalf of the Applicant)

Declaration of the Person Authorized to Act on Behalf of the Applicant

I hereby declare that, as a person authorized to act on behalf of the Applicant, I am authorized to accept the above-mentioned commitments on behalf of the Applicant, that I have obtained all consents, permissions or other approvals required for the valid acceptance of the commitments under the laws of the Czech Republic and the laws which govern the internal relations of the company of the Applicant, in witness whereof I hereunto set my hand.

In, dated

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Declaration of Acceptance of Commitments by the Applicant

Person authorized to act on behalf of the Applicant (name, surname and signature)