



Č e s k ý t e l e k o m u n i k a č n í ú ř a d

se sídlem Sokolovská 219, Praha 9

poštovní přihrádka 02, 225 02 Praha 025

Annex 2

to Call for offers for the purpose of awarding the rights to use radio frequencies to ensure a public communication network in the 1800 MHz and 2600 MHz bands

Declaration of the acceptance of obligations by the Applicant

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This Annex 2 is an inseparable part of the Application for the Award of Rights to Use Radio Frequencies (hereinafter referred to as the “**Application**”) according to the provisions of Section 21 of Act No. 127/2005 Sb. on electronic communication (hereinafter referred to as the “**Act**”), submitted based on the Call for offers for the purpose of awarding the rights to use radio frequencies to ensure a public communication network in the 1800 MHz and 2600 MHz bands (hereinafter referred to as the “**Call for Offers**”) announced on **Xxxxx XX, 2016**

by the Czech Telecommunication Office,
having its registered office at Sokolovská 219, Praha 9, post office box 02, Postcode 225 02,
Praha 025
(hereinafter referred to as the “**Office**”).

Identification data of the Applicant accepting the obligation:

Company:

Address:

Company	Registration	Number:
.....

Person authorised to act on behalf of the Applicant:
(hereinafter referred to as the “**Applicant**”)

Terms which are not defined in this Annex 2 to an Application submitted based on the Call for Offers have the same meaning as the terms defined or stated in the Call for Offers and/or in the Application.

Content of the Obligation accepted by the Applicant:

I, the Applicant, hereby accept the following obligations associated with the awarding of rights to use radio frequencies in the 1800 MHz and/or 2600 MHz band based on the Tender described in the Call for Offers (hereinafter referred to as the “**Tender**”) and undertake to ensure their due and prompt discharge:

1 Wholesale offer

I, as the Applicant, hereby accept the obligation to provide a wholesale offer.

In order to comply with the obligation to provide a wholesale offer according to this Article 1, I undertake, for a period of 12 years as of the date on which the allocation of radio frequencies enters into legal force, at the call of a party interested in a wholesale offer, to deal with each interested party in good faith in relation to entering into an agreement to afford access to the public communication network operated with the use of the radio frequencies obtained based on this Tender that respects and enables (with consideration for the technical possibilities of the concerned network) the provision of independent and blanket electronic communication services by the interested party. The price of enabling access to my own network must primarily correspond to this and must be commensurate to the extent (in the sense of the share of own infrastructure) and the nature of the services that are to be provided through the host network. The price for the provision of a wholesale offer according to this Article 1 must allow an equally-as-effective operator to undertake in profitable business on the subordinate market or markets.

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For the purpose of complying with the obligation to provide a wholesale offer according to this Article 1, I undertake to act with potential interested parties on enabling access (in the form of a wholesale offer) to the public communication network operated with the use of the radio frequencies allocated based on this Tender regardless of the purpose and scope of services and the intended way of using their public communication network for the provision of 4G services by the interested party; i.e. I am, in particular, obliged to act with potential virtual mobile operators (MVNO), whether with MVNE, Full MVNO or MVNO with a smaller share of own infrastructure and operating systems.

For the purpose of complying with the obligation to provide a wholesale offer according to this Article 1, I undertake to offer interested parties, at their request, access to my public communication network operated with the use of the radio frequencies allocated based on this Tender, allowing interested parties to provide services through this network to the same extent and quality as I myself provide my own final customers, unless the interested party asks me for a lesser extent or quality of services based on a wholesale offer. If the scope of services which I provide my customers with the use of the radio frequencies allocated in this Tender is broadened or otherwise amended in the course of the duration of the contract on the provision of a wholesale offer, I undertake, at the request of the interested party, to also broaden or amend the scope of the wholesale offer or the contract entered into on its basis such that the interested party has at every instant of the duration of the wholesale offer or contract entered into on its basis the opportunity to provide services of at least the same extent as I, the provider of the wholesale offer, if the interested party requests as such. In the case of broadening the wholesale offer, I may, if justifiable, also request the corresponding broadening of the items of the price of the wholesale offer.

I accept the obligation to enter into a contract based on the obligation to provide a wholesale offer for a period of effect of a minimum length of 2 years, unless the interested party requests a shorter period of effect. If this minimum two-year length of contract runs beyond the period of duration of my obligation, I undertake to enter into a contract with a minimum period of effect to the end of the period of effect of my obligation, unless the parties agree on a longer period of effect.

For the purpose of discharging the wholesale offer according to this Article 1, I accept the obligation to make and publish in the relevant way a binding reference offer for access to the network in the format, to the extent and having the particulars laid down for a reference offer in the provisions of Section 82(4) of the Act that are regulated according to the valid wording of the relevant measures of a general nature issued by the Office based on this provision of the Act.¹ The reference offer for compliance with the obligation to provide a wholesale offer shall be defined within the scope of the wholesale services provided, corresponding to a Full MVNO type entity, in that eligible applicants can request a broader context of wholesale services with a smaller share of own infrastructure and operating systems. The reference offer must comply with the terms and conditions and requirements on compliance with the assumed obligation according to this Article 1.

The reference offer for discharge of the obligation to provide a wholesale offer shall be made and published not later than within 6 months of the date on which I commence the provision of commercial services via the communication networks to which access is provided within the scope of the obligation.

In the case that I have already published a reference offer as a result of the fact that I accepted the obligation to provide a wholesale offer in the tender aimed at awarding rights to use radio frequencies to provide a public electronic communication network in the 800 MHz, 1800 MHz and 2600 MHz bands announced on 15 August 2013 and this offer concerns a public communication network operated with the use of the radio frequencies obtained based on the

¹ Currently Measures of a General Nature OOP/7/07.2005-12, as amended by Measures of a General Nature OOP/7/01.2006-1 and OOP/7/07.2011-10.

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Tender, the obligation to issue a reference offer is already considered to have been discharged with the issue of a reference offer based on the obligation to provide a wholesale offer accepted by the Applicant according to the terms and conditions of the tender for the awarding of rights to use radio frequencies to provide a public electronic communication network in the 800 MHz, 1800 MHz and 2600 MHz bands announced on 15 August 2013.

If I obtain a number of allocations of radio frequencies, all time limits commencing on the date on which the allocation of radio frequencies enters into legal force are counted as of the date on which the first allocation of radio frequencies I obtain based on the Tender enters into legal force.

In the event that not all the technical parameters of the reference offer are known to me within the above-mentioned time limits, I undertake to publish a reference offer based on reasonable assumptions. For data about which I cannot make any reasonable assumptions, I undertake to present a full list of such information in the reference offer and interested parties must present this together with the application to enter into a contract based on a reference offer so that I can use this data to complete the reference offer to become a full draft contract which respects the parameters presented by the interested party. I undertake to submit such a complete draft contract to each interested party not later than within 3 months of the presentation of the application of the interested party containing all information required in the reference offer. In the event that the application of an Eligible Applicant (interested party) for a wholesale offer does not contain all the particulars required in the reference offer, I, as the party obliged to provide a wholesale offer, shall call on the interested party to supplement the application. In such case the period of notice of 3 months is interrupted at the time of delivery of the call to the Eligible Applicant for a wholesale offer and shall continue from the time of delivery of the supplemented Application.

I am obliged to maintain the terms and conditions of contractual relations entered into based on the obligation to provide a wholesale offer (in particular the size of the agreed prices) for the entire period of duration of contractual relations in accordance with the terms and conditions of the assumed obligation.

I undertake not, without justification, meaning without objectively justifiable reasons, to discriminate between individual interested parties and/or other parties with which I have entered into or shall enter into a contract to concern access in the form of a wholesale offer.

If I am asked to provide a wholesale offer according to this Article 1, I undertake to inform the Office in writing of each application for the provision of a wholesale offer which I receive from the party interested in a wholesale offer and of the basic parameters of each application within 15 work days of the date of receiving the relevant application. I subsequently undertake to regularly inform the Office in writing a minimum of once a month of the development of dealings regarding the provision of a wholesale offer. The other duties to inform which I have towards the Office shall not be affected by this obligation.

The information provided according to the preceding paragraph may not be withheld from the Office with regard to its confidential nature.

I accept an unconditional obligation that I will not place any administrative, legal or other barriers against parties interested in a wholesale offer in the process of negotiating the conclusion of a contract based on the obligation to provide a wholesale offer and that I shall not demand the satisfaction of terms and conditions which are not absolutely required for the process of entering into a contract.

I am aware that the Office favours the situation in which contracts based on the obligation to provide a wholesale offer are entered into based on commercial negotiations.

I am aware that the Office is prepared to decide on any dispute regarding compliance of the level of the prices agreed or other terms and conditions of the wholesale offer with the terms and conditions of the obligation to provide a wholesale offer at the request of the parties using

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the procedure laid down in Section 127 of the Act. In the case that it decides on a dispute regarding compliance of the size of the agreed prices with the terms and conditions of the obligation to provide a wholesale offer, the Offer shall primarily proceed according to the methodology used to determine prices based on the principle of the prohibition of margin squeeze.

I am aware that breach of the obligation to provide a wholesale offer shall be considered failure to comply with the obligations laid down in the decision to award an allocation in accordance with Section 22b(1)(b) of the Act. Should the Office identify any breach of the obligation to provide a wholesale offer, it shall call on the obliged Applicant to arrange for remedy in accordance with Section 22b(1)(b) of the Act.

If I do not arrange remedy of the breach of the obligation to provide a wholesale offer within the time limit laid down by the Office according to Section 114 of the Act, the Chairman of the Council of the Office shall proceed according to Section 22b of the Act.

2 Refarming

I, as the Applicant, hereby accept the obligation of refarming.

I am aware that the objective of the Office in this Tender is to ensure the practical use of radio frequencies in the 1800 MHz band by uniting the allocations of radio frequencies of individual Holders of allocations of radio frequencies within this band. It is essential in ensuring this objective for the “refarming” of the 1800 MHz band to occur after the issuance of allocations of radio frequencies in this band, meaning the re-distribution of the radio frequencies allocated in this band based on the Tender and based on previous tenders such that the wholeness of all allocations of radio frequencies issued to one Holder of an allocation in this band is ensured. In order to achieve this objective, in the case that I have been awarded an allocation of radio frequencies in the 1800 MHz band based on this Tender (hereinafter referred to as an “**Allocation of radio frequencies based on the Tender**”), I undertake to submit to the Office, in accordance with Section 22a of the Act not later than within 30 days of the date of delivery of the call of the Office, a full application for a change to the Allocation of radio frequencies based on this Tender which complies with all statutory requirements and which complies with the requirements on content described hereunder in this section. In order to achieve this objective, in the case that I was awarded an allocation of radio frequencies in the 1800 MHz band prior to the date of commencement of the Tender (hereinafter referred to as an “**Existing Allocation of radio frequencies**”), I undertake to submit to the Office, in accordance with Section 22a of the Act not later than within 30 days of the date of delivery of the call of the Office, a full application for a change to the Existing Allocation of radio frequencies which complies with all statutory requirements and which complies with the requirements on content described hereunder in this section. Content of the Applications according to this obligation: a change to the specification of radio frequencies such that, when maintaining the overall scope and all other parameters of the allocation, individual allocations in the 1800 MHz band (Allocations of radio frequencies based on the Tender and Existing Allocations of radio frequencies) are arranged in such a way that individual Holders of allocations of radio frequencies have undivided, consecutive sections of radio frequencies without interruption in the 1800 MHz band based on section 7.7.2 of the Call for Offers.

A change to the specification of radio frequencies that constitutes the content of an application shall draw on information about the target division of radio frequencies in the 1800 MHz band (refarming) issued by the Office.

I undertake to submit an application according to this section in the form appended as Annex 5 to this Call for Offers.

I further undertake, within the scope of proceedings relating to my application according to this obligation, to take all steps and measures and provide all coaction and cooperation required to ensure that the Office is able to accommodate the application in a final and conclusive decision and change the allocations of radio frequencies of individual Applicants in the 1800 MHz band as is specified above.

I am aware that I shall bear the costs associated with the obligation according to this Article 2 and any subsequent implementation within the scope of my own communication network.

I am aware that the rights of the Office to use other statutory instruments are not affected by the provisions of this Declaration of the Acceptance of Obligations.

3 Other obligations

I undertake not to transfer to a third party or lease to a third party the allocation of the radio frequencies that are the subject of this Tender or its part for a period of 7 years as of the date on which the allocation of radio frequencies enters into legal force. The acceptance of this obligation does not preclude cases of sharing the frequencies obtained in cases of building a joint infrastructure if this sharing is not in conflict with the legislation to concern the protection of economic competition.

I am aware that no change in the holder of an IO or lease of the rights arising from an IO is permitted in the individual authorisations (IO) relating to the use of the radio frequencies which are the subject of this Tender for a period of 7 years as of the date on which the allocation of radio frequencies comes into legal force, this in accordance with Section 18(1)(h) of the Act.

In the case that I win an allocation of radio frequencies in the Tender, I am aware that, with regard to the provisions of Section 19(4) and Section 22b(1) of the Act, it is required for me (and my successors or other persons to which such allocation of radio frequencies is transferred, to whom it passes or to whom it is leased) to continually comply with all the terms and conditions based on which the allocation of radio frequencies was allocated to me for the set period.

This involves:

- observing the above-mentioned obligations to provide a wholesale offer and refarming, irrespective of the possibility to use the radio frequencies which the obligations concern;
- the condition of the economic independence of Holders of an allocation of radio frequencies, laid down as a condition of participation according to section 8.5 of the Call for Offers, for a period of 7 years following the date on which the allocation of radio frequencies enters into legal force, and;
- the condition laid down in section 8.5 of the Call for Offers that, for a period of 7 years following the date on which the allocation of radio frequencies enters into legal force, a Business Grouping of which an Existing Operator is a member may hold an allocation of radio frequencies obtained based on this Tender only through the Existing Operator that obtained the allocation of radio frequencies based on the tender.

..... (place), (date)

.....
The Applicant
(trade name of the Applicant,
first name, surname, position and signature
of person authorised to act on behalf of the Applicant)

Declaration of person authorised to act on behalf of the Applicant

I represent that, as a person authorised to act on behalf of the Applicant, I am authorised to accept the above-mentioned obligations on behalf of the Applicant and that I have been granted all consent, permits or other approval required for the valid acceptance of the obligations required according to the law of the Czech Republic and according to the rights that govern the internal relations of the company of the Applicant and confirm this with my signature.

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..... (place), (date)

.....
Person authorised to act on behalf of the Applicant
(first name, surname and signature)