



Český telekomunikační úřad
Czech Telecommunication Office

Sokolovská 219, Praha 9
Post Box 02, 225 02 Praha 025, Czech Republic

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 3440–3600 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** 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:

.....

(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 (Incumbent Operator), hereby accept the commitment to provide a 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 a 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 in the 700 MHz frequency band to provide electronic communications services by means of electronic communication networks operated in the 700 MHz frequency band. CTU aims to maintain and support the commitments to provide a wholesale offer imposed in previous tenders as well as their effects.

I am aware of the fact that my commitment to provide a wholesale offer is limited to the period from the date of enter into force of the decision to allocate radio frequencies in the 700 MHz frequency band, which was addressed to me, until 24 February 2026.

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To comply with the commitment to provide a wholesale offer, I undertake to negotiate, upon request, in good faith with every Applicant Interested in Access 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 take on an unconditional commitment not to place any administrative, legal or other impediments 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 communication services under the agreement on access, and not common when concluding a commercial agreement.

I undertake to provide an access allowing 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 high-speed Internet access services which I provide 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. I also undertake to negotiate with the Applicants Interested in Access regardless of the scope of their own infrastructure and operating systems of the Applicants 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, or MVNOs with lower share of own infrastructure and operating systems.

I undertake to set wholesale prices of the service provided in the 700 MHz frequency band under the agreement on access in accordance with the methodology for determination of prices based on the principle of prohibition of margin squeeze¹ published by CTU. The purpose of determination of prices based on the methodology mentioned in the previous sentence is 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 impediment to the development of competition and allow the Applicants Interested in Access who are equally effective as I, the Applicant (Incumbent Operator), to provide services which are subject of the wholesale offer in the downstream market(s) under similar conditions as I, the Applicant (Incumbent Operator).

In order to fulfil the commitment to provide a wholesale offer, I undertake to prepare and appropriately publish two binding reference offers 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 an Applicant Interested in Access.

I further undertake to prepare the reference offer in the scope of the wholesale services provided by me to an Applicant Interested in Access being a provider corresponding to a provider of a so-called Light MVNO type, with a minimal scope of own infrastructure. This reference offer will include service provided via associated network infrastructure incl. relevant

¹ https://www.ctu.cz/cs/download/ostatni/cenove_vyhodnocovani_postup_ctu_cj_ctu-43738_2011-611.pdf (Czech version only)

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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service platforms and operating systems, roaming service, and VAS, SIM card management, customer billing (post-paid) including self-care tools and communication interface (API).

I acknowledge that the scope and conditions of the provision of wholesale services included in the reference offers must enable the Applicants Interested in Access to provide high-speed Internet access services in the same scale as is the scale of such services provided by me.

Regardless of the scope of the reference offers, the Applicants Interested in Access may also request a different (incl. broader) scope of wholesale services requiring various share of own infrastructure and operating systems on the part of the Applicant Interested in Access.

I also undertake to publish the reference offers in the required scope no later than the date when I start providing commercial services through the networks using radio frequencies 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 offers, I undertake to publish the reference offers based on reasonable assumptions. I also undertake to provide in the reference offers a full list of the information which the Applicant Interested in Access must submit together with the request for conclusion of the agreement based on the reference offer so that I can amend the reference offers 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 offers. Should the request of the Applicant Interested in Access not include all essential information required in the reference offers, I will ask the Applicant Interested in Access to provide missing information. 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 start running again from the time of delivery of the amended request to me.

If the Applicant Interested in Access submit a request for access in a scope which does not comply to neither reference offer (Full MVNO and Light MVNO, see above), I undertake to submit a complete draft agreement to such Applicant Interested in Access not later than 3 months after the submission of the request of the Applicant Interested in Access. The scope of the required information, which must be submitted by the Applicant Interested in Access in the request, corresponds to a reasonable scope of the information required in the reference offers for Full MVNO and Light MVNO.

I undertake to conclude an agreement on access for a term in the duration of at least 2 years unless the Applicant and I do not agree on a shorter term. Should this minimum term of the agreement exceed the period of validity of my commitment, I undertake to conclude the agreement with a term at least from the end of the period of validity of my commitment, unless I and the Legitimate Applicant Interested in Access agree on a longer term.

I further undertake to ensure that the reference offers and the agreements on access signed on the basis thereof meet the conditions and requirements (including price requirements) of the commitment to provide a wholesale offer according to chapter 1 of the Declaration throughout the contractual term.

I also undertake not to discriminate without reason, i.e., without objectively justifiable reasons, between individual Applicants Interested in Access according to this commitment.

I undertake to inform CTU in writing about each request for access in the form of a wholesale offer, and about the basic parameters of each request, within 15 business days of the date of receiving the request. I also undertake to inform CTU in writing on continuous basis, but at least once a month, about the development of the negotiations concerning the provision of access. I am aware that this obligation is without prejudice to other notification obligations, which apply to me, with respect to CTU. I am aware of the fact that the information provided according to this paragraph may not be denied to CTU by reason of confidential nature thereof.

I am aware that CTU prefers that the agreements on access be concluded based on commercial negotiations.

I also acknowledge that CTU is prepared to settle 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 a 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 a wholesale offer, CTU will proceed according to the methodology for determination of prices based on the principle of prohibition of margin squeeze³.

I am aware that a breach of the commitment to provide a 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 of the commitment to provide a wholesale offer it 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 CTU Council Chair 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 PPDR Obligations

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) Priority BB-PPDR obligation according to chapter 2.1 of this Declaration; and
- b) Obligation of National Roaming for PPDR according to chapter 2.2 of this Declaration.

Joint provisions for the PPDR obligations are provided in chapter 2.3 of this Declaration.

2.1. Priority BB-PPDR obligation

2.1.1 Contents of the Priority BB-PPDR obligation

If I acquire a block allocation in the 700 MHz frequency band in a size of at least 2 x 10 MHz, I hereby undertake to comply with the following obligations (“**Priority BB-PPDR**”) specified in chapter 2.2.1 of the Declaration during the validity of my block allocation of radio frequencies in the 700 MHz frequency band:

- a) Upon a request of the Legitimate Applicant Interested in PPDR, provide the Legitimate Applicant Interested in PPDR with access to networks operated by me using radio frequencies in the 700 MHz frequency band in order to ensure the Priority BB-PPDR services 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 operation management support by the Legitimate Applicant Interested in PPDR. I am entitled to expand access to the network also to networks operated on radio frequencies in the 800 MHz frequency band provided that the use of such network will not limit the compatibility of the Legitimate Applicant’s terminal equipment;

³ The current version of this methodology is available at <https://www.ctu.cz/postup-ceskeho-telekomunikacniho-uradu-pri-vyhodnocovani-nabidek-vertikalne-integrovaných-operatoru>
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- 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 that an act, where I, 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 obligation.

I acknowledge that an access for the purposes of the Priority BB-PPDR obligation means access to the electronic communications networks corresponding to 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, or to equivalent model according to possible later technical specification.

I also acknowledge that coverage for the purposes of the Priority BB-PPDR obligation means operation of public electronic communications networks using radio frequencies specified in point a) above.

I also acknowledge that coverage near state borders and border crossings is subject to conditions and rules and is limited according to international agreements which are binding upon the Czech Republic, and following 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 requirement for the coverage of border crossings defined in chapter 5 of Annex 4 of the Invitation to Tender shall not apply if:

- a) the network deployment in the area in question is inconsistent with the applicable laws and regulations (e.g., protection 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 point a) above, I undertake to submit to the Legitimate Applicant Interested in PPDR administrative decision or administrative act based on which it is impossible 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 point b) above, I undertake to prove that I have asked the relevant third party for 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 points 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 proposal of alternative solution with which the coverage requirement will be fulfilled fully or at least partially.

2.1.2 Verification of the Coverage

Compliance with the commitment to ensure coverage of border crossings defined in chapter 5 of Annex 4 to the Invitation to Tender will be verified by CTU according to the documents entitled *Measurement of Network Data Parameters Using a TCP Protocol and Methodology*

⁴ https://www.etsi.org/deliver/etsi_ts/123500_123599/123501/15.08.00_60/ts_123501v150800p.pdf

⁵ https://www.etsi.org/deliver/etsi_ts/138400_138499/138401/15.07.00_60/ts_138401v150700p.pdf

*for Measurement and Evaluation of Data Parameters of Mobile Electronic Communications Networks*⁶.

2.1.3 Scope of the Priority BB-PPDR services

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 with the technological 5G Standard, including but not limited to the relevant parts of the standard defining the standards of PPDR and 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
 - 1) Mission Critical Push to Talk (MCPTT),
 - 2) Mission Critical Video (MCV),
 - 3) Mission Critical Data (MCD),
 - 4) Mission Critical Common Functionalities (MCX) including evolved Multimedia Broadcast Multicast Services (eMBMS),
 - 5) Isolated E-UTRAN Operation for Public Safety (IOPS),
 - 6) QPP (QoS, priority, pre-emption, access-class barring) and eMPS (enhanced Multimedia Priority Service),
 - 7) Location Based Services (LCS),
 - 8) Public Warning System (PWS) using Cell Broadcast Service (CBS),
 - 9) High Power User Equipment (HPUE),
 - 10) 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 its commercial users by means of networks which are available through the Priority BB-PPDR obligation.

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 other users based on 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 the electronic communications network to which the Legitimate Applicant Interested in PPDR gains access by means of the Priority BB-PPDR obligation. 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 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 Interested in PPDR specifies different levels of priority of operation for different groups of users defined by the Legitimate Applicant Interested in PPDR, the level of priority of provision of the services under the Priority BB-PPDR obligation will be

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

determined in accordance with the specification of the Legitimate Applicant Interested in PPDR. I undertake to comply with other obligations in connection with the prioritisation of the operation under the applicable laws and regulations.

2.2. Obligation of National Roaming for PPDR

If I acquire a block allocation in the 700 MHz frequency band, I take on a national roaming obligation for the purpose stipulated by 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 the Legitimate Applicant Interested in PPDR over validity of the block allocation with access to public communications networks operated by me in a form of national roaming using at least all radio frequencies in the frequency bands of 700 MHz and 800 MHz which I am or will be authorised to use at any time during validity of my block allocation of radio frequencies in the 700 MHz frequency band.

I undertake to provide, under the National Roaming for PPDR, access to these public communications networks in the scope of so-called “Full-MVNO” with an architectonic roaming model with S8 interface, Home Routed Roaming defined by the technical specification 3GPP/ETSI or to equivalent model according to possible later technical specification.

I undertake to provide National Roaming for PPDR on my electronic communications networks without any area or quality restrictions. 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 other users based on 4G and/or 5G technologies.

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

2.3. Joint Provisions for PPDR obligations

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

2.3.1 Purpose of PPDR obligations

I am aware of the fact that the purpose of the PPDR obligations according to chapter 2.3 of this Declaration is to ensure mobile emergency communication of the PPDR Services.

I acknowledge that mobile emergency communication means communication via 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 (Act on IRS), Section 1(1) of Act No. 240/2000 Coll., on Crisis Management and on amendment of certain acts (Crisis Management 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 agreement with me provides otherwise.

The Legitimate Applicant Interested in PPDR must not use the PPDR obligations according to chapter 2.3 of this Declaration to a different purpose or for higher number of active terminals, unless the agreement me provides otherwise.

2.3.2 Method of fulfilment of PPDR obligations

To fulfil the PPDR obligations, I undertake, inter alia, to submit an offer in a tender published by the Legitimate Applicant Interested in PPDR and to provide services based on the PPDR obligations.

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a) Obligation to submit an offer

I acknowledge that PPDR obligations include my obligation to participate in good faith

- (i) within the Priority BB-PPDR obligation, 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 obligation of 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 of and under the conditions laid down in the Invitation to Tender, negotiate in good faith with the Legitimate Applicant Interested in PPDR about the conclusion of the 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 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 obligation to submit a bid in the tender for the provision of Priority BB-PPDR lasts seven years from the date of entry into force of the decision granting my block allocation of the radio frequencies in the 700 MHz frequency band.

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

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 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 the binding offers for the fulfilment of the PPDR obligations according to chapter 2 of this Declaration shall 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 impediments in the way of the Legitimate Applicant Interested in PPDR in a process of public procurement, negotiating an agreement, or a subsequent performance of the agreement based on the PPDR obligations and not to require fulfilment of conditions which are not absolutely necessary for conclusion of an agreement or fulfilment of the obligation, not necessary for proper provision of electronic communications services under the agreement, and not common for entering into commercial agreements.

b) Obligation to provide services based on the PPDR obligations

If I sign 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 Priority BB-PPDR obligation and/or the obligation of 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. A

breach of the obligation to fulfil the PPDR obligations will be enforced in accordance with applicable laws and regulations, as specified in chapter 2 of this Declaration.

I also undertake to commence the provision of services according to the PPDR obligations within one year of signing of the agreement with the Legitimate Applicant Interested in PPDR regulating fulfilment of the obligations according to individual commitments. The time limit for fulfilment of the obligations 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 coverage requirement, unless it has been agreed otherwise with the Legitimate Applicant Interested in PPDR.

I am aware that the fulfilment of the PPDR obligations 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 PPDR obligations according to chapter 2 of this Declaration.

2.3.3 Pricing terms

I undertake to ensure that the price for the provision of services specified in chapters 2.1 and 3.2 of this Declaration under the PPDR obligations does not exceed the price determined according to the principle of cost-oriented wholesale unit prices of the services which are subject of the PPDR obligations. 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 Measure of General Nature No. OOP/4, as amended,⁷ and also based on the following principles:

- The optimisation shall be of the “Scorched Node” type, i.e., the actual topology of the network of the Allocation Holder in the given year (actual number of nodes and technological equipment thereof) will be taken into account;
- The addition of the incremental cost related to the active technology in sites with high use of the capacity for 4G and 5G technology will be enabled;
- 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 Priority BB-PPDR obligation;
- Total costs (corresponding to the current technological equipment of the network, increased by the incremental costs for sites with high use of capacity for 4G and 5G technology and taking into account the PPDR functionality) will be calculated taking into account the expected development in the following period (i.e. at least one year);
- The capacity optimisation 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 evaluation (if the current purchase value is not available, the average value from last three years accounts, or the shortest possible period longer than three years with data available, will be used);
- Economic depreciation will be determined using the method of modified tilted annuity, which is defined by a formula, where:

⁷ <https://www.ctu.eu/measures-general-nature>
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- $C_{t=1}$ means annual capital costs;
 - $I_{t=0}$ means asset value at the beginning of the period;
 - r means cost of capital (WACC);
 - i means annual change of the asset price;
 - u means average time needed for creation of an asset;
 - n means life of an asset;
- $$C_{t=1} = I_{t=0} * \left(\frac{1+r}{1+i}\right)^u * \frac{(r-i)}{1 - \left(\frac{1+i}{1+r}\right)^n}$$
- 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 national roaming obligation and the PPDR obligation), including the consideration of the cost allocation to the service of Priority BB-PPDR (if relevant);
 - The resulting unit costs calculated in the national roaming obligation and the PPDR obligation 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 aware that in addition to the unit prices, I am entitled to charge for the services included in the PPDR obligation also a lump sum for the set-up of the service in the amount corresponding to actually incurred costs.

I also undertake to ensure that the wholesale unit prices for the provision of services under these PPDR obligations 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 parties 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, the Incumbent Operator and the Provider Obligated to Provide Priority BB-PPDR and/or 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 updated values of 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 this 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, the Applicant (Incumbent Operator) and the Provider Obligated to Provide Priority BB-PPDR and/or the Allocation Holder in the 700 MHz frequency band, each party may contact CTU that will determine the maximum cost-oriented price for the services according to the PPDR obligations according to the principles laid down in chapter 2.3.3 of the Declaration.

I am aware 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(1)(a) or)b)

of the Act related to compliance of wholesale unit prices offered or charged for provision of services under the PPDR obligations including updates of these 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.

3 Re-farming Obligation (3440–3600 MHz)

3.1. Re-farming of the 3440–3800 MHz Frequency Band

I, the Applicant (Incumbent Operator), acknowledge that the objective of CTU within this Tender is to ensure effective use of radio frequencies not only in the 3440–3600 MHz frequency band but also in the entire 3440–3800 MHz frequency band by allowing unification of the radio frequencies allocations of individual Allocation Holders within the entire 3440–3800 MHz frequency band.

In order to achieve this objective, CTU laid down a re-farming obligation for Allocation Holders issued based on the Tender for the Purpose of 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 3440–3800 MHz frequency band could be re-farmed, 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 (Incumbent Operator), hereby accept the re-farming obligation in a case I acquire block allocation in the 3440–3600 MHz frequency band in the Tender.

3.2. Obligation to submit 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 receiving the Call a full request for change of my block 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 between all Allocation Holders holding block allocations in the 3440–3800 MHz frequency band on a specific location of their undivided radio frequency segments. I am aware that in such case, all Allocation Holders in the 3440–3800 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 obligation.

I undertake that the requests according to this obligation shall include the change of specification of radio frequencies such that the specification of the radio frequencies corresponds to the Agreement on Final Distribution or information on the final distribution of radio frequencies in the 3440–3800 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 requests for a change of the allocations starting on the date of receiving the Call.

In addition, I undertake to take all steps and measures within the procedure concerning my requests according to this obligation and to provide all assistance and cooperation necessary

⁸ The methodology was subject to a separate public consultation.
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to ensure that CTU is able to comply with the requests by way of a final decision and change the block allocations of radio frequencies of the individual Allocation Holders in the 3440–3800 MHz frequency band, as mentioned above.

I also undertake to discontinue the use of 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 that further use for a period necessary for re-tuning of the radio network is possible only with a consent of the new holder of a block allocation of the radio frequencies concerned.

3.3. Re-farming procedure

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

- Use of the 3400–3800 MHz frequency band is subject to the European Union harmonisation plans for the use of radio spectrum; and
- CTU has issued all final decisions granting block allocations of radio frequencies in the 3440–3600 MHz frequency band allocated within this Tender.

I am aware 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 3440–3600 MHz frequency band based on the results of the Tender. CTU may issue the Call following the fulfilment of the conditions according to chapter 3.3 of this Declaration by posting it on its website and subsequently delivering it to all Allocation Holders. I am aware that the time limit for the submission of the requests starts on the date I receive the 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, based on this Tender, am not a holder of any block allocation in the 3600–3800 MHz frequency segment as of the date of delivery of the CTU's Call, 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 in the Tender will be outside of the scope of the 3600–3800 MHz frequency segment which is the subject of the Tender.

Allocation Holders in the 3440–3800 MHz frequency band have the option to agree among themselves within the sixty-day period for the submission of the requests for a change of the block allocations starting from the date receiving the Call on the final distribution of the segments of radio frequencies in the 3440–3800 MHz frequency band. Such Agreement on Final Distribution must be made by all Allocation Holders holding block allocations in the 3440–3800 MHz frequency band freely and solely for the purpose of distributing effectively the segments of radio frequencies in this frequency band. 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 receiving the Call:

- I. Submit to CTU a request for a change of my block allocations of radio frequencies in accordance with the re-farming obligation 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 re-farming obligation and with the specification of the radio frequencies according to the information on the final distribution of radio frequencies in the 3440–3800 MHz frequency band provided by CTU in the Call.

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

Declaration of Acceptance of Commitments by the Applicant

I am aware that if any Allocation Holder should submit a request according to point (i) above and others according to point (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 re-farming goal.

I also undertake to comply with this second call of CTU within 10 days of receiving thereof.

I am also aware that if the Agreement on Final Distribution is not concluded, CTU will determine the final distribution of radio frequencies in the 3440–3800 MHz frequency band according to the following rules:

- 1) The placement of the block of radio frequencies in the 3400–3440 MHz frequency band, which is not subject of this Tender, will be preserved. Auction blocks in the 3440–3600 MHz frequency band, which were not allocated in this Tender, will be added to this block;
- 2) CTU will subsequently place the block allocations of radio frequencies in the 3440–3600 MHz frequency band of Allocation Holders who are not holders of block allocations of radio frequencies in the 3600–3800 MHz frequency band, namely in a way that these allocations are connected with the allocation of radio frequencies placed according to point 1) above. If there is more than one of such Allocation Holder in the 3440–3600 MHz frequency band, CTU will decide on the sequence of their allocations by a lot;
- 3) CTU will subsequently place the Allocation Holders' block allocations of radio frequencies in an order based on their choice, from the end of the 3600–3800 MHz frequency band, allowing the Allocation Holders to make a choice in the following order:
 - i. The first group will constitute of Allocation Holders who were granted a block allocation solely in the 3600–3800 MHz frequency band in a descending order based on the number of base station sectors operated in the 3600–3800 MHz frequency band registered by CTU by the end of calendar month preceding to the date of sending of CTU's Call. The Allocation Holders with a higher number of base station sectors will decide on their order first. In the case of an equal number of base station sectors, the decision on the order of these Allocation Holders will be made by a lot;
 - ii. Finally, the order choice according to point 3) above will be possible for the Allocation Holders who acquired a block allocation of radio frequencies in both parts of the 3440–3800 MHz frequency band, i.e., both in the 3440–3600 MHz part and in the 3600–3800 MHz part, namely in a descending order according to the number of base station sectors operated in the 3600–3800 MHz frequency band registered by CTU by the end of the calendar month preceding the date of sending of CTU's Call. The Allocation Holders with a higher number of base station sectors will decide on their order first. In the case of equal number of base station sectors, the decision on the order of these Allocation Holders will be made by a lot.

By completing the final distribution according to the above-mentioned procedure, CTU will notify all respective Allocation Holders and will allow them to make an agreement on a change of positions, provided that positions of other Allocation Holders will not be violated under a so-called partial agreement regime. The Allocation Holders are obliged to submit within five working days after receiving CTU's notification according to the previous sentence a request to make changes in accordance with the partial agreement. If CTU receives within five days a notification from the Allocation Holders on the partial agreement, it will review it and if CTU reaches a conclusion, that this agreement does not violate the positions of other Allocation Holders, it will change the final distribution in the sense of the agreement.

I acknowledge that each Allocation Holder shall bear the costs related to the fulfilment of the re-farming obligation and any other following implementation 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 may always only be the Allocation Holder of these radio frequencies.

I also acknowledge that in the Individual Authorisation to use radio frequencies a change of the Individual Authorisation holder or a lease of the rights under the Individual Authorisation will be conditioned, in accordance with Section 18(1)(h) of the Act, by CTU's prior consent. I am aware of the fact that the conditions for giving the consent are specified in chapters 4.1 and 4.2 of this Declaration. The consent is not required after the time, for which the conditions is specified, has expired.

4.2. 700 MHz frequency band

I acknowledge, that CTU will give its consent with leasing the rights under the Individual Authorisation to use radio frequencies in the 700 MHz frequency band only if the lease of the rights under the Individual Authorisation does not cause, by 31.12.2028, exceeding the Spectral Limit specified in chapter 6.1 of the Invitation to Tender, which would apply to the lessee, if he was an Applicant, while respecting the conditions of participation in the Tender pursuant to chapter 9.5 of the Invitation to Tender.

If the lessee is member of a Business Group, the Spectral Limits, specified in chapter 6.1 of the Invitation to Tender, shall not be exceeded within this Business Group. I acknowledge, that CTU will give its consent even if the purpose of the lease was a dynamic sharing of radio frequencies (i) while using existing base stations in areas where an effective infrastructure competition cannot be reasonably expected and/or (ii) while using new base stations anywhere, provided that none of the sharing Allocation Holders will use the radio frequencies beyond their Spectral Limit specified in chapter 6.1 of the Invitation to Tender.

4.3. 3440–3600 MHz Frequency Band

I acknowledge that CTU will give its consent with leasing the rights under the Individual Authorisation to use radio frequencies in the 3440–3600 MHz frequency band only if the lease of the rights under the Individual Authorisation does not cause, by 24.11.2022, exceeding the Spectral Limit specifies in the Initiation to Tender, by the lessee, which would apply to the lessee, if he was an Applicant, while respecting the conditions of participation in the Tender pursuant to chapter 9.5 of the Invitation to Tender.

If the lessee is a member of a Business Group, the Spectral Limits specified in chapter 6.2 of the Invitation to Tender shall not be exceeded within this Business Group. If the lease of authorisation is requested only for a specific geographical area, the Spectral Limits specified in chapter 6.2 of the Invitation to Tender will be assessed individually for each of these geographical areas.

4.4. Transfer of the block allocation of radio frequencies

I acknowledge that transfer of the block allocation of radio frequencies is regulated by Section 23 of the Act.

To avoid disruption of competition or effective use of radio spectrum by a potential transfer of the block allocation of radio frequencies, I acknowledge that the transfer thereof under

conditions in the Section 23(1)(a) and (c) of the Act will not be allowed provided that the following conditions will not be met:

- A segment with the size of 2×5 MHz will be considered the smallest transferrable unit in the 700 MHz frequency band and a segment with the size of 5 MHz will be considered the smallest transferrable unit in the 3440–3600 MHz frequency band;
- The Spectral Limits specified in chapter 6.1 of the Invitation to Tender will be complied with at least until 31.12.2028;
- The Spectral Limits specified in chapter 6.2 of the Invitation to Tender will be complied with at least until 24.11.2022;
- The conditions of economic independence of Allocation Holders specified as condition of participation in chapter 9.5 of the Invitation to Tender, which applied to me as the Applicant, will be complied with throughout the entire duration of the block allocation;
- The condition specifying that the Business Group of which the Incumbent Operator is member can hold a block allocation of radio frequency granted in this Tender only via the Incumbent Operator, which was granted the block allocation in this Tender, will be complied with throughout the entire duration of the block allocation.

I understand that CTU's procedure according to Section 23(5) of the Act is without prejudice to the conditions of this chapter 4 of the Declaration.

4.5. Subrogation and other disposal of rights to use radio frequencies

I acknowledge that with respect to Section 19(4)(a) and Section 22b(1) of the Act, it is necessary that the Allocation Holder (the Applicant and/or their successor or another party to whom the radio frequency block allocation may be transferred, passed, or leased) does not cease to fulfil, over the entire below specified period of validity of the block allocation, any of the conditions under which the radio frequencies had been allocated to the Applicant. This concern:

- Adherence to the obligations accepted in accordance with chapters 1 (wholesale offer) and 2 (PPDR communication) of the Declaration regardless of the disposal of the rights to use radio frequencies to which the obligations pertain, for the entire duration of the block allocations of radio frequencies, if the obligation is not limited for a shorter period;
- Adherence to the Spectral Limits specified in chapter 6.1 of the Invitation to Tender, which applied to me as an Applicant, until 31.12.2028;
- Adherence to the Spectral Limits specified in chapter 6.2 of the Invitation to Tender, which applied to me as an Applicant, until 24.11.2022;
- For the entire duration of the block allocation of radio frequencies, the Allocation Holders must meet the condition of economic independence laid down as a condition for participation in chapter 9.5 of the Invitation to Tender, which applied to me as Applicants;
- For the entire duration of the block allocation of radio frequencies, the Business Group of which I am a member, must meet the condition, that it may hold the block allocation granted in this Tender only via me;
- Adherence to the condition, by Incumbent Operators (Allocation Holders in the 700 MHz frequency band), that the Legitimate Applicant Interested in National Roaming shall not become a member of my Business Group until 31.12.2025.

The Business Group of which I am a member shall not directly or indirectly acquire rights to use radio frequencies, which will be granted to me, in the range exceeding the Spectral Limits specified in chapter 6.1 of the Invitation to Tender until 31.12.2028, and the Spectral Limits specified in chapter 6.2 of the Invitation to Tender until 24.11.2022. By breaching this restriction, I will cease to fulfil conditions based on which the block allocation of radio frequencies was granted as well as to the radio frequencies which are used under the Spectral Limit specified in chapters 6.1 and 6.2 of the Invitation to Tender.

Declaration of Acceptance of Commitments by the Applicant

I acknowledge that to acquire, grant or permit, directly or indirectly, the right to use radio frequencies as mentioned in the previous paragraph means to acquire, grant or permit the use of rights under the block allocation of radio frequencies or Individual Authorisation, either directly by transfer, lease or other transaction or disposal with these rights, block allocation or Individual Authorisation, or indirectly by subrogation, change of ownership structure or another change of the Business Group, or based on an agreement or other transaction providing contractual or actual rights to radio frequencies. To acquire, grant or permit, directly or indirectly, the right to use radio frequencies also means to acquire, grant or permit the use of rights under the block allocation of radio frequencies or Individual Authorisation as well as under an agreement or other transaction providing contractual or actual rights to access a network using radio frequencies or services provided on such network, should a subject, purpose or consequence of such agreement or transaction be a circumvention of Spectral Limits specified in chapters 6.1 and 6.2 of the Invitation to Tender.

By breaching any restriction specified in this chapter 4.5, I will cease to meet the conditions based on which the block allocation of radio frequencies was granted to me pursuant to Section 19(4)(a) and Section 22b(1) of the Act, which applied to all radio frequencies allocated in this Tender.

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 CTU Council Chair 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

.....
Applicant

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

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

I hereby declare that, as a person authorised to act on behalf of the Applicant, I am authorised 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

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