

**AUCTION OF LOCAL MULTIPOINT
DISTRIBUTION SYSTEM SPECTRUM
RIGHTS**

APPENDIX 1 – AUCTION RULES

17 August 2001

INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY

REPUBLIC OF SINGAPORE

AUCTION RULES

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AUCTION RULES

PART 1 – PRE-AUCTION

SECTION 1 – LMDS SPECTRUM LOTS AND LMDS SPECTRUM RIGHTS

LMDS Spectrum Lots and LMDS Spectrum Rights

1.1 These Rules set out the procedures by which IDA may grant LMDS Spectrum Right(s) in respect of all or any of sixteen LMDS Spectrum Lots, each having the following characteristics:

| Size of each LMDS Spectrum Lot | Reserve Price for each LMDS Spectrum Lot |
|--------------------------------|--|
| 2 x 28 MHz | S\$41,400 |

1.2 No Bidder may bid for or be granted an LMDS Spectrum Right in respect of more than four LMDS Spectrum Lots, save that no Bidder which is a member of the SingTel Group may bid for or be granted an LMDS Spectrum Right in respect of more than three LMDS Spectrum Lots.

1.3 No more than one member of a Group may bid for or be granted an LMDS Spectrum Right.

1.4 An LMDS Spectrum Right will be granted only to:

- (a) a citizen of Singapore;
- (b) a company incorporated under the Companies Act (Cap.50);
- (c) a business registered under the Business Registration Act (Cap.32); or
- (d) such other person as IDA considers appropriate.

1.5 Upon provisionally awarding the LMDS Spectrum Right(s) in respect of the LMDS Spectrum Lots, IDA will determine the specific frequencies which may be used for the provision of FWB or any other communication services by the relevant Bidder(s) pursuant to the grant of the relevant LMDS Spectrum Right(s).

SECTION 2 – APPLICATION AND INITIAL OFFER PROCESS

Applications

2.1 A person wishing to be registered as a Bidder in order to participate in the Auction must submit a duly completed Application Form (accompanied by the documents specified in the Application Form), an Initial Offer and a Bank Guarantee for the Initial Guaranteed Amount in accordance with Section 2.2.1 to Section 2.2.9, delivered by hand to:

Info-communications Development Authority of Singapore
8 Temasek Boulevard
#14-00 Suntec Tower 3
Singapore 038988

For the attention of: Ms. Ng Cher Keng

no later than 6.00pm on the Application Date. IDA will not accept any Application Forms, Initial Offers and Bank Guarantees received after 6pm on the Application Date.

Registration of Bidders

2.2.1 IDA will review each Application Form, Initial Offer and Bank Guarantee, together with any other accompanying documents, submitted in accordance with Section 2.1: (a) for compliance with these Rules, and (b) to determine whether any person which submitted such documents should be registered as a Bidder entitled to participate in the Auction.

2.2.2 In determining whether a person which submitted the documents referred to in Section 2.1 should be registered as a Bidder entitled to participate in the Auction, IDA may consider, among other things:

- (a) whether, in the opinion of IDA, such person has demonstrated that it has the financial and technical capability to acquire a LMDS Spectrum Right and operate an LMDS communications system in relation to that LMDS Spectrum Right;
- (b) whether, in the opinion of IDA, such person is an Associated Bidder in relation to any other person(s) which submitted an Application Form;
- (c) whether it would be in the public interest for such person to be granted a LMDS Spectrum Right; and
- (d) all or any facts, circumstances or matters which IDA considers to be relevant including the financial or personal probity and standing of the applicant or any company in the same corporate Group as the applicant or any director or shareholder of the applicant or of any such company.

2.2.3 IDA may request at any time such clarification or additional information or documents from any person which has submitted the documents referred to in Section 2.1 as may reasonably be required for the purpose of making its determination pursuant to Section 2.2.1. If that person fails to submit such clarification, information or documents to IDA by such time as has been specified by IDA, that person's Application Form and Initial Offer may be declared invalid by IDA by notice in writing to that person and if so, IDA will promptly return that person's Bank Guarantee to it.

2.2.4 If any change occurs to the ownership and/or control structure of the person which submitted an Application Form as described in paragraph 1.5 of that person's

Application Form, such person will promptly inform IDA in accordance with Sections 19.2 and 19.3.

2.2.5 If a person wishing to participate in the Auction or any Related Person of such person is a holder of an existing FBO Licence, that person's Application Form and Initial Offer will be invalid unless such holder of the FBO Licence agrees to the modification to the scope of its systems and services offered (in such manner as may be considered appropriate by IDA) contained in its FBO Licence if such person is provisionally awarded an LMDS Spectrum Right,.

2.2.6 If a person wishing to participate in the Auction or any Related Person of such person is not a holder of an existing FBO Licence, that person's Application Form and Initial Offer will be invalid unless such person agrees to apply for an FBO Licence within thirty Business Days of being provisionally awarded an LMDS Spectrum Right.

2.2.7 If IDA determines (a) that the documents submitted by a person in accordance with Section 2.1 comply with the requirements of the Rules, and (b) at the IDA's discretion, that such person may be registered as a Bidder, IDA will notify that person, within five Business Days of the Application Date (or such later date as is determined by IDA), that it is registered as a Bidder entitled to participate in the Auction and of the identities of all other registered Bidders entitled to participate in the Auction.

2.2.8 If IDA determines (a) that the documents submitted by a person in accordance with Section 2.1 do not comply with the requirements of the Rules, or (b) at the IDA's discretion, that such person should not be registered as a Bidder, IDA will notify that person, within five Business Days of the Application Date (or such later date as is determined by IDA), that it is not registered as a Bidder and is not entitled to participate in the Auction. IDA has no obligation to give any reasons for its decision in this respect.

2.2.9 If IDA notifies any person which submitted the documents referred to in Section 2.1 that it is not registered as a Bidder for any reason, IDA will promptly return that person's Bank Guarantee to it.

Associated Bidders

2.3.1 If IDA determines that two or more Bidders are Associated Bidders in relation to each other, IDA will notify each of them that it is considered to be an Associated Bidder and will identify the person or persons which IDA considers to be members of the same Associated Bidder Group.

2.3.2 Following receipt of a notice under Section 2.3.1, the members of each Associated Bidder Group will either:

- (a) determine which one of them will participate in the Auction; or
- (b) elect to reorganise themselves so that they cease to be an Associated Bidder Group by such date as has been specified by IDA in the relevant notice.

In either case the members of each Associated Bidder Group will submit a joint notification of their decision, signed by each of them, to IDA within two Business Days after receipt of the notice given pursuant to Section 2.3.1. If IDA is notified of the decision that one of the Associated Bidders in an Associated Bidder Group will participate in the Auction, no other Associated Bidders in the relevant Associated Bidder Group will be registered as a Bidder and permitted to participate in the Auction. If IDA is notified of the decision that the Associated Bidders in the Associated Bidder Group will reorganise themselves so that they cease to be Associated Bidders by the date specified by IDA, IDA will, upon receipt of such notification, reconsider in accordance with Section 2.2.1 whether each such person is eligible to be registered as a Bidder without taking into account that each such person is an Associated Bidder. IDA will notify each such person whether or not it is eligible to be registered as a Bidder within two Business Days of receipt of such notification.

2.3.3 If IDA does not receive a joint notification from the Associated Bidders in an Associated Bidder Group as required by Section 2.3.2, none of the Associated Bidders in such Associated Bidder Group will be permitted to participate in the Auction.

2.3.4 If at any time during the Auction IDA determines that two or more Bidders are or have become an Associated Bidder Group in relation to each other as a result of merger and acquisition activity or otherwise, IDA will notify each of them that it is considered to be an Associated Bidder and will identify the person or persons which IDA considers to be members of such Associated Bidder Group. IDA may:

- (a) in the event that the Auction has not closed:
 - (i) permit the Associated Bidders in such Associated Bidder Group either:
 - (aa) to determine that one of them will continue to participate in the Auction; or
 - (bb) to elect to reorganise themselves so that they cease to be an Associated Bidder Group by such date as is specified by IDA in the relevant notice.

In either case, the members of the Associated Bidder Group will submit a joint notification of their decision, signed by each of them, to IDA within two Business Days after receipt of the notice referred to above. If IDA is notified of the decision that one of the Associated Bidders in an Associated Bidder Group will continue to participate in the Auction, no other Associated Bidder in the relevant Associated Bidder Group will be permitted to participate in the Auction. If IDA is notified of the decision that the Associated Bidders in an Associated Bidder Group will reorganise themselves so that they cease to be Associated Bidders by the date specified by IDA, each such Bidder will be permitted to continue to participate in the Auction; and/or

- (ii) exclude any of the Associated Bidders in an Associated Bidder Group from the Auction and may restart the Auction or any Round of the Auction in accordance with Section 9; and/or

- (iii) suspend the Auction in accordance with Section 9 or 16,
- (b) in the event that the Auction has closed and any one or more Associated Bidder(s) is to be or has been provisionally awarded an LMDS Spectrum Right, IDA may require the members of the relevant Associated Bidder Groups to reorganise themselves so that each of their members ceases to be an Associated Bidder in relation to the other(s) by such date as is specified by IDA. The relevant LMDS Spectrum Right(s) will be granted to such Bidder(s) in accordance with, and subject to, Section 12, provided that each of them undertakes in writing that such a reorganisation will be completed by the relevant date. No LMDS Spectrum Right will be granted to any Bidder which fails to give, or comply with, such an undertaking.

2.3.5 If by the date specified in the relevant notice given by IDA pursuant to Section 2.3.2 or Section 2.3.4, the members of the relevant Associated Bidder Group have failed to reorganise themselves so that they cease to be Associated Bidder(s) in relation to each other:

- (a) if the Auction has not started, IDA may notify each such Associated Bidder that it is not eligible to be registered as a Bidder and will not be permitted to participate in the Auction; or
- (b) if the Auction has started, IDA may exclude any of the relevant Associated Bidders from the Auction; or
- (c) if the Auction has closed and any one or more of the relevant Associated Bidders has been, or is entitled to be, provisionally awarded or granted an LMDS Spectrum Right, IDA may by notice to the relevant Bidder(s) refuse to make, or may revoke, such provisional award(s) or grant(s).

2.3.6 An Application Form and an Initial Offer submitted by a member of an Associated Bidder Group which is not permitted to participate, or to participate further, in the Auction pursuant to Sections 2.2.8, 2.3.2, 2.3.3 or 2.3.4 or submitted by a member of an Associated Bidder Group which has failed to reorganise itself so that it ceased to be an Associated Bidder Group by the date specified by IDA pursuant to Section 2.3.5, will be deemed not to have been submitted for the purposes of these Rules.

2.3.7 IDA shall determine whether any Bidder which submits an Application Form and an Initial Offer is an Associated Bidder in relation to any other Bidder or Bidders which have submitted Application Forms and Initial Offers. Two or more Bidders will not be determined to be Associated Bidders in relation to each other solely as a result of the fact that:

- (a) a member of one of such Bidder's Group (whether directly or indirectly):
 - (i) holds or is beneficially entitled or has a right to acquire or subscribe for 20 per cent. or less of the share capital of any member of such other relevant Bidder's Group; and/or

- (ii) has a right to acquire or subscribe for shares which, when aggregated together with such shares which it holds or to which it is beneficially entitled, represent or would represent 20 per cent. or less of the share capital of any member of such other relevant Bidder's Group; and/or
 - (iii) possesses voting power in respect of 20 per cent. or less of the share capital of any member of such other Bidder's Group; and/or
- (b) a director of a member of one of such Bidder's Group is also a director of a member of any other relevant Bidder's Group.

2.3.8 For the purpose of this Section 2.3, **Bidder** shall include any person who has submitted the documents referred to in Section 2.1.

Initial Offers

2.4.1 An Initial Offer will confirm a Bidder's commitment to participate in the Auction and will specify:

- (a) the number of LMDS Spectrum Lot(s), subject to the maximum limit specified in Section 1.2, for which the relevant Bidder submits an offer at the Reserve Price. An offer made in an Initial Offer for an LMDS Spectrum Lot which is less than or more than the Reserve Price for that LMDS Spectrum Lot will not be accepted; and
- (b) the names of a maximum of twelve Authorised Representatives of the Bidder (together with specimen signatures and documentary evidence satisfactory to IDA of the appointment of each of such Authorised Representatives as a person having authority to act alone on behalf of, and bind, the Bidder in the Auction).

2.4.2 The number of Bidding Rights assigned to a Bidder in the first Round will be equal to the aggregate number of LMDS Spectrum Lot(s) for which that Bidder submits an offer in its Initial Offer.

2.4.3 An Initial Offer which does not comply with Section 2.4.1 shall be deemed not to be a duly submitted Initial Offer and IDA will promptly return that Bidder's Bank Guarantee to that Bidder.

2.4.4 An Initial Offer submitted by a Bidder which complies with Section 2.4.1 will remain legally binding on that Bidder in respect of the number of LMDS Spectrum Lots specified by that Bidder in its Initial Offer, until such time as IDA:

- (a) notifies that such Bidder is not registered and is not entitled to participate in the Auction in accordance with Section 2.2.8; or
- (b) issues a Provisional Award Notice in respect of each of the relevant LMDS Spectrum Lots to one or more other Bidders in accordance with Section 2.7.1.

For the purpose of Section 2.4.1 to Section 2.4.4, **Bidder** shall include any person who has submitted the documents referred to in Section 2.1.

Bank Guarantee and Additional Bank Guarantee

2.5.1 An Application Form and an Initial Offer must be submitted with a Bank Guarantee for the relevant Initial Guaranteed Amount.

2.5.2. An Initial Guaranteed Amount is calculated by multiplying the Reserve Price by the number of LMDS Spectrum Lot(s) for which the relevant Bidder submits an offer in its Initial Offer.

2.5.3 If the Initial Guaranteed Amount for which a Bidder's Bank Guarantee is issued has not been calculated correctly and is lower than it would have been if calculated correctly, IDA may notify that Bidder that it is required to submit a Bank Guarantee for the Initial Guaranteed Amount as correctly calculated within two Business Days of such notification. A Bidder which fails to submit such a Bank Guarantee within such period shall not be permitted to participate in the Auction.

2.5.4 If in any Round, the aggregate value of all Valid Bids submitted by a Bidder is equal to or exceeds S\$500,000, that Bidder shall submit to IDA an Additional Bank Guarantee for an amount of S\$500,000.

2.5.5 A Bidder must submit to IDA an Additional Bank Guarantee for S\$500,000 prior to 8.30 a.m. on the second Business Day after the day on which its obligation to submit such Additional Bank Guarantee arose under Section 2.5.4. IDA may, if requested in writing submitted in accordance with Section 18.1, allow a Bidder one further Business Day within which an Additional Bank Guarantee may be submitted. If IDA agrees to such a request, such Additional Bank Guarantee must be submitted prior to 8.30 a.m. on the third Business Day after the day on which its obligation to submit such Additional Bank Guarantee arose under Section 2.5.4.

2.5.6 Any Bidder which fails to submit an Additional Bank Guarantee in accordance with Section 2.5.5 will be deemed excluded from the Auction and may not be re-admitted to take part in the Auction or any restart of the Auction. IDA may determine that such a Bidder is subject to a Forfeiture in accordance with Section 8.2.2 and IDA may draw upon that Bidder's Bank Guarantee for an amount up to the Guaranteed Amount. Subject to that Bidder's payment of any Forfeiture Amount, IDA will promptly return that Bidder's Bank Guarantee to that Bidder.

2.5.7 Any Additional Bank Guarantee shall be in addition to and shall not replace any Bank Guarantee previously submitted pursuant to these Rules.

2.5.8 Bank Guarantees and Additional Bank Guarantees will be returned to the relevant Bidders in accordance with Sections 2.2.3, 2.2.9, 2.4.3, 2.5.6, 2.6.3, 2.7.3 and 12.

Determination as to whether Auction is to proceed

2.6.1 Notwithstanding any other provision of these Rules, IDA may at any time prior to the Auction Start Date determine that the Auction will not proceed. In such event, IDA may elect not to grant LMDS Spectrum Right(s) in respect of all or any of

the LMDS Spectrum Lots and/or may allocate LMDS Spectrum Right(s) in respect of all or any of the LMDS Spectrum Lots by any manner which it considers appropriate.

2.6.2 If IDA determines that the Auction will not proceed, IDA will notify each Bidder.

2.6.3 If IDA determines that the Auction will not proceed and no LMDS Spectrum Rights are provisionally awarded under Section 2.6.1, IDA will promptly return each Bank Guarantee to the relevant Bidder which submitted that Bank Guarantee.

2.6.4

(a) If the sum of all Initial Offers received by IDA contain, in aggregate, offers (in accordance with Section 2.4.1(a)) for more than sixteen LMDS Spectrum Lots, subject to Section 2.6.1, the Auction will proceed.

(b) If the Initial Offers received by IDA contain, in aggregate, offers (in accordance with Section 2.4.1(a)) for sixteen LMDS Spectrum Lots or less, the Auction will not proceed.

2.6.5 If IDA determines that the Auction will proceed, IDA will notify each Bidder that the Auction will proceed within three Business Days of the Application Date.

Awards at Reserve Prices

2.7.1 If the Auction does not proceed and the Initial Offers received by IDA contain, in aggregate, offers (in accordance with Section 2.4.1(a)) for sixteen LMDS Spectrum Lots or less, IDA may provisionally award LMDS Spectrum Right(s) in respect of all or any of the LMDS Spectrum Lots to the relevant Bidder(s) which submitted such offer(s) in their Initial Offer(s) at the relevant Reserve Price. The Base Year Charge for each LMDS Spectrum Lot awarded under this Section 2.7.1 shall be equal to the Reserve Price.

Such provisional awards will be made by issuing to each relevant Bidder a Provisional Award Notice notifying that Bidder of:

(a) the number of LMDS Spectrum Lots included in the LMDS Spectrum Right which that Bidder is provisionally awarded;

(b) the sum of the Base Year Charges for the LMDS Spectrum Lot(s) included in the relevant LMDS Spectrum Right;

(c) the Application and Processing Fee in respect of the relevant LMDS Spectrum Right;

(d) details of the frequencies which may be used for the provision of FWB or any other communication services by that Bidder pursuant to the grant of the relevant LMDS Spectrum Right; and

(e) details of the IDA Bank Account.

Any LMDS Spectrum Lots which are not provisionally awarded in accordance with Section 2.7.1 may be offered by IDA in another auction or allocated in such other manner as IDA deems appropriate.

2.7.2 In the event that one or more LMDS Spectrum Lots are provisionally awarded under Section 2.7.1:

- (a) no Auction will be held; and
- (b) within five Business Days of the Application Date, IDA will issue Provisional Award Notices to the relevant Bidder(s).

2.7.3 A Bidder which has been issued a Provisional Award Notice will prior to the date which is seven Business Days after the date of issue of the Provisional Award Notice (***Final Payment Date***) transfer to the IDA Bank Account the LMDS Spectrum Right Initial Payment. If the LMDS Spectrum Right Initial Payment is received in the IDA Bank Account prior to or on the Final Payment Date, IDA will (a) grant that Bidder an LMDS Spectrum Right in respect of the number of LMDS Spectrum Lot(s) included in the LMDS Spectrum Right provisionally awarded to that Bidder, and (b) return that Bidder's Bank Guarantee within seven Business Days of the Final Payment Date. If the LMDS Spectrum Right Initial Payment is not so received prior to or on the Final Payment Date, that Bidder will not be granted an LMDS Spectrum Right. IDA may determine that that Bidder is subject to a Forfeiture in accordance with Section 8.2.2 and IDA may draw down upon that Bidder's Bank Guarantee for an amount up to the Guaranteed Amount.

2.7.4 A LMDS Spectrum Right granted in accordance with Section 2.7.3 shall be effective as of 1 November 2001 in accordance with the terms and conditions of such LMDS Spectrum Right. If the procedure for award of LMDS Spectrum Rights has not been completed by that date, the LMDS Spectrum Rights shall become effective on such later date as IDA may determine. Payment of an LMDS Spectrum Right Initial Payment shall constitute settlement of the Base Year Charge for an LMDS Spectrum Right.

SECTION 3 – AUTHORISED REPRESENTATIVES, INFORMATION SESSION AND TRIAL AUCTION

3.1 If IDA has determined that the Auction will proceed, IDA will hold an Information Session on the fifth Business Day following the Application Date and a Trial Auction on the seventh Business Day following the Application Date.

3.2 IDA will notify all Bidders of the date, time and location of the Information Session and the date, time and location of the Trial Auction at least one Business Day in advance.

3.3 The purpose of the Information Session and Trial Auction is to provide the Bidders with an opportunity to clarify any matters relating to the Rules, the Auction procedures and the Bidding Procedure and to familiarise themselves with the Auction procedures and the Bidding Procedure.

3.4 Each of a Bidder's Authorised Representatives must be named in the Disclosure List submitted by that Bidder in its Initial Offer. A Bidder must have at least one and may have no more than twelve Authorised Representatives at any time, provided that no more than six Authorised Representatives of any Bidder will be permitted at the Auction Location at any one time. No change in the Authorised Representatives present at the Auction Location will be permitted during a Session. A Bidder may replace any of its Authorised Representatives at any time prior to the commencement of the Information Session upon written notification to IDA submitted in accordance with Section 18.1, provided that:

- (a) the particulars and documentation referred to in Section 2.4.1(b) in respect of the new Authorised Representative(s) are submitted to IDA at such time; and
- (b) each new Authorised Representative must be named in the Disclosure List submitted by that Bidder in its Application Form.

3.5 Each Authorised Representative of each Bidder is required to attend the Information Session and to take part in the Trial Auction and immediately thereafter will submit a written declaration to IDA (in the form stipulated by IDA) stating that such Authorised Representative understands the Rules and Auction procedures and the Bidding Procedure and undertakes to observe the Rules and the Auction procedures. Failure to do so will invalidate the relevant Authorised Representative's appointment.

3.6 If an Authorised Representative of a Bidder does not attend the Information Session and/or does not take part in the Trial Auction and/or does not submit the written declaration required by Section 3.5, that Authorised Representative will not be permitted to represent the Bidder in the Auction.

3.7 The Information Session will consist of two parts. The first part of the Information Session will address general issues relating to the Auction proceedings. The second part of the Information Session will deal with the detailed procedural aspects of the Bidding Procedure.

3.8 Representatives of each Bidder in addition to the Bidder's Authorised Representatives will be permitted to attend the first part of the Information Session, provided that no more than twenty-five natural persons (including the Authorised Representatives) may attend on behalf of any Bidder. Only the Authorised Representatives may attend the second part of the Information Session. Each Bidder must submit to IDA in its Initial Offer a list of its representatives (listing their respective names and identity card/passport numbers) who propose to attend the first part of the Information Session on behalf of that Bidder. Any person (other than Authorised Representatives) not included in such a list will not be permitted to attend the first part of the Information Session.

SECTION 4 – NON-PARTICIPATION IN AUCTION

Once a Bidder has been notified that it is a registered Bidder in accordance with Section 2.2.7 or Section 2.3.2, that Bidder may not withdraw any offer contained in its Initial Offer or otherwise cease to participate in the Auction procedure unless it is

excluded by notice from IDA pursuant to these Rules or it is deemed to have withdrawn from the Auction pursuant to Section 7.5.2.

PART II - AUCTION PROCEDURE

SECTION 5 – COMMENCEMENT AND DURATION OF AUCTION

5.1 Only Bidders which have been notified that they are registered Bidders in accordance with Sections 2.2.7 or 2.3.2 will be permitted to participate in the Auction. Bidders which have been excluded from the Auction by notice from IDA pursuant to these Rules, or which have been deemed to have withdrawn from the Auction pursuant to Section 7.5.2, will not be permitted to participate, or participate further, in the Auction or any restart of the Auction (save that a Bidder which has been deemed to have withdrawn from the Auction shall remain bound by any Valid Bid it has submitted at an Exit Price in accordance with Section 7.5.3). IDA may exclude a Bidder from the Auction at any time by giving notice to such Bidder pursuant to Sections 2.3.4, 2.3.5, 2.5.6, 8.1, 13.2 and/or 19.3. Any Valid Bid submitted by a Bidder which is excluded from participation in the Auction pursuant to these Rules shall immediately lapse and cease to have any effect.

5.2 On the Notification Date, IDA will notify all Bidders of:

- (a) the Going Price for the first Round (which shall be equal to the Reserve Price);
- (b) the aggregate number of Bidding Rights of all Bidders for the first Round;
- (c) the Auction schedule, specifying:
 - (i) the time at which the Auction will start and finish on the first day of the Auction;
 - (ii) the time at which each Session and the first Round will start and finish on the first day of the Auction;
 - (iii) the minimum time period for each Round (which will be no less than five minutes); and
 - (iv) the minimum time period between the end of a Round and the start of the following Round (which will be no less than ten minutes)

5.3 The Auction will commence simultaneously in respect of all LMDS Spectrum Lots. The Auction will commence on the Auction Start Date at the time specified in the notification given under Section 5.2 unless Bidders are notified otherwise. The Auction will continue until it is considered closed in accordance with Section 10, unless cancelled, suspended or restarted by IDA pursuant to these Rules. Unless the Bidders are notified otherwise by IDA at any time, the Auction will consist of a series of Rounds which will take place during:

- (a) a morning session to be held on a Business Day, which will start at 9.30 am (or such other time as IDA may from time to time determine) and finish at 12.30 pm (or such other time as IDA may from time to time determine) (*Morning Session*); and
- (b) an afternoon session to be held on a Business Day, which will start at 2.30 pm (or such other time as IDA may from time to time determine) and finish at 5.30 pm (or such other time as IDA may from time to time determine) (*Afternoon Session*).

5.4 Following the end of the last Round of the last Session of each day of the Auction, IDA will notify each Bidder of:

- (a) the time at which the Auction will start and finish on the next Business Day; and
- (b) the time at which each Session will start and finish on the next Business Day;

which times will apply unless Bidders are notified otherwise by IDA.

SECTION 6 – MANUAL BIDDING PROCEDURE

6.1 All Bidders will participate in the Auction at the Auction Location using the Bidding Procedure.

6.2 At or before the Information Session, IDA will issue to each Bidder the bidding instructions to be used in connection with the Bidding Procedure in the Auction. These instructions will contain procedures for authentication and security measures in the Auction.

6.3 The following will apply to the Bidding Procedure:

- (a) each of a Valid Bid Form and a Recess request submitted using the Bidding Procedure will be deemed received by IDA at the time of IDA's messenger's receipt of the envelope containing the relevant documentation;
- (b) any communication to IDA by a Bidder must be made in accordance with such security procedure as is specified in the bidding instructions issued pursuant to Section 6.2;
- (c) IDA may assume that a bid sent or communication made by a Bidder using the security procedure specified in the bidding instructions issued pursuant to Section 6.2 has been authorised and sent by that Bidder and that the information received by IDA is the information communicated by that Bidder;
- (d) no Bidder will in any way or in any proceedings dispute the authentication and/or accuracy of any document or any copy of any document in connection with the Bidding Procedure used in the Auction;

- (e) no Bidder will in any way intercept and/or modify or attempt to intercept and/or modify any communication between IDA and another Bidder using the Bidding Procedure or otherwise; and
- (f) no Bidder will communicate or attempt to communicate with any other Bidder(s) using the Bidding Procedure or otherwise.

6.4 IDA will provide a helpdesk at the Auction Location which Bidders may contact by telephone between the hours of 9.00am and 6.00pm on each Business Day throughout the Auction. Bidders may contact the helpdesk for assistance only in relation to the Bidding Procedure.

SECTION 7 – CONDUCT OF AUCTION

Rounds

7.1.1 The Auction will consist of a series of Rounds.

7.1.2 The first Round will start and finish at the times specified by IDA in the notification referred to in Section 5.2. Each subsequent Round will start and finish at the times specified by IDA in the notification referred to in Section 7.11.1 for the relevant Round.

Bidders' Notifications

7.2 In a Round a Bidder may notify IDA of:

- (a) submission of one or more Valid Bids at the Going Price and/or at an Exit Price, for that Round; and/or
- (b) exercise of one or more Waivers.

Valid Bids

7.3.1 Only a Valid Bid Form submitted in accordance with these Rules will be accepted. A Valid Bid Form:

- (a) must specify the number of LMDS Spectrum Lots for which the relevant Bidder wishes to submit one or more Valid Bids at the Going Price;
- (b) must specify the number of LMDS Spectrum Lots for which the relevant Bidder wishes to submit one or more Valid Bids at an Exit Price, together with the relevant Exit Price(s);
- (c) must only specify Valid Bids in respect of such number of LMDS Spectrum Lots as is equal to or less than the relevant Bidder's number of Bidding Rights for the relevant Round;
- (d) must only specify Valid Bids in respect of such number of LMDS Spectrum Lots as is equal to or less than the maximum limit specified in Section 1.2;

- (e) must be submitted in accordance with the Bidding Procedure and the bidding instructions issued pursuant to Section 6.2;
- (f) must be duly authenticated using the security procedure specified in the bidding instructions issued pursuant to Section 6.2; and
- (g) must be received by IDA prior to the end of the relevant Round.

7.3.2 A Bidder may only submit one Valid Bid Form in a Round and may submit Valid Bids in a Valid Bid Form on as many LMDS Spectrum Lots as it chooses up to the maximum permitted by its Bidding Rights in accordance with Section 7.3.3 and, in any event, not more than the maximum limit specified in Section 1.2.

7.3.3

- (a) If a Valid Bid Form does not comply with these Rules, any bid(s) submitted by that Bidder shall not be considered by IDA as Valid Bids and shall not constitute part of that Bidder's Valid Bid Form.
- (b) If a Valid Bid Form submitted specifies bids in respect of a number of LMDS Spectrum Lots in excess of the number permitted by Section 7.3.1(c) and/or 7.3.1(d), that Bidder shall be deemed to have submitted only such number of Valid Bids as permitted under Sections 7.3.1(c) and/or 7.3.1(d). Any additional bids specified shall not be considered by IDA as Valid Bids and shall not constitute part of that Bidder's Valid Bid Form. Any bids at an Exit Price shall be discounted first and the bids at the lowest Exit Price shall be discounted sequentially.

7.3.4 A Valid Bid can only be submitted at the Going Price or an Exit Price for the relevant Round.

7.3.5 A Valid Bid will constitute a legally binding offer made by the Bidder to IDA in respect of an LMDS Spectrum Lot. Subject to Section 9.4:

- (a) a Valid Bid at the Going Price will remain legally binding until the commencement of the Round immediately following the Round in which the relevant Valid Bid was submitted; and
- (b) a Valid Bid at an Exit Price will remain legally binding until the Bidder is notified by IDA that it is not entitled to the provisional award of an LMDS Spectrum Lot in accordance with Section 11.1 and that the relevant Valid Bid at an Exit Price has not been accepted.

Bidding Rights

7.4.1 In the first Round, a Bidder's number of Bidding Rights is equal to the number of LMDS Spectrum Lots specified by the Bidder in its Initial Offer. In the first Round, each Bidder must submit a Valid Bid Form specifying Valid Bids at the Reserve Price on the same number of LMDS Spectrum Lots as was specified in that Bidder's Initial Offer. No Waiver can be exercised in the first Round.

7.4.2 In each subsequent Round, a Bidder's number of Bidding Rights is equal to the number of LMDS Spectrum Lots in respect of which that Bidder submitted Valid Bids at the Going Price in the immediately preceding Round provided that:

- (a) if a Bidder exercised, or was deemed to have exercised, one or more Waivers in such immediately preceding Round, that Bidder will retain one Bidding Right for each Waiver so exercised for the purpose of determining that Bidder's number of Bidding Rights in the immediately following Round. That Bidder's number of Bidding Rights will be determined for the purpose of the immediately following Round as if no Waiver had been exercised and one or more Valid Bids had been submitted at the Going Price equal in number to the number of Waivers exercised in such immediately preceding Round;
- (b) if a Bidder submitted one or more Valid Bids at an Exit Price in such immediately preceding Round, that Bidder's number of Bidding Rights will be reduced accordingly for the purpose of the immediately following Round and each subsequent Round; and
- (c) if Section 7.10.4(b) or Section 7.10.4(c) applies, a Bidder's number of Bidding Rights will be reduced in the immediately following Round.

7.4.3 A Bidder's number of Bidding Rights cannot be increased in the Auction.

Activity

7.5.1 In a Round, a Bidder is deemed to be active if that Bidder:

- (a) submits one or more Valid Bids in that Round; and/or
- (b) exercises, or is deemed to have exercised, one or more Waivers in accordance with Section 7.10.2 or Section 7.10.4 in that Round.

7.5.2 Any Bidder which is not active in a Round (other than the Final Round) is deemed to have withdrawn from the Auction with effect from the end of that Round.

7.5.3 A Bidder which is not active in a Round (and is therefore deemed to have withdrawn in accordance with Section 7.5.2) and which has submitted a Valid Bid at an Exit Price in a previous Round will remain bound by the provisions of these Rules and such Valid Bid will remain legally binding on it in accordance with these Rules.

7.5.4 For the avoidance of doubt, any Bidder will be deemed to have withdrawn from the Auction pursuant to Section 7.5.2 if, in the relevant Round, that Bidder does not submit a Valid Bid Form specifying at least one Valid Bid and does not exercise, or is not deemed to have exercised, at least one Waiver.

Going Price

7.6.1 The Going Price for each Round will be notified to all Bidders prior to the commencement of each Round in accordance with Section 7.11.1. The same Going Price will apply to all LMDS Spectrum Lots in the relevant Round.

7.6.2 The Going Price is calculated as follows:

- (a) in the first Round, the Going Price is the Reserve Price; and
- (b) in each subsequent Round, the Going Price is the sum of the Going Price in the immediately preceding Round plus the relevant Bid Increment.

Exit Price

7.7.1 An Exit Price can be specified by a Bidder in accordance with Section 7.2 for one or more LMDS Spectrum Lots in respect of which a Valid Bid is submitted. In any Round, an Exit Price must be an amount which is higher than the Going Price for the immediately preceding Round and lower than the Going Price for that Round and must be a multiple of S\$1,000.

7.7.2 For the avoidance of doubt, (a) the submission of a Valid Bid at an Exit Price in an immediately preceding Round will result in a Bidder's number of Bidding Rights being reduced for the purpose of the immediately following Round and each subsequent Round in accordance with Section 7.4.2; and (b) a Bidder which submits a Valid Bid at an Exit Price remains bound by that Valid Bid in accordance with Section 7.5.3, whether or not that Bidder is subsequently deemed to have withdrawn from the Auction.

Bid Increment

7.8 The Bid Increment will be determined by IDA for each Round and shall not exceed 20 per cent. of the Going Price in the immediately preceding Round.

Recesses

7.9.1 Each Bidder is entitled to request one Recess during the Auction.

7.9.2 A Recess may only be requested by a Bidder:

- (a) after the close of a Round and before the start of the next Round;
- (b) after the start of a Session but before the start of the first Round in that Session; or
- (c) following the end of the last Round in a Session but before the end of that Session;

(each a ***Recess Request Period***).

Recesses may be requested only by notifying IDA in accordance with the Recess request procedure in the Bidding Procedure.

7.9.3 If IDA receives a Recess request notification during a Recess Request Period:

- (a) during a Morning Session, IDA will notify all Bidders following the end of that Recess Request Period that the Auction is in recess and no Rounds will

take place for the remainder of that Business Day and that the Auction will recommence at the beginning of the Morning Session of the following Business Day; or

- (b) during an Afternoon Session, IDA will notify all Bidders following the end of that Recess Request Period that the Auction is in recess and no Rounds will take place for the remainder of that Business Day and the Morning Session of the following Business Day and that the Auction will recommence at the beginning of the Afternoon Session of the following Business Day.

7.9.4 If more than one Bidder notifies IDA in the same Recess Request Period that it requests a Recess in accordance with Section 7.9.2, IDA will employ a random draw method to determine which Bidder will be deemed to have requested a Recess.

7.9.5 IDA may at any time notify Bidders that the current or any subsequent Business Day or any part thereof will be a Recess during which no Rounds will take place.

Waivers

7.10.1 Each Bidder has three Waivers available to it, which it may exercise in accordance with Section 7.10.2 or which it may be deemed to have exercised in accordance with Section 7.10.4. One Waiver is exercisable only in relation to one Bidding Right and each Waiver is exercisable only once. All references in these Rules to a Waiver being “available to a Bidder” are references to a Waiver which a Bidder has not previously exercised, or been deemed to have exercised in accordance with Section 7.10.2 or Section 7.10.4.

7.10.2 A Bidder may exercise one or more Waivers in a Round by giving notification to IDA using the Bidding Procedure during that Round, which notification must be received by IDA prior to the end of the relevant Round.

7.10.3 A Waiver is exercisable in relation to one Bidding Right. A Bidder which exercises, or is deemed to have exercised, a Waiver in a Round, will retain the Bidding Right to which such Waiver relates in the immediately subsequent Round. A Bidder which exercises, or is deemed to have exercised more than one Waiver in a Round will retain each of the Bidding Rights to which such Waivers relate.

7.10.4 Where, before the end of a Round, a Bidder has not submitted to IDA a Valid Bid Form specifying Valid Bids equal in number to that Bidder’s number of Bidding Rights and has not notified IDA of the exercise of one or more Waivers in that Round by notification to IDA in accordance with Section 7.10.2:

- (a) such Bidder will automatically be deemed to have exercised such number of Waivers as will result in that Bidder retaining its current number of Bidding Rights in the immediately following Round, if such number of Waivers remain available to the Bidder and provided that Bidder has not previously exercised, or been deemed to have exercised, all its Waivers in accordance with Section 7.10.2 or this Section 7.10.4; or

- (b) if that Bidder does not have a sufficient number of Waivers available to it as referred to in Section 7.10.4(a) that Bidder will automatically be deemed to have exercised all its available Waivers and that Bidder's number of Bidding Rights in the immediately following Round will be reduced in accordance with Section 7.4.2. For the avoidance of doubt, that Bidder will automatically lose the number of Bidding Rights in respect of which it either failed to submit a Valid Bid at the Going Price or was deemed to have exercised a Waiver; and
- (c) if that Bidder has no Waiver available to it, that Bidder's number of Bidding Rights in the immediately following Round will be reduced in accordance with Section 7.4.2. For the avoidance of doubt, that Bidder will automatically lose the number of Bidding Rights in respect of which it failed to submit a Valid Bid at the Going Price in that Round.

Notification by IDA before the start of each Round

7.11.1 Before the start of each Round, IDA will notify all Bidders which have not been excluded or deemed to have withdrawn from the Auction, of:

- (a) the time at which the following Round will start and finish;
- (b) the Going Price for the immediately preceding Round;
- (c) the aggregate number of Bidding Rights remaining in the following Round;
- (d) the aggregate number of Waivers remaining in the following Round;
- (e) the identity of any Bidders which are excluded or are deemed to have withdrawn from the Auction at the end of the immediately preceding Round in accordance with the provisions of the Rules; and
- (f) the Going Price for the following Round.

7.11.2 Before the start of each Round, IDA will notify separately each Bidder which has not been excluded or deemed to have withdrawn from the Auction, of:

- (a) that Bidder's number of Bidding Rights remaining in the following Round;
- (b) that Bidder's number of Waivers remaining in the following Round; and
- (c) the amount of any Exit Price(s) specified by that Bidder in previous Rounds and the Rounds in which Valid Bid(s) at such Exit Price(s) were submitted, which will remain legally binding on that Bidder in accordance with these Rules.

Continuation of the Auction

7.12.1 The Auction will continue until it is closed in accordance with Section 10.

7.12.2 If IDA determines to restart the Auction in accordance with Section 9.3(ii), IDA will notify all Bidders of the Round at which the Auction will be restarted and

the information referred to in Section 7.11.1(a), (b), (c) and (d) in respect of that Round.

7.12.3 If IDA determines to restart the Auction in accordance with Section 9.3(iii), IDA will notify each Bidder separately of the Round at which the Auction will be restarted and the information referred to in Section 7.11.2(a), (b) and (c) in respect of that Round.

7.12.4 If IDA determines to suspend the Auction in accordance with Section 9.3(iv), IDA will notify each Bidder that the Auction is suspended and, if determined at such time, the time and date at which the Auction will be restarted.

SECTION 8 – EXCLUSION/FORFEITURE OF GUARANTEED AMOUNT

Exclusion

8.1 If at any time IDA determines that a Bidder has failed to comply with one or more of the Rules or the procedures relating to the Auction (including without limitation the Bidding Procedure) or otherwise acted in a manner which IDA considers to be prejudicial to the Auction, IDA may upon notification to that Bidder at any time exclude that Bidder from the Auction and that Bidder may not participate, or participate further, in the Auction or any restart of the Auction.

Forfeiture of Guaranteed Amount

8.2.1 IDA may determine that a Bidder shall forfeit all or part of that Bidder's Guaranteed Amount in any of the circumstances specified in Section 8.2.2 by serving a Forfeiture Notice on that Bidder. A Forfeiture Notice will be given, and deemed received, in accordance with Section 18.2. Forfeitures will be settled in accordance with Section 12.

8.2.2 IDA may serve a Forfeiture Notice on a Bidder in each of the following circumstances:

- (a) if that Bidder acts in a manner that disrupts the Auction;
- (b) if that Bidder is excluded from the Auction pursuant to Section 8.1;
- (c) if that Bidder engages in any of the prohibited activities referred to in Sections 13, 14 or 15;
- (d) if that Bidder does not comply with any of its obligations under Section 19;
- (e) if that Bidder fails to make any payment due to IDA under Sections 2.7.3 or 12 within the relevant time period specified in the relevant Section;
- (f) if that Bidder fails to submit an Additional Bank Guarantee in accordance with Section 2.5.4;
- (g) if that Bidder does not participate in the Auction having submitted an Initial Offer; or

- (h) if that Bidder submits a Valid Bid or notifies IDA of the exercise of a Waiver or a Recess request otherwise than in accordance with the Rules or the Bidding Procedure.

8.2.3 The amount which shall be forfeited by a Bidder in any of the circumstances specified in Section 8.2.2 shall be determined by IDA, provided that the aggregate of the amounts forfeited by a Bidder shall not exceed the relevant Bidder's Guaranteed Amount at the time the Forfeiture is determined.

SECTION 9 – RESTARTING

9.1 If at any time before or during a Round IDA considers it necessary to cancel, suspend or abandon that Round due to any circumstance, IDA will notify all Bidders:

- (a) that such Round will not proceed or will be suspended or abandoned (as the case may be); and
- (b) of the time at which such Round will be restarted.

9.2 When IDA has notified Bidders that a Round will be abandoned after its commencement, it will be restarted as if that Round had not taken place.

9.3 In the event that:

- (a) one or more Bidders is excluded from the Auction and IDA considers that the conduct of the excluded Bidder(s) or the fact of their exclusion may have a material effect on the identity of the Bidder(s) which would be granted an LMDS Spectrum Right and/or the amount payable for the LMDS Spectrum Right Initial Payment; or
- (b) IDA becomes aware that an error has occurred in registering the value of a bid submitted by a Bidder in a previous Round and IDA considers that the error is such that, if the Auction proceeds, the error may have a material effect on the identity of the Bidder(s) which would be granted an LMDS Spectrum Right and/or the amount of the LMDS Spectrum Right Initial Payment,

IDA may, having consulted all Bidders (other than, in the event of Section 9.3(a), the excluded Bidder(s)),

- (i) continue the Auction;
- (ii) restart the Auction with the first Round; or
- (iii) restart the Auction commencing with the start of the Round in which the error referred to in Section 9.3(b) occurred or, in the event of an exclusion due to grounds set out in Section 9.3(a), commencing with the start of the Round in which the results of the Auction were or may have been materially affected by the conduct of the excluded Bidder(s); or
- (iv) suspend the Auction until such time and date as IDA may determine.

- 9.4 In the event that IDA determines to restart the Auction:
- (a) any excluded Bidder(s) will not be entitled to participate in the Auction or any restart of the Auction;
 - (b) each Bidder's number of Waivers remaining and the number of Recesses which may be requested by each Bidder shall be re-calculated to equate with such number as applied to the relevant Bidder at the original start of the Round at which the Auction is restarted; and
 - (c) any Round(s) subsequent to the original Round at which the Auction is restarted shall, subject to Section 9.5, be deemed not to have taken place and any Valid Bid submitted in the original Round at which the Auction is restarted shall be legally binding and capable of acceptance by IDA.
- 9.5 Any restart of a Round or the Auction will not affect any Forfeiture determined by IDA pursuant to Section 8.2.1.
- 9.6 If IDA returns Bank Guarantees to Bidders during a suspension of the Auction, equivalent Bank Guarantees must be submitted to IDA prior to any restart of the Auction.

SECTION 10 – CLOSING OF THE AUCTION

- 10.1 The Auction will close simultaneously in relation to each of the LMDS Spectrum Lots.
- 10.2 The Auction will be closed at the first time a Round ends during which:
- (a) the aggregate number of Bidding Rights is sixteen or less; and
 - (b) no Bidder exercised, or was deemed to have exercised, a Waiver in accordance with Section 7.10.2 or Section 7.10.4.
- 10.3 IDA will notify each Bidder of the closing of the Auction.

SECTION 11 – PROVISIONAL AWARDS OF LMDS SPECTRUM RIGHTS

- 11.1 LMDS Spectrum Rights will be provisionally awarded within two Business Days following the close of the Auction (or such longer period as IDA determines, which will not exceed four Business Days) as follows:
- (a) each Bidder which submitted a Valid Bid at the Going Price in the Final Round will be awarded an LMDS Spectrum Right in respect of such number of LMDS Spectrum Lots as is equal to the number of Valid Bids it submitted at the Going Price in the Final Round;
 - (b) in the event that there are any LMDS Spectrum Lots not awarded in accordance with Section 11.1(a) above, then all Exit Prices specified by Bidders in any Round will be ranked by value in descending order and such

LMDS Spectrum Lots will be provisionally awarded to the Bidder(s) which submitted Valid Bids specifying the highest ranked Exit Price(s); and

- (c) in the event there are any ties in the ranking of the amounts of Exit Prices specified by Bidders under Section 11.1(b) above, a random draw method will be used to select the Bidder(s) to which the relevant LMDS Spectrum Lot(s) will be provisionally awarded.

11.2

- (a) The Base Year Charge for an LMDS Spectrum Lot awarded pursuant to Section 11.1(a) shall be equal to the Going Price in the Final Round.
- (b) The Base Year Charge for an LMDS Spectrum Lot awarded pursuant to Section 11.1(b) and (c) shall be equal to the Exit Price submitted by the Bidder to which such LMDS Spectrum Lot is awarded.
- (c) The Annual Charge for an LMDS Spectrum Lot shall be an amount equal to the Base Year Charge in the first year of the duration of an LMDS Spectrum Right and shall increase by 2.5% in each subsequent year.

11.3 Within two Business Days of the closing of the Auction (or such longer period as IDA determines, which will not exceed four Business Days), IDA will issue to each Bidder entitled to the provisional award of an LMDS Spectrum Right in accordance with Section 11.1 a Provisional Award Notice notifying that Bidder of:

- (a) the number of LMDS Spectrum Lot(s) included in the LMDS Spectrum Right which that Bidder is provisionally awarded;
- (b) details of the frequencies at which the relevant LMDS Spectrum Right will permit the provision of FWB or any other communication services;
- (c) the sum of the Base Year Charges in respect of the LMDS Spectrum Lots included in the relevant LMDS Spectrum Right;
- (d) the sum of the Annual Charges in respect of the LMDS Spectrum Lots included in the relevant LMDS Spectrum Right;
- (e) the Application and Processing Fee in respect of each LMDS Spectrum Right;
- (f) the aggregate of any Forfeitures to be settled by that Bidder (***Forfeiture Amount***); and
- (g) details of the IDA Bank Account.

11.4 Within two Business Days of the close of the Auction (or such longer period as IDA determines, which will not exceed four Business Days), IDA will publicly announce:

- (a) the identity of each Bidder entitled to a provisional award of an LMDS Spectrum Right in accordance with Section 11.1; and

- (b) the Base Year Charge payable in respect of each LMDS Spectrum Lot.

PART III - GRANT OF LMDS SPECTRUM RIGHTS

SECTION 12 – SETTLEMENT OF LMDS SPECTRUM RIGHT INITIAL PAYMENT AND FORFEITURES (IF ANY) AND GRANT OF LMDS SPECTRUM RIGHTS

12.1 If upon the closing of the Auction a Bidder is not entitled to a provisional award of an LMDS Spectrum Right and is not subject to any Forfeitures, that Bidder's Bank Guarantee will be returned to that Bidder within ten Business Days of the close of the Auction.

12.2 If upon the close of the Auction a Bidder is not entitled to a provisional award of an LMDS Spectrum Right but is subject to one or more Forfeitures, the Forfeiture Amount payable by that Bidder will be transferred by that Bidder within seven Business Days of the close of the Auction to such bank account as is notified by IDA. If the aggregate Forfeiture Amount is received in the relevant account within seven Business Days of the close of the Auction, that Bidder's Bank Guarantee will be returned to that Bidder within twenty Business Days of the close of the Auction. If the Forfeiture Amount is not received in the relevant account within seven Business Days of the close of the Auction, IDA may draw upon that Bidder's Bank Guarantee for the amount of the Forfeiture Amount.

12.3 If upon the close of the Auction a Bidder is entitled to a provisional award of an LMDS Spectrum Right in respect of one or more LMDS Spectrum Lots, within seven Business Days of the close of the Auction that Bidder will transfer to the IDA Bank Account the LMDS Spectrum Right Initial Payment and, if that Bidder is subject to one or more Forfeitures, the Forfeiture Amount payable by that Bidder. If the LMDS Spectrum Right Initial Payment, and any Forfeiture Amount payable, is received in the IDA Bank Account on or prior to the date which is seven Business Days after the date of the close of the Auction (*Final Payment Date*), IDA will (a) grant that Bidder an LMDS Spectrum Right in respect of the number of LMDS Spectrum Lot(s) included in the LMDS Spectrum Right provisionally awarded to that Bidder, and (b) return that Bidder's Bank Guarantee to that Bidder within seven Business Days of the Final Payment Date. If the LMDS Spectrum Right Initial Payment or any Forfeiture Amount payable by that Bidder is not received in the IDA Bank Account on or prior to the Final Payment Date, that Bidder will not be granted an LMDS Spectrum Right and IDA may determine that that Bidder is subject to a further Forfeiture in accordance with Section 8.2.2 and IDA may draw upon that Bidder's Bank Guarantee for the aggregate amount of the Forfeiture Amount and the amount of any further Forfeiture payable pursuant to this Section 12.3.

12.4 An LMDS Spectrum Right granted in accordance with Section 12.3 shall be effective as of 1 November 2001 in accordance with the terms and conditions of such LMDS Spectrum Right. If the procedure for award of LMDS Spectrum Rights has not been completed by that date, the LMDS Spectrum Rights shall become effective on such later date as IDA may determine. Payment of an LMDS Spectrum Right Initial Payment shall constitute settlement of the Base Year Charge for an LMDS Spectrum Right.

12.5 In the event that the LMDS Spectrum Right Initial Payment and any Forfeiture Amount is not received by IDA in accordance with Section 12.3 from a Bidder which has been provisionally awarded an LMDS Spectrum Right (a *Defaulting Bidder*), IDA will revoke such provisional award and no LMDS Spectrum Right will be granted to the Defaulting Bidder. IDA may allocate the number of LMDS Spectrum Lot(s) included in such LMDS Spectrum Right which was provisionally awarded in another auction which may be subject to rules which are different from these Rules or by any other allocation method which IDA considers appropriate.

12.6 The LMDS Spectrum Right Initial Payment shall represent settlement of the Base Year Charge in respect of each LMDS Spectrum Lot included in an LMDS Spectrum Right. The Annual Charge payable in each subsequent year of the duration of an LMDS Spectrum Rights in respect of each LMDS Spectrum Lot included in an LMDS Spectrum Right shall be payable in accordance with the terms and conditions of such LMDS Spectrum Right.

12.7 Any GST payable on any sum payable to IDA pursuant to these Rules or an LMDS Spectrum Right, including a Base Year Charge, an Annual Charge or an Application and Processing Fee shall be payable by the relevant Bidder.

12.8 A Bidder which is provisionally awarded an LMDS Spectrum Right and which has paid the LMDS Spectrum Right Initial Payment and any Forfeiture Amount payable by that Bidder prior to the Final Payment Date in accordance with Section 12.3 may, by notice in writing delivered to IDA prior to the Final Payment Date, request that:

- (a) the relevant LMDS Spectrum Right be granted to an entity which complies with Section 1.4 and which is owned and controlled by the Bidder and other persons in accordance with the information provided in that Bidder's Application Form and Initial Offer and any clarification or additional information and documents submitted by that Bidder; and
- (b) the time period set out in Section 12.3 for grant of the relevant LMDS Spectrum Right be extended by up to fourteen Business Days from the Final Payment Date in order that the entity referred to in Section 12.8(a) can be established,

provided that such Bidder has indicated in its Application Form and Initial Offer that it may wish to serve such a notice under this Section 12.8. No LMDS Spectrum Right will be granted to an entity which is not owned and controlled by the relevant Bidder and other persons, if any, in accordance with the information provided in that Bidder's Application Form and Initial Offer and any clarification or additional information and documents submitted by that Bidder.

PART IV - PROHIBITED ACTIVITIES

SECTION 13 – COLLUSION, DISCLOSURE OF INFORMATION, MISLEADING OR FALSE INFORMATION, AND CONNECTED PERSONS

13.1 Before and during the Auction no Bidder may:

- (a) disclose any Confidential Information, whether directly or indirectly, to any person other than IDA or the persons named in the Disclosure List submitted by that Bidder, provided that no Confidential Information may be disclosed by a Bidder to a person named in such Disclosure List if IDA has notified that Bidder that disclosure is not permitted to such person because that person is also named in the Disclosure List submitted by any other Bidder or otherwise; or
- (b) collude or enter into any arrangement for purposes of colluding with any other Bidder(s) in an attempt to influence the proceedings or results of the Auction or any allocation of the LMDS Spectrum Lots.

Each Bidder will remain bound by the provisions of this Section 13.1 until the earlier of the grant of the LMDS Spectrum Rights and the closing of the Auction, notwithstanding that any such Bidder may be deemed to have withdrawn from the Auction or may be excluded from the Auction in accordance with the provisions of these Rules.

13.2 If IDA determines that any Bidder has disclosed any Confidential Information in breach of the obligation pursuant to Section 13.1 or has colluded or is colluding with any other Bidder(s), such Bidder will upon notification be excluded from the Auction and may not participate, or participate further, in the Auction or any restart of the Auction.

13.3 If IDA does not become aware of any breach of Section 13.1 until after the grant of the LMDS Spectrum Rights or the closing of the Auction and any Bidder considered by IDA to have been involved in such breach was provisionally awarded or granted an LMDS Spectrum Right, then if IDA in its sole discretion determines appropriate, the provisional award or grant of the LMDS Spectrum Right (as the case may be) will be revoked.

13.4 No Bidder will submit an Initial Offer or any document attached thereto, or any document submitted in response to a request for clarification from IDA, which contains any information which the Bidder knows to be, or has reason to believe may be, false or misleading.

13.5 Any person who is an employee of a Bidder or a member of a Bidder's Group and who is also an employee of one or more other Bidders or other Bidders' Group(s) (for the purpose of this Section 13, a **Connected Person**) will be excluded from participating, directly or indirectly, in the Auction. Each Bidder is obliged to ensure that:

- (a) any Connected Person is not in any way involved in the Bidder's preparation for, or participation in, the Auction;
- (b) no Confidential Information is disclosed to or otherwise enters the possession of any Connected Person; and
- (c) no Connected Person is an Authorised Representative.

13.6 For the purpose of this Section 13, **Bidder** shall include a person which has submitted an Application Form, Initial Offer and/or a Bank Guarantee in accordance with Section 2.1.

SECTION 14 – ANTI-COMPETITIVE ACTIVITY

14.1 No Bidder will enter into, or permit to subsist, any arrangement whatsoever, (whether oral or in writing, formal or informal) with any equipment provider or software supplier or other person which places or may place any restriction on the quantities of equipment or software or other goods or services which the provider, supplier or other person supplies or offers to supply to another Bidder or on the price or any other term or condition upon which such equipment or software or other goods or services is supplied or offered to be supplied to any other Bidder in connection with planning, building or operating a network to be operated in relation to an LMDS Spectrum Lot.

14.2 For the purpose of this Section 14, **Bidder** shall include any person which has submitted an Application Form, Initial Offer and/or a Bank Guarantee in accordance with Section 2.1 and any Bidder which has been deemed to withdraw or has been excluded from the Auction.

SECTION 15 – ADVISERS AND OBSERVERS

15. No Bidder will seek or obtain advice regarding the Auction from the legal advisers to IDA, Freshfields Drew & Napier, provided that this will not prevent a provider or prospective provider of finance to a Bidder from receiving advice for that purpose from an adviser to IDA, including the above-mentioned adviser, provided that that adviser is not itself a Bidder.

PART V – GENERAL

SECTION 16 – IDA'S DISCRETIONARY POWERS AND DISCLAIMERS

- 16.1 Notwithstanding any other provision in these Rules, IDA may at any time:
- (a) change any of the times or dates and/or shorten or extend any of the time periods referred to in or determined pursuant to these Rules (including the date on which an LMDS Spectrum Right is to become effective), provided that IDA will give all Bidders at least 24 hours notice of any such change, save in emergency situations where such changes may be made without notice; and/or

- (b) change the Auction Location, provided that IDA will give all Bidders at least 24 hours notice of any such change; and/or
- (c) change the address of the Auction Website, provided that IDA will publicly announce the new address; and/or
- (d) delay, cancel or suspend a Round, a Session and/or the Auction if in the opinion of IDA this is in the public interest.

16.2 IDA will have sole discretion in making any determination pursuant to these Rules and may take into account all or any facts, circumstances or matters which it considers to be relevant.

PART VI – MISCELLANEOUS

SECTION 17 – QUERIES RELATING TO RULES

17.1 Any person participating in the Auction must take all necessary steps to carefully examine and acquaint itself with the Rules. The submission of an Application Form, Initial Offer and/or Bank Guarantee in accordance with Section 2.1 shall be deemed to constitute such person's acknowledgement of, and agreement to abide by, the Rules.

17.2 Any person considering participating in the Auction may submit to IDA written queries relating to the Rules or the Auction, provided that any such queries are received by IDA at least eight Business Days prior to the Application Date.

17.3 IDA has no obligation to respond to any such query. If IDA responds to any such query, IDA will notify its response to the person which submitted the query and any other interested persons.

SECTION 18 – COMMUNICATIONS AND NOTIFICATIONS

18.1 Any notification or other communication (other than an Initial Offer) to be given to IDA by a Bidder must be in writing and signed by or on behalf of the person giving it and must be delivered by hand or sent by fax to:

Info-communications Development Authority of Singapore
8 Temasek Boulevard
#14-00 Suntec Tower 3
Singapore 038988

Facsimile No.: (65) 211-2238

For the attention of: Ms. Ng Cher Keng.

Any such notification or other communication:

- (a) if delivered by hand, will be deemed received by IDA when delivered;

- (b) if sent by fax, will be deemed received by IDA at the time of transmission (provided instantaneous confirmation of transmission is received by the sender)

provided that where delivery occurs after 6pm on a Business Day or on a day which is not a Business Day, receipt will be deemed to occur at 9am on the next following Business Day.

18.2 Unless specified otherwise, any notification or other communication to be given by IDA to a Bidder must be in writing and delivered by hand or sent by fax to the address or fax number given for such purposes in the Initial Offer.

Any notification or other communication:

- (a) if delivered by hand, will be deemed received when delivered;
- (b) if sent by fax, will be deemed received at the time of transmission (provided instantaneous confirmation of transmission is received by the sender)

provided that where delivery occurs after 6pm on a Business Day or on a day which is not a Business Day, receipt will be deemed to occur at 9 am on the next following Business Day.

18.3 During the Auction, all notifications and other communications made pursuant to Part II of these Rules between IDA and any Bidder must be sent using the Bidding Procedure, provided that IDA may at any time send any notification or other communication by fax in accordance with Section 18.2.

SECTION 19 – DUTY TO INFORM IDA

19.1 If at any time during the Auction a Bidder knows or ought reasonably to have known that IDA has made an error with regard to a bid or other information communicated to one or more Bidders, the Bidder will inform IDA in accordance with Section 18.3 of the error at the earliest opportunity.

19.2 If a Bidder ought reasonably to have known that IDA would be likely to determine it to be an Associated Bidder in relation to one or more of the other Bidders in the Auction if IDA were aware of all relevant information, such Bidder will notify IDA of all relevant information at the earliest opportunity.

19.3 If a Bidder becomes aware of any change in the ownership and/or control structure of the Bidder (direct or indirect) or of any shareholder of the Bidder, or any other material information submitted in the Application Form and Initial Offer or any documents attached thereto, or any document submitted in response to a request for clarification from IDA, the Bidder will notify IDA of such change in writing in accordance with Section 18.1 at the earliest opportunity. If IDA determines that such Bidder is no longer eligible to be granted an LMDS Spectrum Right as a result of such change in ownership and/or control structure:

- (a) IDA may upon notification to that Bidder exclude that Bidder from the Auction and that Bidder may not participate, or participate further, in the Auction or any restart of the Auction, or
- (b) if the close of the Auction has taken place and the relevant Bidder is entitled to a provisional award of an LMDS Spectrum Right, IDA may upon notification to that Bidder determine that the number of LMDS Spectrum Lot(s) included in the LMDS Spectrum Right provisionally awarded to that Bidder will not be provisionally awarded to that Bidder and that no LMDS Spectrum Right will be granted to that Bidder.

19.4 Any change in ownership and/or control as referred to in Section 19.3 shall be deemed to take place on the earlier of the date on which the relevant transaction documentation is signed (whether conditional or unconditional) and the date on which the relevant transaction is completed.

SECTION 20 – GOVERNING LAW AND JURISDICTION

20.1 These Rules and the relationship between IDA and each of the Bidders shall be governed, by and interpreted in accordance with, Singapore law.

20.2 The courts of Singapore are to have exclusive jurisdiction to settle any disputes which may arise in connection with the creation, validity, effect, interpretation or performance of, or the legal relationships established by, these Rules or otherwise arising in connection with these Rules. The submission of an Initial Offer shall be deemed to constitute each of such Bidders' irrevocable submission to the jurisdiction of the courts of Singapore.

PART VII- DEFINITIONS

Additional Bank Guarantee means a Bank Guarantee submitted pursuant to Section 2.5.4;

Afternoon Session has the meaning given in Section 5.3(b);

Annual Charge(s) means the annual charge payable in respect of each LMDS Spectrum Lot awarded pursuant to the Auction as determined in accordance with Section 11.2(c) excluding the applicable GST;

Application and Processing Fee means the application and processing fee for use of radio frequencies of S\$9,300 for each LMDS Spectrum Lot included in an LMDS Spectrum Right excluding the applicable GST;

Application Date means:

- (a) 12 September 2001; or
- (b) such later date as IDA may otherwise notify the Bidders, provided that such notification will be made no later than two Business Days before 12

September 2001 and provided that the Application Date will be no less than five Business Days before the Auction Start Date;

Application Form means the application form to be submitted by an interested person, the form of which is attached as Appendix 2 to the Information Memorandum;

Associated Bidder means any person which has submitted an Application Form which is determined by IDA to be associated with any other person which has submitted an Application Form. For purposes of this definition, where an Application Form submitted indicates that a notice may be served under Section 12.8, **any person** shall include any person or company which will be a shareholder or proprietor of, or partner in, or otherwise an owner of, the entity to be established which complies with Section 1.4;

Associated Bidder Group means two or more persons which IDA has determined are Associated Bidders in relation to each other;

Auction means the procedure specified in these Rules for granting LMDS Spectrum Right(s) in respect of all or any of the LMDS Spectrum Lots;

Auction Location means the location at which the Auction is held;

Auction Start Date means the date on which the Auction will start, which date will be:

- (a) 28 September 2001; or
- (b) such later date as IDA may otherwise notify the Bidders provided that such notification will be made no later than two Business Days before 28 September 2001;

Auction Website means IDA's Internet Website at www.ida.gov.sg;

Authorised Representative means a person whom a Bidder has authorised to act in the Auction on its behalf, the particulars of whom have been submitted to IDA in accordance with Section 2.4.1(b) or Section 3.4, as the case may be;

Bank Guarantee means an irrevocable, standby bank guarantee issued by a financial institution, licensed by the Monetary Authority of Singapore to provide the full scope of services falling within the definition of banking business in the Banking Act (Cap. 19) substantially in the form attached as Appendix 4 to the Information Memorandum or with such amendments as may be approved in writing by IDA, and where appropriate **Bank Guarantee** includes an Additional Bank Guarantee (provided that the form of the Additional Bank Guarantee shall be provided to Bidders at the Trial Auction and shall be substantially in the form attached as Appendix 4 to the Information Memorandum);

Base Year Charge means the annual charge payable in the first year of the seven year duration of each LMDS Spectrum Right, in respect of each LMDS Spectrum Lot

awarded pursuant to the Auction, as determined in accordance with Section 11.2(a) or (b) or Section 2.7.1 excluding the applicable GST;

Bid Increment means the amount by which the Going Price in a Round is increased in the immediately following Round as determined in accordance with Section 7.8;

Bidder means any person which (a) is an entity which complies with Section 1.4, (b) has submitted an Application Form, Initial Offer and Bank Guarantee in accordance with Section 2.1, (c) is notified that it is a registered Bidder pursuant to Section 2.2.7, (d) has not been notified of its exclusion from the Auction by IDA, and (e) has not been deemed to have withdrawn from the Auction pursuant to Section 7.5.2;

Bidding Procedure means the manual bidding procedure described in the bidding instructions referred to in Section 6.2;

Bidding Right means a right of a Bidder to submit a Valid Bid in respect of an LMDS Spectrum Lot in accordance with Section 7.4.1 to Section 7.4.3 (and ***Bidding Rights*** shall be construed accordingly);

Business Day means a day (excluding Saturdays, Sundays and public holidays) on which banks are generally open in Singapore for the transaction of normal banking business;

Confidential Information means any information whatsoever directly or indirectly relating to any proposed action or omission by a Bidder relating to the Auction, any information pertaining to the results or the proceedings of the Auction or any information, whether oral or in writing, which has not been made public by IDA, which if made public or disclosed would be likely to have an effect on the amount which any Bidder proposes to bid, including without limitation information relating to a Bidder's business case, auction strategy and any amount a Bidder is willing to bid, but excluding any information which enters the public domain other than as a result of a breach by any Bidder of the Rules. For the purposes of this definition, a reference to a Bidder will be deemed to include any Bidder excluded from the Auction by IDA or deemed to have withdrawn from the Auction pursuant to Section 7.5.2;

Connected Person has the meaning given in Section 13.5;

Defaulting Bidder has the meaning given in Section 12.5;

Disclosure List means a list of all persons to whom Confidential Information has been disclosed or it is proposed that Confidential Information will be disclosed by any Bidder which has submitted an Initial Offer, which list is provided to IDA by that Bidder in accordance with paragraph 1.8 of the Application Form;

Exit Price means, in a Round, a price a Bidder specifies in respect of a Valid Bid for an LMDS Spectrum Lot which is in accordance with the limits set out in Section 7.7.1;

Final Payment Date for the purpose of Section 2.7.3 has the meaning given in Section 2.7.3 and, to the purpose of Section 12.3 has the meaning given in Section 12.3;

Final Round means the last Round prior to the close of the Auction in accordance with Section 10.2;

Forfeiture means the forfeiture of all or part of a Bidder's Guaranteed Amount as may be determined by IDA in accordance with Section 8.2;

Forfeiture Amount has the meaning given in Section 11.3(f);

Forfeiture Notice means a notice in writing of the imposition of a Forfeiture pursuant to Section 8.2.1;

FWB means fixed wireless broadband;

Going Price means, in a Round, the price specified by the IDA at which Valid Bids may be submitted for the LMDS Spectrum Lots as calculated in accordance with Section 7.6.2 and rounded down to the nearest multiple of S\$1000;

Group means, in relation to a Bidder:

- (a) any holding company of the Bidder;
- (b) any subsidiary of the Bidder;
- (c) any subsidiary of any holding company of the Bidder; and
- (d) any other company in which two or more of the shareholders or directors (directly or indirectly) own more than 50 per cent. of or control more than 50 per cent. of the voting rights attaching to, shares of the Bidder;

and for the purpose of this definition, the terms **holding company** and **subsidiary** will have the meanings given in the Singapore Companies Act (Cap 50);

GST means goods and services tax payable in accordance with the Goods and Services Tax Act (Cap 117A);

Guaranteed Amount means, in relation to a Bidder, the aggregate of that Bidder's Initial Guaranteed Amount and, where applicable, the face amount for which any Additional Bank Guarantee has been submitted in accordance with Section 2.5.4;

IDA means the Info-communications Development Authority of Singapore;

IDA Bank Account means the bank account to which payments are to be made as notified by IDA pursuant to Section 2.7.1(e) or Section 11.3(g);

Information Memorandum means the information memorandum issued by IDA dated 17 August 2001 relating to the grant of LMDS Spectrum Rights in respect of all or any of the LMDS Spectrum Lots;

Information Session means the information session held in accordance with Section 3;

Initial Guaranteed Amount means the face amount for which a Bank Guarantee is submitted with an Initial Offer, which amount shall be calculated in accordance with Section 2.5.2;

Initial Offer means:

- (a) an initial offer document submitted by a Bidder in accordance with Section 2.1, the form of which is attached as Appendix 3 to the Information Memorandum; and/or
- (b) a legally binding offer made by a Bidder in its Initial Offer to acquire one or more LMDS Spectrum Lot(s), each at its Reserve Price;

as appropriate;

LMDS Spectrum Lot means the generic frequency bandwidth which may be used for provision of FWB or any other communication services as referred to in Section 1.1, subject to the grant of an LMDS Spectrum Right in respect of the LMDS Spectrum Lot;

LMDS Spectrum Right means the right to use the frequencies specified in that LMDS Spectrum Right for provision of FWB or any other communication services in accordance with the relevant terms and conditions;

LMDS Spectrum Right Initial Payment means, in relation to an LMDS Spectrum Right, the Base Year Charge for each LMDS Spectrum Lot included in that LMDS Spectrum Right plus the Application and Processing Fee;

Morning Session has the meaning given in Section 5.3(a);

Notification Date means the date on which IDA notifies Bidders of all possible Valid Bids in respect of the LMDS Spectrum Lots for the first Round and such other information as is specified in Section 5.2, which date will be no later than two Business Days before the Auction Start Date;

person means any natural person, partnership (irrespective of the jurisdiction in which such partnership is registered), company (irrespective of the jurisdiction in which such company is incorporated), association or body of persons (whether corporate or unincorporate);

Provisional Award Notice means a provisional award notice issued to a Bidder pursuant to Section 2.7.1 or Section 11.3;

Recess means a period of time during which there are no further Rounds as determined in accordance with Section 7.9.1 to Section 7.9.5;

Recess Request Period has the meaning given in Section 7.9.2;

Related Person means, in relation to a person which submits an Application Form:

- (a) any member of that person's Group; and
- (b) where it is proposed that a Singapore Entity (as defined in the Application Form) be established to which an LMDS Spectrum Right is to be granted if the person which submits an Application Form is successful:
 - (i) any Proposed Investor (as defined in the Application Form);
 - (ii) any member of any Proposed Investor's Group; and
 - (iii) any entity which any two or more Proposed Investors control (as defined in the Application Form);

Reserve Price means the price below which an LMDS Spectrum Lot will not be awarded, being S\$41,400 in respect of each LMDS Spectrum Lot;

Round means any single period in which Valid Bids may be submitted;

Rules means these rules published by IDA relating to the procedures by which IDA may allocate the LMDS Spectrum Lots and/or grant LMDS Spectrum Rights in respect of the LMDS Spectrum Lots, as amended or varied by IDA from time to time in accordance with these rules;

Session means a Morning Session or an Afternoon Session, as appropriate;

SingTel Group means Singapore Telecommunications Ltd, the incumbent local exchange carrier in Singapore and its related corporations (as defined in the Companies Act (Cap. 50));

Trial Auction means the trial auction held in accordance with Section 3;

Valid Bid means a bid submitted in a Round by a Bidder using a Valid Bid Form which complies with Section 7.3.1 and which constitutes a legally binding offer in accordance with Section 7.3.5;

Valid Bid Form means a form submitted in accordance with Section 7.3.1;

Waiver means a right exercisable, or deemed to be exercised, in a Round by a Bidder in accordance with Section 7.10.2 or Section 7.10.4 to enable a Bidder to refrain from making a Valid Bid in a Round in respect of one Bidding Right held by such Bidder and to retain such Bidding Right in the immediately following Round.