

DIGICEL COMMENTS INCLUDED UNDER COLUMN 4 IN RED

Annex 2 – Proposed Revisions to Digicel (Turk & Caicos) Limited’s Telecommunications Network Licence

NOTE: Column 1 sets out the provisions in Digicel (Turks & Caicos) Limited’s (“Digicel”) existing 2006 Telecommunications Network Licence (the “Existing Licence”),¹ Column 2 sets out the Commission’s “Proposed Revised Licence”, Column 3 provides the Commission’s rationale for the proposed revisions, and Column 4 provides space for interested parties to comment on and provide suggested revisions (with supporting rationale), if any, for each provision.

Column 1: Existing Licence	Column 2: Proposed Revised Licence	Column 3: Rationale for Proposed Revisions	Column 4: Interested Parties’ Comments/Suggestions
<p>Preamble:</p> <p>This Telecommunications Network Licence (“the Licence”) is granted on the recommendation of the Telecommunications Commission of the Turks and Caicos Islands (the “Commission”) to Digicel (Turks & Caicos) Limited, a company duly incorporated in the Turks and Caicos Islands (“the Licensee”) by the Minister responsible for Communications (“the Minister”).</p>	<p>Preamble:</p> <p>This TRIPLE PLAY PROVIDER TELECOMMUNICATIONS NETWORK LICENCE (TPL-3) is granted on the recommendation of the Telecommunications Commission of the Turks and Caicos Islands to DIGICEL (TURK & CAICOS) LIMITED, a company duly incorporated in the Turks and Caicos Islands by the Minister responsible for Communications.</p>	<p>The proposed revisions to this preamble section are intended to simplify and harmonise the granting provisions for all Licensees in the Turks & Caicos Islands (“TCI”).</p>	<p>1. It appears there may be a drafting error, as this is a reference specific to a service.</p> <p>2. Reference is made specifically to the “Triple Play Provider” as opposed to what may have been intended, that is, “Full Telecommunications Network Licence”.</p> <p>3. Digicel seeks clarification and reserves its right to comment once a response is received.</p>
<p>1. AUTHORITY AND CITATION</p> <p>1.1 This Licence is granted to the Licensee by the Minister in accordance with section 13 of the Telecommunications Ordinance 2004, on terms and conditions recommended by the Commission.</p>	<p>1. AUTHORITY AND CITATION</p> <p>1.1 This Licence is issued by the Minister to the Licensee in accordance with Section 13 (Grant of licence) of the Telecommunications Ordinance, on terms and conditions as recommended by the Commission.</p>	<p>The proposed revisions to this section of the Licence are intended to clarify the relevant authorities and citations under which a Telecommunications Network Licence is granted, and more specifically that the</p>	<p>1. Digicel requests information on what “other applicable laws” may be referred to under the proposed revised condition 1.2.</p>

¹ As subsequently amended on 4 March 2009 pursuant to Commission Decision 2009-2 and on 15 June 2011 pursuant to Commission Decision 2011-4 and 7.

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<p>1.2 The Minister hereby exempts the Licensee pursuant to Section 9(3) from the restrictions imposed by Section 9(1) of the Telecommunication Ordinance 2004, provided that the Licensee meets the requirements as set out in Annex E.</p> <p>1.3 This Licence may be cited as the Digicel (Turks and Caicos) Limited Telecommunications Network Licence 2006.</p>	<p>1.2 The Licensee is also subject to the other applicable provisions in the Telecommunications Ordinance, the Regulations, Commission Decisions and other applicable laws.</p> <p>1.3 The Minister exempts the Licensee pursuant to Section 9(3) of the Telecommunications Ordinance from the restrictions imposed by Section 9(1).</p> <p>1.4 This Licence may be cited as the DIGICEL (TURK & CAICOS) LIMITED Telecommunications Network Licence 2021.</p>	<p>Licensee is subject to the Telecommunications Ordinance as well as the Regulations, Commission Decisions, and other applicable laws in TCI.</p> <p>The revised Clause 1.3 adds that the Licensee is subject to the Islander control obligations set out in Annex D.</p>	
<p>2. INTERPRETATION</p> <p>2.1 In this Licence, unless the context requires otherwise:</p> <p>"Access Deficit Charge": means a charge paid by Carriers and Service Providers as the Commission sees fit in accordance with section 25A(1) of the Telecommunications Ordinance;</p> <p>"Commencement Date": means March 31, 2006;</p> <p>"Force Majeure": means causes that are beyond the Licensees reasonable control, including, but not limited to war, warlike operations, terrorist activities, civil commotion, currency fluctuations, strikes, fire, flood, tempest, or disaster or acts or failure to act of any governmental authority.</p> <p>"Government": means the Government of the Turks and Caicos Islands;</p>	<p>2. INTERPRETATION</p> <p>2.1 In this Licence, unless the context requires otherwise:</p> <p>"Commencement Date" means the date on which this Licence comes into force;</p> <p>"Commission" means the Telecommunications Commission of the Turks and Caicos Islands;</p> <p>"Commission Decision" means a written decision issued by the Commission;</p> <p>"Competition Guidelines" means the Telecommunications Competition Guidelines 2017, issued by the Commission, as amended from time to time;</p> <p>"DDME" means the Department of Disaster Management and Emergencies;</p> <p>"EPA" means the Emergency Preparedness Agreement;</p>	<p>The proposed revisions to this section include removal of definitions that are no longer necessary for the Proposed Revised Licence – i.e., Access Deficit Charge and Universal Service Fund – and the inclusion of new terms and definitions relevant to the Proposed Revised Licence – i.e., Commission, Commission Decision, Competition Guidelines, DDME, EPA, Fee Structure Regulations, Interconnection Regulations, Issue date, Licensee, Minister, Numbering Regulations, Pricing Regulations, Regulations, TEPRP, and Universal Service Regulations. The latter inclusions are partly administrative changes in nature, while the remaining additions are included to reflect</p>	<p>1. Digicel notes the changes made, and has no substantive comments at this time.</p>

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<p>"<i>Licence</i>": means this Licence together with its Annexes;</p> <p>"<i>Licensed Area</i>": means the territory of the Turks and Caicos Islands, including its territorial waters and airspace;</p> <p>"<i>Licensed Networks</i>": means those telecommunications networks set out in Annex B;</p> <p>"<i>Licensed Services</i>": means those telecommunications services set out in Annex A;</p> <p>"<i>Regulations</i>": means regulations issued pursuant to the Telecommunications Ordinance;</p> <p>"<i>Regulatory Fees</i>": means the fees payable by the Licensee to the Commission under Section 46 of the Telecommunications Ordinance;</p> <p>"<i>Telecommunications Ordinance</i>": means the Telecommunications Ordinance 2004;</p> <p>"<i>Spectrum Licence</i>": (deleted June 15, 2011, Commission Decision 2011-7);</p> <p>"<i>Universal Service</i>": means the services set out in Section 29 of the Telecommunications Ordinance 2004.</p> <p>"<i>Universal Service Fund</i>": means the fund which may be established pursuant to Section 29(5) of the Telecommunications Ordinance 2004.</p> <p>2.2 Any word, phrase or expression used in this Licence shall, unless the context requires otherwise, have the same meaning as it has in the</p>	<p>"<i>Force Majeure</i>" means causes that are beyond the Licensee's reasonable control, including, but not limited to war, warlike operations, terrorist activities, civil commotion, currency fluctuations, strikes, fire, flood, tempest, or disaster or acts or failure to act of any governmental authority;</p> <p>"<i>Fee Structure Regulations</i>" means the Telecommunications (Fee Structure) Regulations, 2020;</p> <p>"<i>Government</i>" means the Government of the Turks and Caicos Islands;</p> <p>"<i>Interconnection Regulations</i>" means the Telecommunications (Interconnection and Access to Telecommunications Facilities) Regulations 2005;</p> <p>"<i>Issue Date</i>" means the date upon which this Licence was signed by the Minister;</p> <p>"<i>Licence</i>" means this Licence together with its Annexes;</p> <p>"<i>Licensed Area</i>" means the territory of the Turks and Caicos Islands, including its territorial waters and airspace;</p> <p>"<i>Licensed Networks</i>" means those telecommunications networks set out in Annex B;</p> <p>"<i>Licensed Services</i>" means those telecommunications services set out in Annex A;</p>	<p>policy and regulatory changes that have occurred since 2006 (e.g., the establishment of the EPA and the Commission's Competition Guidelines and TEPRP Obligations).</p> <p>The relevance of the each of proposed definition changes is evident in subsequent sections of the Proposed Revised Licence.</p>	

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<p>Telecommunications Ordinance and the Regulations.</p> <p>2.3 Words importing the singular shall include the plural and vice versa. All references to legislation shall be deemed to refer to such legislation as amended or re-enacted from time to time.</p>	<p>“<i>Licensee</i>” means DIGICEL (TURK & CAICOS) LIMITED, a company duly incorporated in the Turks and Caicos Islands;</p> <p>“<i>Minister</i>” means the Government Minister responsible for Communications;</p> <p>“<i>Numbering Regulations</i>” means the Telecommunications (Numbering) Regulations, 2005;</p> <p>“<i>Pricing Regulations</i>” means the Telecommunications (Pricing) Regulations, 2005;</p> <p>“<i>Regulations</i>” means regulations made pursuant to the Telecommunications Ordinance;</p> <p>“<i>Regulatory Fees</i>” means the fees payable by the Licensee to the Commission under Section 47 of the Telecommunications Ordinance;</p> <p>“<i>TEPRP</i>” means the Telecommunications Emergency Preparedness and Response Policy;</p> <p>“<i>Telecommunications Ordinance</i>” means the Telecommunications Ordinance 2018; and</p> <p>“<i>Universal Service Regulations</i>” means the Telecommunications (Universal Service and Public Telecommunications) Regulations, 2005.</p> <p>2.2 Any word, phrase or expression used in this Licence shall, unless the context requires otherwise, have the same meaning as it has in the Telecommunications Ordinance and Regulations.</p>		

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	<p>2.3 Words importing the singular shall include the plural and vice versa. All references to legislation and legislative instruments, including all those listed under Clause 2.1, shall be deemed to refer to such legislation and legislative instruments as amended or re-enacted from time to time.</p> <p>2.4 Where there is any conflict between the provisions of this Licence and the Telecommunications Ordinance and Regulations, the provisions of the Telecommunications Ordinance and Regulations, as the case may be, shall prevail.</p>		
<p>3. GRANT</p> <p>3.1 The Licensee is authorised to connect the Licensed Networks to any:</p> <p>3.1.1 Telecommunications network operated under a Licence granted by the Minister in accordance with the Telecommunications Ordinance;</p> <p>3.1.2 Telecommunications network outside the Licensed Area;</p> <p>3.1.3 Telecommunications apparatus in accordance with applicable requirements; and</p> <p>3.1.4 Terminal equipment approved for connection in accordance with the Telecommunications Ordinance.</p>	<p>3. GRANT</p> <p>3.1 The Licensee is hereby granted authorization to establish and operate the Licensed Networks and to provide the Licensed Services by means of the Licensed Networks to any person within the Licensed Area.</p> <p>3.2 This Licence supersedes all previous licences and authorizations granted to the Licensee by the Government.</p> <p>3.3 In no event does this Licence grant any exclusive right to operate any telecommunications network or to provide any telecommunications service.</p> <p>3.4 For the avoidance of doubt, nothing in this License grants the Licensee the right to establish or operate any telecommunications network or provide any telecommunications service other than as set forth in the</p>	<p>The proposed revisions to this section are intended to simplify and harmonise the granting provisions for all Licensees.</p>	<p>1. While Digicel welcomes the simplification and harmonization, especially in merging existing conditions 3 and 4, Digicel recommends that condition 3.1 under the proposed revised licence column is amended further to include a reference to section 4 (Scope) as set out under the proposed revised licence column. This would avoid any confusion, and guide the reader to the extent of the permissions as set out under section 4, specific to the establishment and operation of the Licensed Networks.</p>

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	Telecommunications Ordinance, the Regulations, or this License.		
<p>4. SCOPE</p> <p>4.1 The Licensee is hereby authorised to provide the Licensed Services by means of the Licensed Networks.</p> <p>4.2 The Licensee is hereby authorised to establish and operate the domestic and international mobile wireless public telecommunications networks and to provide the Licensed Services to any person within the Licensed Area.</p> <p>4.3 The Licensee shall commence the provision of domestic and international mobile wireless public telecommunications services within the Licensed Area by no later than ninety (90) days after the Commencement Date.</p> <p>4.4 Notwithstanding anything contained in paragraph 4.3, the Licensee shall not be in breach of the obligation to commence the provision of domestic and international mobile wireless public telecommunications services within the Licensed Area where the Commission is satisfied that there are Justifiable reasons for the non-performance by the Licensee of its obligations or if the Licensee has been unable to interconnect with other licensed carriers.</p> <p>4.5 Without limiting the generality of sub-clause 4.3, by no later than six (6) months after</p>	<p>4. SCOPE</p> <p>4.1 The Licensee is authorized to connect the Licensed Networks to any:</p> <p>4.1.1 Telecommunications network operated under a licence granted under the Telecommunications Ordinance;</p> <p>4.1.2 Telecommunications network outside the Licensed Area;</p> <p>4.1.3 Telecommunications apparatus in accordance with applicable requirements; and</p> <p>4.1.4 Terminal equipment approved for connection in accordance with the Telecommunications Ordinance.</p>	<p>The proposed revisions to this section remove scope clauses sections that are no longer relevant (e.g., service launch obligations) and are otherwise intended simplify and harmonise scope provisions for all Licensees.</p>	<p>1. While Digicel appreciates there are now conditions that are no longer relevant to the current operators, it questions whether such scope would be applicable to any new entrants. It is understood that the proposed revised licence will be used by the Commission to all operators, with a view to achieving harmonised scope provisions for all Licensees. That being the case, it would be unfair to allow new entrants to bypass such scope, which all current operators were required to adhere to.</p>

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<p>the Commencement Date, the Licensee shall have established a mobile wireless public telecommunications network that covers not less than 95% of the population of the Licensed Area.</p> <p>4.6 In addition to the domestic and international mobile wireless services authorized in the previous paragraphs, the Licensee is authorized to provide fixed line public telecommunications services (added March 4, 2009) and Internet services (added June 15, 2011) as set out in Annex A using the networks described in Annex B.</p> <p>4.7 In no event does this License grant any exclusive right to operate any telecommunications network or to provide any telecommunications service, nor does it convey any proprietary rights.</p> <p>4.8 For the avoidance of doubt, nothing in this License grants to the Licensee the right to establish or operate any telecommunications network or to provide any telecommunications service other than as set forth in the Telecommunications Ordinance, the Regulations or this License.</p>			
<p>5. DURATION OF LICENCE</p> <p>5.1 This License begins on the Commencement Date, and shall continue in force for a period of fifteen (15) years, unless it lapses or unless it is suspended or revoked in accordance with a condition contained in this license or under the Telecommunications Ordinance 2004 and Regulations.</p>	<p>5. DURATION OF LICENCE</p> <p>5.1 This Licence is granted for a period of fifteen (15) years from the Commencement Date unless earlier revoked in accordance with a condition contained in the Licence or under the Telecommunications Ordinance.</p>	<p>This section is simplified to solely reflect the term of the Licence.</p>	<p>1. Digicel notes the changes made, and has no substantive comments at this time.</p>

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<p>6. DURATION OF SPECTRUM LICENCE</p> <p>(Deleted June 15, 2011, Commission Decision 2011-7)</p>	<p>Not Included</p>	<p>This provision is no longer necessary.</p>	<p>1. Digicel notes the changes made, and has no substantive comments at this time.</p>
<p>7. TERMINATION</p> <p>7.1 In the event of termination of this Licence, other than by expiry of the terms set out in Clause 5, and 6 the Commission will grant such permissions as may be necessary to own such assets as may be necessary for the provision, maintenance and/or operation of wireless circuits transiting the Licensed Area, which, for technical reasons, are required to be relayed by facilities located in the Licensed Area, provided that no such permission constitutes a Licence to provide a telecommunications service in the Licensed Area, except to the extent that a Licence is otherwise granted pursuant to the Telecommunications Ordinance.</p> <p>7.2 In addition to any relevant provision under the Telecommunications Ordinance, this Licence may be terminated upon notice by the Commission to the Licensee with prior written consent of the Minister:</p> <p>7.2.1 If the Licensee fails to comply with section 20 of the Telecommunications Ordinance.</p> <p>7.2.2 Should the Licensee be dissolved or go into liquidation otherwise than for the purpose of solvent reconstruction, or shall become insolvent, or shall cease to carry on a telecommunications business; or</p>	<p>6. TERMINATION</p> <p>6.1 In the event of termination of this Licence, other than by expiry of the term set out in Clause 5, the Commission will grant such permissions as may be necessary to own such assets as may be necessary for the provision, maintenance and/or operation of circuits transiting the Licensed Area, which, for technical reasons, are required to be relayed by facilities located in the Licensed Area, provided that no such permission constitutes a Licence to provide a telecommunications service in the Licensed Area, except to the extent that a licence is otherwise granted pursuant to the Telecommunications Ordinance.</p> <p>6.2 In addition to any relevant provision under the Telecommunications Ordinance, this Licence may be terminated upon notice by the Commission to the Licensee with prior written consent of the Minister:</p> <p>6.2.1 If the Licensee fails to comply with Section 20 of the Telecommunications Ordinance; or</p> <p>6.2.2 Should the Licensee be dissolved or go into liquidation otherwise than for the purpose of solvent reconstruction, or shall become insolvent, or shall cease to carry on a telecommunications business; or</p>	<p>The proposed revisions to this section are minor and administrative in nature.</p>	<p>1. Digicel notes the changes made, and has no substantive comments at this time.</p>

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<p>7.2.3 Where the Commission deems that there is, or is likely to be, a risk to national security.</p>	<p>6.2.3 Where the Commission determines in writing that there is, or is likely to be, a risk to national security.</p>		
<p>8. SUB-CONTRACTING</p> <p>8.1 Use of a subcontractor shall not relieve the Licensee of any of its obligations under this Licence and nothing under this sub-clause grants to any sub-contractor any right to provide telecommunications services or operate any telecommunications network under the Telecommunications Ordinance.</p>	<p>7. SUB-CONTRACTING</p> <p>7.1 The Licensee may employ subcontractors to install and maintain, operate or provide, some or all of the Licensed Networks or the Licensed Services.</p> <p>7.2 Any subcontractor's contract shall provide that the subcontractor agrees to comply with the terms and conditions of this Licence, Regulations and the Telecommunications Ordinance.</p> <p>7.3 Use of a subcontractor shall not relieve the Licensee of any of its obligations under this Licence and nothing under this sub-clause grants to any subcontractor any right to provide telecommunications services or operate any telecommunications network under the Telecommunications Ordinance.</p>	<p>This section has been expanded to cover sub-contracting matters more comprehensively, and to harmonise this section of the Proposed Revised Licence for all Licensees.</p>	<p>1. The new proposed revised licence condition 7.1 is at odds with both the existing licence condition 8.1 and the new proposed revised licence condition 7.1, as explained below.</p> <p>Condition 7.1 states that the Licensee may employ subcontractors, which subcontractors may “operate or provide, some or all of the...Licensed Services” (emphasis added), however, existing licence condition 8.1 and the new proposed revised licence condition 7.3 goes on to state that, “nothing under this sub-clause grants to any subcontractor any</p>

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			<p>right to provide telecommunications services” (emphasis added).</p> <p>The Commission may therefore consider amending the new proposed revised licence condition 7.3 to the extent that the contradictory latter term should be deleted, in order to align with the proposed revised licence condition 7.1.</p>
<p>9. REGULATORY FEES</p> <p>9.1 The Licensee shall pay the Regulatory Fees in accordance with section 46 of the Telecommunications Ordinance and the Regulations established thereunder.</p> <p>9.2 Regulatory Fees shall be paid on the anniversary of the Commencement Date of this Licence.</p>	<p>8. FEES</p> <p>8.1 The Licensee shall pay the Prescribed Network or Service Fees in accordance with Section 12 of the Telecommunications Ordinance and the Telecommunications Fee Structure Regulations.</p> <p>8.2 The Licensee shall pay the Regulatory Fees in accordance with Section 47 of the Telecommunications Ordinance and the Telecommunications Fee Structure Regulations.</p> <p>8.3 Regulatory Fees shall be paid on the anniversary of the Commencement Date of this Licence.</p> <p>8.4 The Licensee shall pay to the Commission any penalties and interest that may be imposed on the Licensee by the Commission for failure to make any payment due under</p>	<p>The proposed revisions to this section include an update to the referenced sections of the Telecommunications Ordinance and Regulations relating to the payment of applicable Network, Service and Regulatory Fees, and to group all such fees under a common heading.</p>	<p>1. Digicel notes the changes made, and has no substantive comments at this time.</p>

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	<p>this Licence and for any other contraventions of this Licence, Telecommunications Ordinance or Regulations.</p> <p>8.5 The Licensee shall pay any relevant fees payable in accordance with the Telecommunications Ordinance and the Regulations with respect to numbers issued to the Licensee.</p>		
<p>10 EMERGENCIES</p> <p>10.1 The Licensee shall provide access to emergency telecommunications services by means of the Licensed Networks, as the Commission may prescribe.</p>	<p>9. EMERGENCIES</p> <p>9.1 The Licensee shall provide access to emergency telecommunications services and related services pursuant to the Telecommunications Ordinance and the Universal Service Regulations.</p> <p>9.2 In addition, the Licensee shall provide other emergency-related telecommunications services, as the Commission may determine in writing.</p> <p>9.3 The Licensee shall:</p> <p>9.3.1 Adhere to all polices and requirements set out in the TEPRP and EPA, as established by the Commission;</p> <p>9.3.2 Adhere to all polices and requirements set out in the National Disaster Management Plan and Sub-Plans, as established by DDME; and</p> <p>9.3.3 Pursuant to paragraph 82 of the TEPRP, submit its own Disaster Preparedness Report to the Commission and complete all specified pre-</p>	<p>The proposed revisions to this section reflect the recently established policies and obligations set out in the TEPRP, EPA and National Disaster Management Plan and Sub-Plans, as established by the Commission and DDME.</p> <p>In addition, the obligation to submit an annual Disaster Preparedness Report, as required under r the TEPRP, is included in Clause 9.3.3.</p>	<p>1. Digicel had engaged in the process leading up to the finalization of the TEPRP and the EPA and signatures that followed, and therefore welcomes changes premised around the same.</p> <p>2. With the introduction of the TEPRP and EPA, it is not clear why there is a need for the inclusion of the proposed revised licence condition 9.2. Digicel requests further detail on what “other emergency-related telecommunications services” is contemplated by the Commission, especially with the EPA now executed between operators and the Commission.</p>

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	hurricane season preparations every year by the end of April.		3. Under proposed revised licence condition 9.3.3, the Commission should consider replacing the words “by the end of the April”, with the specific end date, that is “30 April”. This will avoid confusion and unnecessary future dispute.
<p>11. DOMINANCE</p> <p>11.1 In accordance with the provisions of section 19 of the Interconnection and Access to Telecommunications Facilities Regulations 2005, the Licensee being hereby licensed to own and operate a mobile telecommunications network is presumed to be dominant in the market for mobile wholesale voice telephony services on its Licensed Network.</p> <p>11.2 The Licensee may apply to the Commission to have any of its Licensed Services or Licensed Networks in any geographic or service market be classified as non-dominant where the Licensee considers that it has lost its dominance with respect to such Licensed Services or Licensed Networks and, should the Commission so classify, Annexes A and B shall be amended to reflect such classification.</p> <p>11.3 To the extent that the Licensee is dominant in relation to the establishment, operation and maintenance of some or all telecommunications services and</p>	<p>10. DOMINANCE</p> <p>10.1 For purposes of this Licence, the Licensee is dominant in the telecommunications services specified in Annex A.</p> <p>10.2 For purposes of this Licence, the Licensee is dominant in the telecommunications networks specified in Annex B.</p> <p>10.3 In addition, pursuant to the Telecommunications Ordinance and following the Competition Guidelines, the Commission may designate the Licensee as dominant in relation to the provision of some or all telecommunications networks and services in the Licensed Area.</p> <p>10.4 Pursuant to the Telecommunications Ordinance and following the Competition Guidelines, the Licensee may apply to the Commission to have any of its Licensed Services or Licensed Networks in any geographic or service market be re-designated as non-dominant.</p>	<p>The proposed revisions to this section reflect the establishment of the Competition Guidelines that set out the criteria and procedures to determine dominance or non-dominance in the case of a Licensee and Licensed Service or Network.</p> <p>In the same manner that the Competition Guidelines apply to all Licensees, these revised dominance provisions apply uniformly to all Licensees.</p> <p>All applicable dominance designations are provided in the revised Annexes A and B.</p>	<p>1. Digicel requests access to CWC’s Annexes. We note this was not circulated although Digicel’s Annexes were provided to all interested parties.</p> <p>2. With respect to the proposed revised licence condition 10.3, while Digicel appreciates reference to the Commissions powers, there is no need for this as it is already provided under the Telecommunications Ordinance and the Competition Guidelines. Any process leading to further dominance designations should therefore follow those</p>

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<p>telecommunications networks in the Licensed Area, the Commission may amend the Licence to include additional terms and obligations in accordance with section 17 and 18 of the Telecommunications Ordinance.</p>	<p>10.5 Pursuant to the Telecommunications Ordinance and the Regulations, the Commission may establish by Commission Decision specific obligations applicable to the Licensee in relation to its telecommunications services and/or networks that are designated as dominant and may amend the Licence to include additional terms and obligations in accordance with sections 17 and 18 of the Telecommunications Ordinance.</p>		<p>respective laws and regulations.</p> <p>3. Digicel expects that a proper process will be followed, including early discussion with Digicel ahead of any Commission Decision being issued as contemplated under proposed revised licence condition 10.5.</p> <p>4. With respect to designation of dominance, Digicel submits its comments and concerns in this respect under the relevant Annex A and Annex B sections later in this document.</p>
<p>NA</p>	<p>11. PRICE REGULATION</p> <p>11.1 Pursuant to the Telecommunications Ordinance, Regulations and following the Competition Guidelines, the Commission may establish by Commission Decision price regulations applicable to the Licensee in relation to its telecommunications services and/or networks that are designated as dominant.</p>	<p>This proposed section is new and is intended to clarify that the regulation of any retail or wholesale service prices may be established by Commission Decision following the Competition Guidelines, pursuant to consistent with the Telecommunications Ordinance and relevant Regulations.</p>	<p>1. Digicel expects that a proper process will be followed, including early discussion with Digicel ahead of any Commission Decision being issued as contemplated under proposed revised licence condition 11.1.</p>
<p>12. UNIVERSAL SERVICE FUND</p>	<p>12. UNIVERSAL SERVICE</p>		<p>1. Provided the regulations and proper processes are</p>

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<p>12.1 The Licencee may by notice provided therefor or such other means as the Commission may from time to time determine, be required by the Commission to provide Universal Service in a manner and in respect of telecommunications services determined by the Commission at such price and with the quality specified by the Commission.</p> <p>12.2 The Commission may in accordance with section 29 of the Telecommunications Ordinance and Regulations establish a Universal Service Fund and arrange for the administration of the Fund.</p> <p>12.3 If the Commission establishes a Universal Service Fund, the Licensee shall contribute to the fund by making any and all payments for the purpose of funding the Universal Service in accordance with the Telecommunications Ordinance and Regulations.</p> <p>12.4 Prior to terminating the general offering to the public of telecommunications service in respect of which the requirement of Universal Service has been required the Licencee shall obtain written approval from the Commission.</p>	<p>12.1 The Licensee shall be subject to the universal service-related provisions set out in the Telecommunications Ordinance and the Universal Service Regulations.</p>	<p>This substantially revised section has been significantly simplified and, as such, is intended to clarify that any universal service-related provisions applicable to a Licensee could be established, where found necessary and appropriate, pursuant to the Telecommunications Ordinance and the Universal Service Regulations.</p>	<p>followed, Digicel welcomes the simplification. the</p>
<p>13. LICENSEES OBLIGATIONS TO USERS</p> <p>13.1 The Licensee shall, in accordance with the Telecommunications Ordinance, take such steps as are necessary to ensure that, in relation to its Licensed Services, users can reasonably and reliably have access to information services to assist them with queries relating to the</p>	<p>13. LICENSEE'S OBLIGATIONS TO USERS</p> <p>13.1 The Licensee shall, in accordance with the Telecommunications Ordinance, take such steps as are necessary to ensure that, in relation to its Licensed Services, users can reasonably and reliably have access to information services to assist them with queries relating to the</p>	<p>The proposed revisions to this section include the removal of launch date obligations that are no longer relevant, the inclusion of a non-discrimination pricing provision (Clause 13.10) and the addition of a new provision</p>	<p>1. While Digicel appreciates the removal of obligations that are no longer relevant, we hope however that should there be new entrants in the market, entry obligations will still be maintained in their licence, in order to</p>

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<p>Licensed Services, including fault reporting, billing and directory assistance.</p> <p>13.2 The Licensee shall, no later than three (3) months after the Commencement Date, develop, implement and publish procedures for responding to complaints from and disputes with users related to statements of charges and to prices, and the Licensee shall respond quickly and adequately to any complaints, but in no event later than one (1) month after the filing of such complaint with the Licensee.</p> <p>13.3 The Licensee shall be subject to the Commission's procedures for resolving such complaints from and disputes with users as are submitted to the Commission, where such disputes arise out of the Licensee's exercise of its rights and obligations under this Licence.</p> <p>13.4 The Licensee shall, no later than three (3) months after the Commencement Date, submit to the Commission forms of its standard customer agreements, containing the terms and conditions for the provision of Licensed Services to users and shall, thereafter, file annually with the Commission, all forms of standard customer agreements for the provision of Licensed Services.</p> <p>13.5 The Licensee shall notify all users of Licensed Services of the terms and conditions of the applicable standard customer agreements and shall thereafter provide Licensed Services based upon the applicable agreement.</p> <p>13.6 The Licensee may from time to time modify its standard customer agreements and</p>	<p>Licensed Services, including installation, fault reporting, billing and directory assistance.</p> <p>13.2 The Licensee may provide (directly or indirectly), to all subscribers of its public telephone services, a directory of listings of telephone numbers of its subscribers in hard copy (such as paper or other media), without charging any persons listed therein for such listing.</p> <p>13.3 The Licensee may also publish yellow pages, business directories or other specialised directories, and may charge for listings and any paid advertisements therein.</p> <p>13.4 The Licensee shall have in place procedures for responding to complaints from and disputes with users related to statements of charges and to prices, and the Licensee shall respond quickly and adequately to any complaints, but in no event later than one (1) month after the filing of such complaint with the Licensee.</p> <p>13.5 The Licensee shall be subject to the procedures established by the Commission for resolving such complaints from and disputes with users as are submitted to the Commission, where such disputes arise out of the Licensee's exercise of its rights and obligations under this Licence.</p> <p>13.6 The Licensee shall have in place standard customer agreements, containing the terms and conditions for the provision of Licensed Services to users and shall, thereafter, file annually with the Commission, all forms of</p>	<p>(Clause 13.13) indicating that Licensees are subject the quality of service provisions under the Telecommunications Ordinance and the Universal Service Regulations.</p> <p>The intent of the proposed revisions is to harmonise such obligations to users so they apply uniformly to all Licensees.</p>	<p>prevent issues such as cherry-picking by new entrants.</p> <p>2. The Commission should provide its reasons for the inclusion of the proposed revised licence condition 13.2. It is not clear why such a requirements is mandated, and for that matter in the licence document. Digicel objects to the inclusion of the condition, however, will reserve its final comments after the Commission has provided further information and rationale for the inclusion.</p> <p>3. Digicel repeats its comments above with respect to the proposed revised licence condition 13.3.</p> <p>4. While Digicel in principle accepts proposed revised licence condition 13.6, it sees it as an unnecessary burden to have a requirement to file annually all forms of</p>

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<p>shall notify the Commission and users of such modification.</p> <p>13.7 The standard customer agreements and any modifications made under Clause 13.6 shall be compliant with the Telecommunications Ordinance 2004 and Regulations and any other applicable laws. In the event that the standard customer agreements or modifications do not comply with the Telecommunications Ordinance 2004 and Regulations and any other applicable laws, the Commission shall instruct the Licensee to make the appropriate amendments. Such amendments shall be notified to users in accordance with Clause 13.6.</p> <p>13.8 The Licensee shall publish both the prices and the terms and conditions for its Licensed Services no less than annually and, in addition, upon any change thereof, in such manner as the Commission may prescribe.</p> <p>13.9 The Licensee shall set prices in accordance with section 27 of the Telecommunications Ordinance and the long term incentive based regime (which may be a price cap or other regime) as specified in the regulations.</p>	<p>standard customer agreements for the provision of Licensed Services.</p> <p>13.7 The Licensee shall notify all users of Licensed Services of the terms and conditions of the applicable standard customer agreements in the manner specified by the Commission and shall thereafter provide Licensed Services based upon the applicable agreement.</p> <p>13.8 The Licensee may from time to time modify its standard customer agreements and shall notify the Commission and users of such modification.</p> <p>13.9 The standard customer agreements and any modifications made under Clause 13.6 shall be compliant with the Telecommunications Ordinance and Regulations and any other applicable laws. In the event that standard customer agreements or modifications thereof do not comply with the Telecommunications Ordinance and Regulations and any other applicable laws, the Commission shall instruct the Licensee to make the appropriate amendments. Such amendments shall be notified to users in accordance with Clause 13.6.</p> <p>13.10 Prices charged by the Licensee to users of Licensed Services shall be fair and reasonable and shall not discriminate unduly among similarly situated persons, including the Licensee and any body corporate with which it is affiliated.</p> <p>13.11 The Licensee shall publish both the prices and the terms and conditions for its Licensed Services no less than annually and, in</p>		<p>standard customer agreements. It is recommended that such filing should only be mandated if or when any changes are made to such standard agreements. Where no changes are effected, filing should not be required. Such an onerous requirement otherwise defeats the purpose of practicality and seems to only be a mere formality. Digicel therefore recommends amendment to this condition to the extent that such filing will only be necessary if amendments are effected to the subject agreements. This would align with proposed revised licence condition 13.8.</p> <p>5.</p>

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	<p>addition, upon any change thereof, in such manner as the Commission may prescribe.</p> <p>13.12 Prices published by the Licensee for Licensed Services shall take effect upon such date after publication as the Licensee shall specify.</p> <p>13.13 The Licensee shall be subject to the Quality of Service provisions set out in the Telecommunications Ordinance and the Universal Service Regulations.</p>		
<p>14. NUMBERING</p> <p>14.1 The Licensee shall operate its Licensed Networks and provide its Licensed Services in accordance with the numbering plan established pursuant to section 26 of the Telecommunications Ordinance.</p> <p>14.2 The Licensee shall be entitled to use numbers that it has been authorised to use as of the Commencement Date, as set out in Annex C, subject to any changes required in accordance with section 26 of the Telecommunications Ordinance. The Licensee shall be required to pay any relevant fees payable in accordance with the Regulations issued pursuant to section 64(2)(k) of the Telecommunications Ordinance for both the authorized numbers for which they are entitled to use at the Commencement Date as well as any new numbers allocations after the Commencement Date.</p>	<p>14. NUMBERING</p> <p>14.1 The Licensee shall operate its Licensed Networks and provide its Licensed Services in accordance with the numbering provisions set out in the Telecommunications Ordinance and the Numbering Regulations.</p> <p>14.2 The Licensee shall be entitled to use numbers that it has been authorized to use as of the Commencement Date, as set out in Annex C, subject to any changes required in accordance with the Telecommunications Ordinance.</p>	<p>The proposed revisions to this section are intended to update references, and harmonise numbering provisions so they apply uniformly to all Licensees.</p>	<p>1. Digicel acknowledges changes made to this condition.</p>
<p>15. NON-DISCRIMINATION AND FAIR TRADING</p>	<p>15. NON-DISCRIMINATION AND FAIR COMPETITION PRACTICES</p>		<p>1. Digicel acknowledges changes made and has no comments at this time.</p>

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<p>15.1 The Licensed Networks shall be operated, and the Licensed Services shall be provided, by the Licensee on an arm's length commercial basis with respect to the Licensee and any and all of the bodies corporate with which it is affiliated. This Clause 15 shall not prevent the Licensee from negotiating favorable accounting and settlement rates for public telephone services with any body corporate with which it is affiliated in any other jurisdiction, for the benefit of users in the Turks and Caicos Islands, provided that Licensee, and any of its affiliates, make such rates available to similarly situated third parties in the Turks and Caicos Islands with which Licensee, or such affiliates, have entered into arrangements to exchange or terminate international mobile telephone traffic.</p> <p>15.2 In providing the Licensed Services and transmitting communications the Licensee shall not discriminate as between similar types of users and shall offer the Licensed Services on the same terms and conditions to similar types of users.</p> <p>15.3 The Licensee shall permit the attachment of equipment to its Licensed Networks in a non-discriminatory manner and in compliance with Part V (Technical Regulations) of the Telecommunications Ordinance.</p> <p>15.4 The Licensee shall not engage in anti-competitive pricing and other similar practices or any other activities, whether by act or omission, which have, or are intended to or likely to have, the effect of unfairly preventing, restricting or distorting competition in any market for the Licensed Services.</p>	<p>15.1 The Licensed Networks shall be operated, and the Licensed Services shall be provided, by the Licensee on an arm's length commercial basis with respect to the Licensee and any and all of the bodies corporate with which it is affiliated. This Clause shall not prevent the Licensee from negotiating favourable accounting and settlement rates for public telephone services with any body corporate with which it is affiliated in any other jurisdiction, for the benefit of users in the Turks and Caicos Islands, provided that the Licensee, and any of its affiliates, make such rates available to similarly situated third parties in the Turks and Caicos Islands with which the Licensee, or such affiliates, have entered into arrangements to exchange or terminate international telephone traffic.</p> <p>15.2 In providing the Licensed Services and transmitting communications the Licensee shall not discriminate as between similar types of users and shall offer the Licensed Services on the same terms and conditions to similar types of users.</p> <p>15.3 The Licensee shall permit the attachment of customer premises equipment that is compliant with Part V (Technical Regulation) of the Telecommunications Ordinance to its Licensed Networks in a non-discriminatory manner.</p> <p>15.4 The Licensee shall not engage in anti-competitive conduct, including pricing and marketing practices and/or agreements, whether by act or omission, which have, or is intended to or likely to have, the effect of substantially</p>	<p>The changes made to this section are largely administrative in nature and, as such intended to clarify provisions, state that the Commission now has established Competition Guidelines in place, and harmonise the sub-sections so these provision apply equally to all Licensees.</p>	

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<p>15.5 Without limiting the generality of Clause 15.4 above, any act or omission which leads, or is likely to lead, to a substantial lessening of competition in the market for any telecommunications network or telecommunications service is prohibited. The Commission will issue Guidelines describing, or may otherwise determine, what constitutes a substantial lessening of competition and the procedures for assessing it.</p> <p>15.6 Any personal information that the Licensee obtains from or about a user in connection with the operation of a Licensed Network or the provision of a Licensed Service may be used in connection with the operation of such Licensed Network or the provision of such Licensed Service only as provided for in this Licence and Section 15 of the Telecommunications Ordinance.</p> <p>15.7 The Licensee may only cease provision of any telecommunications service as a remedy for non- or partial payment by the user of that service of amounts on the same bill for other telecommunications services provided by the Licensee, or any of its affiliates, provided that any amounts paid are insufficient to meet the debt owed for that service.</p> <p>15.8 The Licensee shall account for costs and keep such books of accounts and, where Regulations prescribe the manner in which such books are to be kept, shall keep such books of accounts in accordance with such Regulations.</p>	<p>lessening or preventing competition in one or more markets. The Competition Guidelines set out the procedures the Commission shall follow to investigate and review whether any specific conduct raises anti-competitive concerns, and if so, to impose corresponding remedies and penalties as appropriate.</p> <p>15.5 Any personal information that the Licensee obtains from or about a user in connection with the operation of a Licensed Network or the provision of a Licensed Service may be used in connection with the operation of such Licensed Network or the provision of such Licensed Service.</p> <p>15.6 The Licensee may only cease provision of any telecommunications service as a remedy for non- or partial payment by the user of that service of amounts on the same bill for other telecommunications services provided by the Licensee, or any of its affiliates, provided that any amounts paid are insufficient to meet the debt owed for that service. Any amounts paid by the user to service his debt shall be applied as prescribed by the user and where not prescribed shall be applied to the user's oldest debt.</p> <p>15.7 The Licensee shall account for costs and keep such books of accounts and, where the Telecommunications Ordinance and the Regulations prescribe the manner in which such books are to be kept, shall keep such books of accounts in accordance with the Telecommunications Ordinance and such Regulations.</p>		

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<p>15.9 The Licensee shall refrain from impairing or terminating the telecommunications service provided to a user during a bona fide dispute, without the prior written approval of the Commission, except that the Licensee may (a) in respect of a billing dispute, collect from any such user amounts that are not in dispute; (b) in respect of customer premises equipment attached to any Licensed Network in contravention of the Telecommunications Ordinance, disconnect any equipment that is unsafe for a user, is not in compliance with international standards or that poses a risk of physical harm to such Licensed Network; and (c) enforce the terms of its user agreement, provided that such terms do not incorporate matters that are the subject of any Regulations.</p>	<p>15.8 The Licensee shall refrain from impairing or terminating the telecommunications service provided to a user during a bona fide dispute, without the prior written approval of the Commission, except that the Licensee may:</p> <p>15.8.1 in respect of a billing dispute, collect from any such user amounts that are not in dispute;</p> <p>15.8.2 in respect of customer premises equipment attached to any Licensed Network in contravention of the Telecommunications Ordinance, disconnect any equipment that is unsafe for a user, is not in compliance with international standards or that poses a risk of physical harm to such Licensed Network; and</p> <p>15.8.3 enforce the terms of its user agreement, provided that such terms do not incorporate matters that are the subject of any Regulations.</p>		
<p>16. ACCESS DEFICIT CHARGES</p> <p>16.1 The Commission may as it sees fit determine that there shall be an Access Deficit Charge and, in such case, the Licensee shall, comply with any guidelines the Commission shall publish pursuant to section 25A of the Telecommunications Ordinance.</p>	<p>Not Included</p>	<p>This section has been removed from the Proposed Revised Licence in recognition of the fact that any universal service obligations would be established by the Commission, as may be deemed necessary, pursuant to the Telecommunications Ordinance and Universal Service Regulations, as stipulated under Section 12 of the Proposed Revised Licence above.</p>	<p>1. Digicel acknowledges the changes and has no comments at this time.</p>
<p>17. INTERCONNECTION</p>	<p>16. INTERCONNECTION</p>		<p>1. Digicel acknowledges the changes made,</p>

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<p>17.1 The Licensee shall comply with Section 23 – 25A of the Telecommunications Ordinance 2004 and the Interconnection and Access to Telecommunications Facilities Regulations 2005.</p> <p>17.2 With respect to the Licensed Services and Licensed Networks for which the Licensee has been classified as dominant, the Licensee shall be required to provide interconnection to another licensee in accordance with section 22 of the Telecommunications Ordinance.</p> <p>17.3 With respect to the Licensed Services and Licensed Networks for which the Licensee has been classified as dominant, the Commission may issue instructions to the Licensee in accordance with section 23 of the Telecommunication Ordinance.</p> <p>17.4 With respect to any Licensed Network for which Licensee has been classified as dominant, Licensee shall make available on a timely basis, as the Commission may prescribe, to other carriers or service providers, such technical information as the Commission may determine regarding such Licensed Network, including planned deployment of equipment, and other information relevant to such other carrier's or service provider's network or services.</p>	<p>16.1 With respect to the Licensed Services and Licensed Networks for which the Licensee has been designated as dominant, the Licensee shall provide interconnection services, network unbundling and access to its facilities in accordance with the Telecommunications Ordinance and the Interconnection Regulations.</p> <p>16.2 The Commission may establish by Commission Decision obligations relating to the regulation of wholesale prices applicable to dominant telecommunications services and/or networks, pursuant to the Telecommunications Ordinance and the Interconnection Regulations.</p>	<p>This section has been simplified and harmonised across Licensees to reflect the Commission's authority to establish obligations (including price regulation) in respect of interconnection and other wholesale services, pursuant to the Telecommunications Ordinance and the Interconnection Regulations.</p>	<p>and at this time only wishes to comment on the Commission's Decision making powers, expecting that any such Commission Decision shall only follow after properly undertaking consultations and engaging with the operators.</p>
<p>18. MOBILE TERMINATION CHARGES</p> <p>18.1 The Licensee shall set wholesale termination rates for termination on the licensee's mobile network in accordance with the interconnection Regulations.</p>	<p>Not Included</p>	<p>This section is redundant in view of the proposed revision to Section 16 above.</p>	<p>1. Digicel notes the Commission's comments and reserves its comments at this time.</p>

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<p>19. INFORMATION</p> <p>19.1 The Licensee shall provide the Commission with such relevant accounting, financial, costs, technical and other information concerning any Licensed Networks or Licensed Services as the Commission may reasonably request to enable the Commission to carry out its functions under the Telecommunications Ordinance.</p> <p>19.2 Subject to Clause 17.1, the Licensee shall provide to the Commission their financial information in accordance with Section 14 (c) and (g) of the Telecommunications Ordinance 2004 and the Regulations subject to Section 7 of the Telecommunications Ordinance 2004.</p>	<p>17. INFORMATION</p> <p>17.1 The Licensee shall provide the Commission with such relevant accounting, financial, costs, technical and other information concerning any Licensed Networks or Licensed Services as the Commission may reasonably request in writing to enable the Commission to carry out its functions under the Telecommunications Ordinance.</p> <p>17.2 Subject to Clause 17.1, the Licensee shall provide to the Commission their financial information including annually a final audited profit and loss and balance sheet in accordance with Sections 7, 14(c) and (g) of the Telecommunications Ordinance and the Regulations, which information shall be kept confidential by the Commission.</p>	<p>The proposed revisions to this section are minor and administrative in nature.</p>	<p>1. Digicel notes the changes and reserves its comments at this time.</p>
<p>20. CONFIDENTIALITY</p> <p>20.1 The Licensee shall maintain the confidentiality of, and refrain from using or disclosing, any:</p> <p>20.1.1 Confidential, personal and proprietary information obtained in the course of its business from any user, where such information originates from any such user;</p> <p>20.1.2 Any information regarding usage of a Licensed Network or a Licensed Service; or</p> <p>20.1.3 Information received or obtained in connection with the operation of a Licensed Network or the provision of a Licensed Service; unless the customer has given his or her consent</p>	<p>18. CONFIDENTIALITY</p> <p>18.1 The Licensee shall maintain the confidentiality of, and refrain from using or disclosing, any:</p> <p>18.1.1 Confidential, personal and proprietary information obtained in the course of conducting its business from any user, where such information originates from any such user;</p> <p>18.1.2 Any information regarding usage of a Licensed Network or a Licensed Service; or</p> <p>18.1.3 Information received or obtained in connection with the operation of a Licensed Network or the provision of a Licensed Service,</p>	<p>The proposed revisions to this section are minor and administrative in nature.</p>	<p>1. Digicel notes the Commissions comments and reserves its comments at this time.</p>

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<p>to such use or disclosure or such disclosure is required under any law.</p> <p>20.2 Notwithstanding Clause 18.1, the Licensee is permitted to use information to operate its Licensed Networks or Licensed Services, bill and collect charges, protect its rights or property or prevent users or other operators or providers from the fraudulent use thereof.</p>	<p>unless the customer has given his or her consent to such use or disclosure or such disclosure is required under any law.</p> <p>18.2 Notwithstanding Clause 18.1, the Licensee is permitted to use information to operate its Licensed Networks or Licensed Services, bill and collect charges, protect its rights or property or prevent users or other operators or providers from the fraudulent use thereof.</p>		
<p>NA</p>	<p>19. RIGHTS OF ACCESS</p> <p>19.1 Subject to the Telecommunications Ordinance, the Regulations or any law, the Licensee shall have such rights of way to public roads or other public grounds to operate the Licensed Networks.</p>	<p>The section has been added to harmonise this provision so it applies equally to all Licensees.</p>	<p>1. Digicel acknowledges the addition and welcomes the same.</p>
<p>21. FORCE MAJEURE AND SERVICE INTERRUPTIONS</p> <p>21.1 The Licensee shall not be in breach of this Licence, if and solely to the extent that it is prevented from fulfilling its obligations by reason of Force Majeure.</p> <p>21.2 If, at any time, the Licensee anticipates that any Licensed Network or Licensed Service will become, or a Licensed Network or a Licensed Service becomes, interrupted for any significant period (which period means a period in excess of three (3) hours during any business day), the Licensee shall give notice to all affected persons, including subscribers and other operators of telecommunications networks and providers of telecommunications services, by all</p>	<p>20. FORCE MAJEURE AND SERVICE INTERRUPTIONS</p> <p>20.1 The Licensee shall not be in breach of this Licence, if and solely to the extent that it is prevented from fulfilling its obligations by reason of Force Majeure.</p> <p>20.2 If, at any time, the Licensee anticipates that any Licensed Network or Licensed Service will become, or a Licensed Network or a Licensed Service becomes, interrupted for any significant period (where period means a period in excess of three (3) hours during any business day), the Licensee shall give notice to all affected persons, including subscribers and other operators of telecommunications networks and providers of telecommunications services, by all</p>	<p>The proposed revisions to this section are mostly minor and administrative in nature.</p> <p>A new proposed provision has been added in Clause 20.3 which requires Licensees to notify the Commission of any Licensed Network or Licensed Service outage lasting more than fifteen (15) minutes. This provision has been added to ensure that the Commission is formally made aware of any significant service interruptions.</p>	<p>1. Requiring notification and setting a timeframe, especially one as short as 15 minutes, is far from being a “minor and administrative” revision. Digicel is not aware of any consultation being held to discuss these amendments nor any reasons or justification given as to why a 15 minutes</p>

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<p>reasonable means, including by publication, radio or television announcement or individual notification, whichever is appropriate.</p> <p>21.3 During a period of interruption, the Licensee shall use all reasonable endeavours to provide service on a provisional basis.</p>	<p>reasonable means, including by publication, radio or television announcement or individual notification, whichever is appropriate.</p> <p>20.3 The Licensee shall notify the Commission of any Licensed Network or Licensed Service outage lasting more than fifteen (15) minutes.</p> <p>20.4 During a period of interruption, the Licensee shall use all reasonable endeavours to provide service on a provisional basis.</p>		<p>timeframe was inserted. Digicel therefore seeks clarification and reserves the right to provide its comments once it has received the required information from the Commission.</p>
<p>22. NOTICES</p> <p>22.1 Notice may be given hereunder by the Minister, the Licensee or the Commission by facsimile, hand delivery or courier and addressed to their respective addressees as follows:</p> <p>The Minister ... [[[contact info]]]</p> <p>The Licensee ... [[[contact info]]]</p> <p>The Commission ... [[[contact info]]]</p> <p>22.2 Notices shall be deemed to have been received, in the case of facsimile, at the time of dispatch (or if the day of dispatch is not a business day, on the next following business day); in the case of courier, on the business day after dispatch; and in the case of hand delivery, when delivered (or if the day of delivery is not a business day, on the next following business day).</p>	<p>21. NOTICES</p> <p>21.1 Notice may be given hereunder by the Minister, the Licensee or the Commission by facsimile, email, hand delivery or courier and addressed to their respective addressees as follows:</p> <p>The Minister ... [[[contact info]]]</p> <p>The Licensee ... [[[contact info]]]</p> <p>The Commission ... [[[contact info]]]</p> <p>or any other address, email, or fax number of which the Minister, the Licensee or the Commission shall have notified the other of them in writing.</p> <p>21.2 Notices shall be deemed to have been received, in the case of email or facsimile, at the time of dispatch (or if the day of dispatch is not a business day, on the next following business day); in the case of courier (on the island of Providenciales), on the business day after</p>	<p>The proposed revisions to this section are minor and administrative in nature and, once finalized, would include updated contact information.</p>	<p>1. Digicel acknowledges the changes made.</p>

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	dispatch; and in the case of hand delivery, when delivered (or if the day of delivery is not a business day, on the next following business day).		
<p>23. COMPLIANCE AND DISPUTE RESOLUTION</p> <p>23.1 The Minister and the Commission may, where the Licensee has violated any provision of the Telecommunications Ordinance or the Regulations, or breached any provision of this Licence, take any action authorised by law.</p> <p>23.2 If the Licensee disputes any action taken or not taken by the Minister or the Commission with respect to this Licence, the Licensee may pursue such rights as it has under sections 53 and 54 of the Telecommunications Ordinance, the Regulations or any other law.</p>	<p>22. COMPLIANCE AND DISPUTE RESOLUTION</p> <p>22.1 The Licensee shall comply with the terms of this Licence, including the Annexes.</p> <p>22.2 The Licensee shall comply with the ITU Treaties, other applicable international agreements or acts, regulations, directions, orders and recommendations, and shall comply with the decisions, directions, orders and recommendations issued by the Commission.</p> <p>22.3 The Minister and the Commission may, where the Licensee has violated any provision of the Telecommunications Ordinance or the Regulations, or breached any provision of this Licence, take any action authorized by law.</p> <p>22.4 If the Licensee disputes any action taken or not taken by the Minister or the Commission with respect to this Licence, the Licensee may pursue such rights as it has under Sections 54 and 55 of the Telecommunications Ordinance, the Regulations or any other law.</p>	<p>The proposed revisions to this section includes two additions otherwise the revisions are minor and administrative in nature, including corrected references to sections of the Telecommunications Ordinance in Clause 22.4.</p>	<p>1. Digicel has no comments at this time to the changes made.</p>
<p>24. GOVERNING LAW</p> <p>24.1 This Licence shall be construed and interpreted in accordance with the laws of the Turks and Caicos Islands; and all matters relating hereto shall be determined by the courts of the Turks and Caicos Islands.</p>	<p>23. GOVERNING LAW</p> <p>23.1 This Licence shall be construed and interpreted in accordance with the laws of the Turks and Caicos Islands; and all matters relating hereto shall be determined by the courts of the Turks and Caicos Islands.</p>	<p>No proposed revisions.</p>	<p>1. No comments.</p>

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<p>ANNEX A LICENSED SERVICES</p> <p>1. The Licensee is authorized to provide the following domestic and international public telecommunications services:</p> <ul style="list-style-type: none"> a. Fixed and mobile telephony services; b. Fixed and mobile data services; c. Fixed and mobile information services; and d. Broadband wireless direct Internet access services. 	<p>ANNEX A LICENSED SERVICES</p> <p>1. The Licensee is authorised pursuant to this Licence to provide the following domestic and international telecommunications services, without regard to transmission or network technology:</p> <ul style="list-style-type: none"> a. Fixed and mobile telephony services; b. Fixed and mobile data and messaging services; and c. Fixed and mobile Internet services. <p>2. For any telecommunications service that requires a licence under the Telecommunications Ordinance and that is not included in Clause 1, the Licensee is expressly subject to all applicable provisions under the Telecommunications Ordinance and Regulations in relation to any such telecommunications service.</p> <p>3. For purposes of this Licence, the Licensee is designated as dominant with respect to the following telecommunications services:</p> <ul style="list-style-type: none"> a. Domestic and international call termination services provided on the Licensee's fixed and mobile networks. 	<p>The proposed revisions to this annex are intended to provide an updated and clarified listing of the telecommunications services designated as Licensed and, as applicable, for which Licensed Service the Licensee is designated as dominant.</p> <p>Further, the intent is also to harmonise these provisions so they apply uniformly to all Licensees, while reflecting the applicable licensing and dominance designations in each case.</p>	<p>1. Digicel as a general comment strongly objects to the Commission making changes to the Annexes without proper engagement with Digicel and or the operators. To that end, Digicel does not have the benefit or sighting CWC/Flow's Annexes, while they have the benefit of sighting Digicel's. This must be corrected ahead of any progress to be made under the current Consultation.</p> <p>2. Separately, while Digicel appreciates the Commission had at one time collected comprehensive market data and information from Flow and other operators in TCI, the only analysis of the market Digicel is aware of is when the Commission conducted a preliminary market assessment of the regulated fixed service markets under consideration (including fixed access,</p>

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			<p>domestic/international calling, and domestic/international private leased circuits) and, based on its findings, proposed options for a new forbearance regime for Flow's regulated fixed services.</p> <p>3. Other than what was conducted as an exercise above, Digicel is not aware of any other market categorization or exercise that led to the Commission concluding findings of dominance. This is critical to this Consultation and Digicel objects strongly to any progress until such time it has received this information from the Commission.</p> <p>4. To that end, Digicel calls on a halt to this Consultation until such time the Commission has met with and discussed the same with Digicel.</p> <p>5. Digicel reserves its rights otherwise and will challenge any adverse or</p>

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			arbitrary decisions to proceed on this basis by the Commission.
<p>ANNEX B LICENSED NETWORKS</p> <p>1. The Licensee is authorized to own and operate all such telecommunications network facilities, as are necessary to provide the Licensed Services.</p> <p>2. The Licensee may use switched or packet technology or any other form of telecommunications transmission or any combination thereof to provide the Licensed Services.</p> <p>3. The Licensee's network facilities shall include the following to provide the Licensed Services:</p> <ul style="list-style-type: none"> a. Fixed and mobile telephone exchange and radio base stations; b. Internet services provision equipment; and c. Interconnection links to national and international telecommunications exchanges and Internet services gateways to provide national and international connectivity to other licensed networks. 	<p>ANNEX B LICENSED NETWORKS</p> <p>1. The Licensee is authorised pursuant to this Licence to establish, own and operate all telecommunications facilities necessary to provide the fixed and mobile telecommunications services listed in Annex A, without regard to transmission or network technology.</p> <p>2. The Licensee's network facilities, which may be augmented and updated over time, can include, but are not necessarily limited to, the following elements:</p> <ul style="list-style-type: none"> a. Fixed and mobile telephone exchanges and radio base stations; b. Internet services provision equipment; and c. Interconnection links to national and international telecommunications exchanges and Internet services gateways to provide national and international connectivity to other licensed networks. <p>3. In relation to the construction of any telecommunications network facilities or infrastructure as listed in Clause 1 or otherwise (including by erecting or installing transmission towers, poles, ducts and other associated facilities, or carrying out any road works as provided by the Telecommunications</p>	<p>As with Annex A above, the proposed revisions to this annex are intended to provide an updated and clarified listing of the telecommunications network facilities designated as Licensed and, as applicable, for which Licensed Network facilities the Licensee is designated as dominant.</p> <p>Once again, the intent is once again to harmonise these provisions so that they apply uniformly to all Licensees, while reflecting the applicable licensing and dominance designations in each case.</p>	<p>1. Digicel repeats its comments as set out above related to changes made to Annex A and now to Annex B.</p> <p>2. Digicel strongly recommends the Commission take into consideration these comments and halt the consultation until such time Digicel has had a face to face meeting with the Commission to discuss the Commission's decisions.</p> <p>3. Absent any further discussions and a halt in the Consultation, Digicel reserves its rights and will take such action necessary to protect its legitimate interests.</p>

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	<p>Ordinance), the Licensee must comply with any applicable enactments and obtain all required permissions and approvals.</p> <p>4. For purposes of this Licence, the Licensee is designated as dominant with respect to the following telecommunications networks in Turks and Caicos Islands:</p> <p>a. Domestic fixed and mobile telephony networks, solely relating to the termination of domestic and international call traffic.</p>		
<p>ANNEX C AUTHORIZED NUMBERS</p> <p>Subject to the issuance of the National Numbering Plan by the Commission pursuant to the Telecommunications Ordinance and associated Regulations, the Licensee is allocated the following ordinary numbers:</p> <p><i>Mobile</i> 649 331-XXXX 649 332-XXXX 649 333-XXXX 649 341-XXXX 649 342-XXXX 649 343-XXXX 649 344-XXXX 649 345-XXXX 649 346-XXXX 649 347-XXXX</p> <p><i>Fixed Wireless</i> 649 339-XXXX</p>	<p>ANNEX C AUTHORISED NUMBERS</p> <p>Subject to review by the Commission, the Licensee is issued the following number allocations:</p> <p><i>COC Codes</i> 331-XXXX Mobile 332-XXXX Mobile 333-XXXX Mobile 341-XXXX Mobile 342-XXXX Mobile 343-XXXX Mobile 344-XXXX Mobile 345-XXXX Mobile 346-XXXX Mobile 339-XXXX Fixed Wireless</p>	<p>The proposed revisions to this annex include an updated and simplified listing of authorized numbers.</p>	<p>1. Digicel has no further comments at this time.</p>

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At the commencement of the License 40,000 numbers were authorized in blocks of 10,000.			
Annex D Spectrum Licenses (Deleted June 15, 2011, Commission Decision 2011-7)	Not Included	This annex is not included in the Proposed Revised Licence consistent with Commission Decision 2011-7. It is more appropriately included, as applicable, in a Licensee's Spectrum Licence.	<ol style="list-style-type: none"> 1. Digicel has no comments at this time.
ANNEX E TURKS AND CAICOS ISLANDER PARTICIPATION Equity participation of not less than 49 % will be offered to a Turks and Caicos Islander or Turks and Caicos Islanders owned entity upon the issuance of the license, and such partnership will remain in effect for the duration of the license. For avoidance of doubt, Turks and Caicos Islander equity participation within the licensee cannot fall below 49% during the period in which the license is valid. At least (1) one Director will be a Turks and Caicos Islander as of the License Commencement Date.	ANNEX D ISLANDER CONTROL [[[To be provided by the Commission.]]]	[[[Background on and rationale for the new Islander control provision to be provided by the Commission.]]]	<ol style="list-style-type: none"> 1. This matter is under discussion presently between Digicel, the Commission and separately the Minister of Communications. 2. Digicel therefore expects that no amendments will be made until such time both the Commission and the Minister have reviewed the laws and Digicel's submissions to date relating to this matter, and a decision is made, which is lawful and guided by the ordinance, the regulations and importantly the Constitution. 3. Digicel refers to its correspondence with the

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			<p>Commission and the Minister and repeats its submissions and its concerns as set out in those correspondence.</p> <p>4. Absent properly concluded consultation as presently being undertaken between Digicel, the Commission and the Minister, no changes will be acceptable to Digicel.</p>
Attestation Clauses	Attestation Clauses	To be updated as necessary at the time of enactment.	