

6.4 SERVICE, NETWORK AND WHOLESALE PRODUCT COMPLIANCE AND FUTURE PROOFING

1 INTRODUCTION

- 1.1 This Agreement (including this Schedule) imposes a number of requirements on NBPco throughout the Contract Period and the Intervention Area to:
- 1.1.1 comply with the Service Requirements, NBPco Solution and Wholesale Product Benchmarking Rules;
 - 1.1.2 design, develop and maintain, in accordance with the Service Requirements and the NBPco Solution, the Technology Roadmap and the Wholesale Product Roadmap;
 - 1.1.3 continuously identify, assess, evaluate, and implement new or potential improvements to the Services, Network, Operational Environment and Wholesale Products;
 - 1.1.4 comply with the Service Requirements and the NBPco Solution and Best Industry Practice in respect of the future proofing and continuous improvement of the Services, Network, Operational Environment and Wholesale Products;
 - 1.1.5 comply with the Wholesale Product Roadmap, Technology Roadmap and Wholesale Product & Coverage Template;
 - 1.1.6 ensure that the Minimum Required Wholesale Products and Additional Required Wholesale Products evolve in line with Equivalent Products in the Excluded Area provided that:
 - (A) [REDACTED]
 - (B) [REDACTED]
 - 1.1.7 report to the Minister's representative at designated intervals throughout the Contract Period on what it has done and what it intends to do to comply with its obligations under this Agreement for future proofing and continuous improvement of the Services, Network, Operational Environment and Wholesale Products.
- 1.2 [Not used].
- 1.3 Part 1 (Service, Network and Wholesale Future Proofing) of this Schedule sets out, in respect of the Future Proofing Plan, the key requirements in relation to its objectives, development and implementation, and the measurement and reporting of NBPco's compliance with the Future Proofing Plan.
- 1.4 Part 2 (Compliance and Future Proofing Review) of this Schedule sets out the requirements and processes for review of NBPco's compliance with the Service Requirements, NBPco Solution, Technology Roadmap, Wholesale Product Roadmap, Wholesale Product & Coverage Template, Future Proofing Plan and other matters relating to the Services, Network, Operational Environment and Wholesale Products.

PART 1 (SERVICE, NETWORK AND WHOLESALE FUTURE PROOFING)

1 SERVICE, NETWORK, OPERATIONAL ENVIRONMENT AND WHOLESALE PRODUCT FUTURE PROOFING PLAN

- 1.1 This Part sets out, in respect of the Future Proofing Plan, the key requirements in relation to its objectives, development and implementation, and the measurement and reporting of NBPco's compliance with the Future Proofing Plan.
- 1.2 NBPco's response to these requirements in the form of its Future Proofing Plan forms part of the NBPco Solution (though the Future Proofing Plan does not limit or affect the provisions of this Schedule or Agreement).
- 1.3 Without limiting or affecting any other provisions of this Agreement (including the restrictions on Changes), NBPco shall on an on-going basis throughout the Contract Period and the Intervention Area (at no cost to the Minister and without being entitled to any increase in the Subsidy Payments), continuously:
- 1.3.1 monitor its compliance with the Service Requirements, the NBPco Solution and the Wholesale Product Benchmarking Rules;
 - 1.3.2 monitor its compliance with the Technology Roadmap;
 - 1.3.3 monitor its compliance with the Wholesale Product Roadmap;
 - 1.3.4 monitor its compliance with the Wholesale Product & Coverage Template; and
 - 1.3.5 assess, evaluate, identify and implement new or potential improvements to the Services, Network, Operational Environment and Wholesale Products, including so as to ensure that the Minimum Required Wholesale Products and Additional Required Wholesale Products evolve in line with Equivalent Products in the Excluded Area provided that:
 - (A) [REDACTED]
 - (B) [REDACTED]
- 1.4 Without limiting or affecting Paragraphs 1.3.5 (Service, Network, operational environment and Wholesale Product Future Proofing Plan) and 7.9 (Future Proofing Plan Reporting) of this
- 1.5 PART 1 (Service, Network and Wholesale Future Proofing), whilst a potential improvement to the Services, Network, Operational Environment and Wholesale Products may constitute an improvement as against the Service Requirements or NBPco's Solution or be required under this Schedule or elsewhere in the Agreement, NBPco is not entitled to an increase in the Subsidy Payments as a result of a change which NBPco is required to implement to comply with its obligations under this Agreement (including, for the avoidance of doubt, the Wholesale Product Roadmap, Wholesale Product & Coverage Template, the Technology Roadmap, the Wholesale Product Benchmarking Rules and the future proofing and continuous improvement obligations under the provisions of Clause 26

(Service and Network Future Proofing and Continuous Improvement), this Schedule and other provisions of this Agreement.

1.6 Without limiting or affecting any other provisions of this Agreement, NBPco shall (as part of the NBPco Solution) design, develop and specify a Future Proofing Plan in accordance with this Part 1 (Service, Network and Wholesale Future Proofing) (at no cost to the Minister and without being entitled to any increase in the Subsidy Payments).

1.7 The objectives, throughout the Contract Period and the Intervention Area, to be achieved by NBPco through the design, development and implementation of the Future Proofing Plan include identifying and implementing:

1.7.1 new or potential improvements to the Services, Network, Operational Environment and Wholesale Products;

1.7.2 emerging, new and evolving technologies which will improve the Services, Network, Operational Environment and Wholesale Products, including improving their capacity and scalability;

1.7.3 new or potential improvements to the interfaces or integration of the Services, Network, Operational Environment and/or Wholesale Products with other services or networks provided by third parties or the Minister, which might result in efficiency or productivity gains or in reduction of operational risk or service network issues;

1.7.4 changes in business processes and ways of working that would enable the Services, Network, Operational Environment and Wholesale Products to be delivered at lower cost and with greater benefits to the Minister, Service Providers and IA End Users; and

1.7.5 changes to the Services, Network, Operational Environment, Wholesale Products, business processes and/or ways of working that would enable reductions in the total energy consumed in the provision of the Services, Network, Operational Environment and Wholesale Products,

all to ensure continued compliance with, and improvement as against, the Service Requirements and the NBPco Solution and continued compliance with the Wholesale Product Benchmarking Rules, Technology Roadmap and Wholesale Product & Coverage Template and:

1.7.6 meets demand from IA End Users and Service Providers for new products and innovations, and

1.7.7 so as to ensure that the Minimum Required Wholesale Products and Additional Required Wholesale Products evolve in line with Equivalent Products in the Excluded Area throughout the Contract Period

and each objective shall apply equally to all IA End Users, and shall not be applied differently between categories of IA End User (e.g. between residential and business IA End Users).

1.8 NBPco shall use all reasonable endeavours throughout the Contract Period and the Intervention Area to maintain and implement the Future Proofing Plan (including all elements of the Technology Roadmap, Wholesale Product Roadmap, Wholesale Product & Coverage Template and Wholesale Product Benchmarking Rules) to achieve the

objectives described in Paragraph 1.7 (Service, Network, operational environment and Wholesale Product Future Proofing Plan) and the requirements of the Agreement and this Schedule. This does not limit or affect NBPco's obligations under other provisions of this Agreement.

2 FUTURE PROOFING PLAN REQUIREMENTS

2.1 NBPco shall ensure that the Future Proofing Plan distinguishes between:

2.1.1 the Operational Environment;

2.1.2 the Network; and

2.1.3 Wholesale Products,

and employs the requirements, and includes the information, specified in this Schedule.

2.2 NBPco shall ensure that the Future Proofing Plan includes:

2.2.1 an executive summary;

2.2.2 a comprehensive description for the Contract Period and Intervention Area of all targets, objectives (including the objectives listed in Paragraph 1.7 (Service, Network, operational environment and Wholesale Product Future Proofing Plan) and strategies, operational plans, individual projects and initiatives and how these will be performed and achieved;

2.2.3 detailed description of the performance indicators and metrics to analyse and validate performance under the Future Proofing Plan against specified targets, objectives and strategies;

2.2.4 timeframes, milestones and financial budgets for development, implementation, maintenance and reporting of the Future Proofing Plan; and

2.2.5 detailed description of how NBPco will monitor, maintain and (where necessary) update the Future Proofing Plan.

2.3 Without limiting or affecting any other provisions of this Agreement or this Schedule, NBPco shall include in the Future Proofing Plan the Wholesale Product & Coverage Template, the Wholesale Product Roadmap, Technology Roadmap and NBPco's plans and processes to:

2.3.1 continuously identify, assess and evaluate new or potential improvements to the Wholesale Products which will inform NBPco's obligation to maintain and update the Wholesale Product Roadmap throughout the Contract Period;

2.3.2 continuously identify, assess and evaluate new or potential improvements to the Services, Operational Environment and Network which will inform NBPco's obligation to maintain and update the Technology Roadmap throughout the Contract Period;

2.3.3 continuously monitor, assess and evaluate its compliance with the Wholesale Product Benchmarking Rules;

2.3.4 continuously identify, assess and evaluate new or potential improvements to the Services and Network to ensure NBPco's compliance with, throughout the

Contract Period and Intervention Area, Paragraph 5.4 (Network Evolution and Future Proofing) of Schedule 2.1 (Technical Solution Specification), Clause 26 (Service and Network Future Proofing and Continuous Improvement), the Service Requirements and the NBPco Solution; and

2.3.5 continuously monitor, assess and evaluate pent up demand from IA End Users and Service Providers for new products and innovations and the evolution of Equivalent Products in the Excluded Area throughout the Contract Period.

2.4 NBPco shall ensure the information specified in the Future Proofing Plan is comprehensive and sufficiently detailed to demonstrate:

2.4.1 what NBPco shall do during at least the initial five (5) Contract Years covered by the relevant version of the Future Proofing Plan and what it intends to do throughout the Contract Period and Intervention Area to comply with its obligations for future proofing and continuous improvement of the Services, Network, Operational Environment and Wholesale Products;

2.4.2 the milestones and timelines it shall adhere to during at least the initial five (5) Contract Years covered by the relevant version of the Future Proofing Plan and the milestones and timelines it intends to adhere to throughout the Contract Period for future proofing and continuous improvement of the Services, Network, Operational Environment, and Wholesale Products;

2.4.3 how compliance by NBPco with its obligations under this Agreement for future proofing and continuous improvement of the Services, Network, Operational Environment and Wholesale Products shall be measured, validated and reported to the Minister;

2.4.4 how compliance by NBPco with its obligations to maintain, update and implement the Wholesale Product Roadmap shall be measured, validated and reported to the Minister;

2.4.5 how compliance by NBPco with its obligations to maintain, update and implement the Technology Roadmap shall be measured, validated and reported to the Minister;

2.4.6 how compliance by NBPco with its obligations to maintain, update and implement the Wholesale Product & Coverage Template shall be measured, validated and reported to the Minister;

2.4.7 NBPco's plans and commitments for technology and equipment upgrades, as stated in its Technology Roadmap, and how NBPco shall measure, validate and report to the Minister its compliance; and

2.4.8 how compliance of the Minimum Required Wholesale Products and Additional Required Wholesale Products with the Wholesale Product Benchmarking Rules and NBPco's obligation to ensure that the Minimum Required Wholesale Products and Additional Required Wholesale Products evolve in line with Equivalent Products in the Excluded Area shall be measured, validated and reported to the Minister.

2.5 NBPco shall ensure that the Wholesale Product Roadmap, Wholesale Product & Coverage Template and Technology Roadmap are updated from time to time, in compliance with the

provisions of this Agreement, to reflect any improvements reflected in the Future Proofing Plan.

3 CHANGES TO THE FUTURE PROOFING PLAN

3.1 NBPco shall ensure throughout the Contract Period:

3.1.1 the Future Proofing Plan and the structure, metrics and processes underlining the Future Proofing Plan are continuously monitored, to ensure the Future Proofing Plan reflects Best Industry Practice and benefits from the most current, technologically up-to-date and appropriate structure, metrics and processes, applicable to the Network; and

3.1.2 it promptly notifies in writing the Minister of any changes to the Future Proofing Plan it considers necessary.

3.2 Without limiting or affecting NBPco's other obligations under this Schedule or the provisions of Clause 26 (Service and Network Future Proofing and Continuous Improvement), or the Minister's right under Paragraph 3.5.3 (Wholesale Product evolution and Wholesale Product Roadmap) of Schedule 2.1 (Technical Solution Specification) to change the required format of the Wholesale Product Roadmap or Technology Roadmap, the Minister may at any time throughout the Contract Period identify changes to the Future Proofing Plan. If the Minister considers one or more changes to the Future Proofing Plan is necessary for NBPco to comply with its obligations under the provisions of this Agreement, it shall be dealt with as a Change in accordance with the provisions of the Change Control Procedure but at no cost to the Minister or any increase to the Subsidy Payments in respect of that change and with no change to the any other matter referred to in this Agreement which would have the effect of decreasing NBPco's obligations under this Agreement.

3.3 If, after the Commencement Date, NBPco becomes aware of any reason why it considers it necessary to amend any part or parts of the Future Proofing Plan it shall comply with the Change Control Procedure with respect to the required change at no cost to the Minister or any increase to the Subsidy Payments and with no change to the any other matter referred to in this Agreement which would have the effect of decreasing NBPco's obligations under this Agreement.

4 FUTURE PROOFING – OPERATIONAL ENVIRONMENT

4.1 Without limiting or affecting the provisions of the Agreement, this Schedule or NBPco's obligations under Paragraph 4 (Operational Environment Requirements) of Schedule 2.1 (Technical Solution Specification), NBPco shall throughout the Contract Period and Intervention Area implement and maintain the Future Proofing Plan to and do all that is necessary to ensure:

4.1.1 the Operational Environment designed, maintained, provided and implemented by or for NBPco is in line with expected and actual demand and is scalable and scaled so that it accommodates the increasing and actual number of RSPs, WSPs, Wholesale Products, Premises and transaction volumes throughout the Contract Period and Intervention Area;

4.1.2 the functionality provided by the Operational Environment (and each of its components) throughout the Contract Period and Intervention Area keeps in line with Best Industry Practice and the evolution of appropriate standards (for

example, TM Forum, eTom framework, ITIL or equivalents of them) (including by undertaking periodic reviews to confirm this is the case);

- 4.1.3 the Operational Environment (and each of its components) throughout the Contract Period and Intervention Area operates on an Equivalence of Input basis (including by undertaking periodic reviews to confirm this is the case) throughout the Contract Period and Intervention Area;
- 4.1.4 the Operational Environment throughout the Contract Period and Intervention Area continually improves to ensure improvements in the quality of service for Service Providers, including by gradually increasing the degree of automation of the system and maintaining pace with demand from Service Providers for new innovations; and
- 4.1.5 the Operational Environment throughout the Contract Period and Intervention Area is sufficiently flexible to and does accommodate and support all Wholesale Products (including New Wholesale Products) and changes to them which will or may be offered by NBPco throughout the Contract Period and Intervention Area, including so as to ensure that the Minimum Required Wholesale Products and Additional Required Wholesale Products evolve in line with Equivalent Products in the Excluded Area throughout the Contract Period provided that:
 - (A) [REDACTED]
 - (B) [REDACTED]

5 FUTURE PROOFING - WHOLESALE NETWORK

- 5.1 Without limiting or affecting the provisions of the Agreement, this Schedule or NBPco's obligations under Paragraph 5.4 (Network Evolution and Future Proofing) of Schedule 2.1 (Technical Solution Specification), NBPco shall throughout the Contract Period and Intervention Area implement and maintain the Future Proofing Plan to and do all that is necessary to ensure:
 - 5.1.1 it develops, publishes, maintains and updates the Technology Roadmap in accordance with Paragraph 5.4 (Network Evolution and Future Proofing) of Schedule 2.1 (Technical Solution Specification);
 - 5.1.2 it implements all technology and equipment upgrades committed in its Technology Roadmap throughout the Contract Period and Intervention Area;
 - 5.1.3 the Network and associated operational solution throughout the Contract Period and Intervention Area are able to, and do, sufficiently evolve to extend the capability of existing Wholesale Products, including so as to provide future enhanced Wholesale Products and accommodate New Wholesale Products as described in the Wholesale Product Roadmap and so as to ensure that the Minimum Required Wholesale Products and Additional Required Wholesale Products evolve in line with Equivalent Products in the Excluded Area throughout the Contract Period provided that:
 - (A) [REDACTED]
 - (B) [REDACTED]

- 5.1.4 the Network and its associated operational solution throughout the Contract Period and Intervention Area are able to, and do, sufficiently scale with, and to accommodate, data volumes and number of Premises associated with Active Wholesale Products provided and to be provided throughout the Contract Period and Intervention Area;
- 5.1.5 the Network and its associated operational solution throughout the Contract Period and Intervention Area are able to, and do, sufficiently scale with, and accommodate, the range of Passive Wholesale Products provided and to be provided throughout the Contract Period and Intervention Area;
- 5.1.6 the design, build, maintenance and upgrading of the Network throughout the Contract Period and Intervention Area is sufficient to ensure that all the Wholesale Products comply and continue to comply with the Wholesale Product Benchmarking Rules and to accommodate changes to existing Wholesale Products and introduction of New Wholesale Products required pursuant to the Wholesale Product Benchmarking Rules and to:
 - (A) meet demand from IA End Users and Service Providers for new products and innovations; and
 - (B) ensure that the Minimum Required Wholesale Products and Additional Required Wholesale Products evolve in line with Equivalent Products in the Excluded Area throughout the Contract Period provided that:
 - (1) [REDACTED]
 - (2) [REDACTED]
- 5.1.7 the Network adheres throughout the Contract Period and Intervention Area to Best Industry Practice for public network and operations design, build and interoperability including (where relevant and applicable) those Codes and Standards and guidelines described in Paragraph 5.3 (Requirements To Adhere To Standards) of Schedule 2.1 (Technical Solution Specification) (the “**Relevant Codes and Standards**”);
- 5.1.8 the NBPco Solution is based on the latest Relevant Codes and Standards throughout the Contract Period and Intervention Area; and
- 5.1.9 the NBPco Solution is at least compliant with version N-2 of the latest Relevant Codes and Standards at all times throughout the Contract Period and Intervention Area.

6 FUTURE PROOFING - WHOLESALE PRODUCTS

- 6.1 Without limiting or affecting the provisions of the Agreement, this Schedule or NBPco’s obligations under Paragraph 3 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification), or NBPco’s obligations under Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules), NBPco shall throughout the Contract Period and Intervention Area implement and maintain the Future Proofing Plan and do all that is necessary to ensure:

- 6.1.1 it develops, publishes, maintains and updates the Wholesale Product Roadmap in accordance with Paragraph 3.5 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification);
- 6.1.2 it continuously monitors and compares the actual and published performance, performance specification, performance levels and other characteristics of a Wholesale Product against the published or actual Benchmark Reference Performance Specification, in accordance with the Wholesale Product Benchmarking Rules;
- 6.1.3 it continuously monitors its compliance with the Wholesale Product Benchmarking Rules in accordance with Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules);
- 6.1.4 it continuously monitors and assesses the product and operational performance of all the Wholesale Products against Equivalent Products provided in the Excluded Area throughout the Contract Period; and
- 6.1.5** that the product and operational performance of the Minimum Required Wholesale Products and Additional Required Wholesale Products improve in line with Equivalent Products provided in the Excluded Area throughout the Contract Period provided that:
 - (A) [REDACTED]
 - (B) [REDACTED]

7 FUTURE PROOFING PLAN REPORTING

- 7.1 Without limiting or affecting the provisions of Clause 26 (Service and Network Future Proofing and Continuous Improvement) or Part 2 (Compliance and Future Proofing Review) of this Schedule, NBPCo shall identify and report to the Minister within fifteen (15) Working Days of the end of each Contract Year throughout the Contract Period, and in accordance with Schedule 6.5 (Reports and Records), on:
 - 7.1.1 what it has done in the Contract Year just expired; and
 - 7.1.2 what it intends to do in each of the forthcoming next five (5) Contract Years,

to comply with its future proofing and continuous improvement obligations specified in this Agreement and this Schedule including with respect to:
 - 7.1.3 future proofing the Services, Wholesale Products, the Operational Environment and the Network (including in terms of capacity, scalability and emerging and new technologies);
 - 7.1.4 the emergence of new and evolving relevant technologies which could improve the Network, Wholesale Products, the Operational Environment and/or the Services;
 - 7.1.5 new or potential improvements to the Services, Wholesale Products, the Operational Environment and/or the Network;
 - 7.1.6 new or potential improvements to the interfaces or integration of the Services, Wholesale Products, the Operational Environment and/or the Network with other

services or networks provided by third parties or the Minister which might result in efficiency or productivity gains or in reduction of operational risk or service or network issues;

- 7.1.7 changes in business processes and ways of working that would enable the Services, Wholesale Products, the Operational Environment and/or the Network to be delivered at lower cost and/or with greater benefits to the Minister, Service Providers and/or IA End Users; and
- 7.1.8 changes to the Network, Wholesale Products, the Operational Environment, Services, business processes and/or ways of working that would enable reductions in the total energy consumed in the provision of the Services, Wholesale Products, the Operational Environment and/or the Network.

7.2 NBPco shall include in the report a section addressing, in reasonable detail, requests from Service Providers for new products and innovations in the Contract Year concerned.

7.3 NBPco shall provide, with its annual report, a copy of the Future Proofing Plan and shall identify any changes it proposes to make to the Future Proofing Plan, or which were approved by the Minister during the Contract Year just expired, in accordance with the Change Control Procedure.

7.4 NBPco shall ensure that each annual report to the Minister distinguishes between:

7.4.1 the Operational Environment;

7.4.2 the Network; and

7.4.3 Wholesale Products,

and employs and adheres to the requirements, and includes the information, specified in this Schedule.

7.5 NBPco shall ensure that each annual report includes the following information:

7.5.1 an executive summary;

7.5.2 the then current version of the Wholesale Product Roadmap, identifying any changes made to it by NBPco during the Contract Year just expired;

7.5.3 the then current version of the Technology Roadmap, identifying any changes made to it by NBPco during the Contract Year just expired;

7.5.4 the then current version of the Wholesale Product & Coverage Template, identifying any changes made to it by NBPco during the Contract Year just expired;

7.5.5 any new or potential improvements to the Services, the Network, the Operational Environment and Wholesale Products identified or implemented during the Contract Year just expired;

7.5.6 detailed description of NBPco's performance under the Future Proofing Plan against the targets, objectives (including the objectives listed in Paragraph 1.7 (Service, Network, operational environment and Wholesale Product Future Proofing Plan)), strategies, operational plans, individual projects, initiatives,

- timeframes, milestones and financial budgets specified in the Future Proofing Plan;
 - 7.5.7 assessment of whether NBPco is complying with Paragraph 8 (Committed Investment); and
 - 7.5.8 any new targets, objectives (excluding the objectives listed in Paragraph 1.7 (Service, Network, operational environment and Wholesale Product Future Proofing Plan)), strategies, operational plans, individual projects, initiatives, timeframes, milestones and financial budgets NBPco wishes to implement as part of the Future Proofing Plan.
- 7.6 NBPco shall ensure that any new or potential improvements to the Services, Network, Operational Environment and Wholesale Products identified by NBPco during the Contract Year just expired reported to the Minister in accordance with this Paragraph include:
- 7.6.1 comprehensive details of the part or parts of the Services, Network, Operational Environment and/or Wholesale Products to which the new or potential improvements relate and why they are required or desirable;
 - 7.6.2 their impact on the Services, Network, Operational Environment, Wholesale Products, Deployment Area, Intervention Area, Service Providers and IA End Users;
 - 7.6.3 how the new or potential improvements will further the targets and objectives (including the objectives described in Paragraph 1.7 (Service, Network, operational environment and Wholesale Product Future Proofing Plan)) of the Future Proofing Plan;
 - 7.6.4 NBPco's strategy and timetable for implementing the new or potential improvements;
 - 7.6.5 the cost of providing the new or potential improvements;
 - 7.6.6 the on-going costs required by the new or potential improvements when implemented, including any alteration to the resources and/or expenditure required by NBPco and any alteration to its work practices;
 - 7.6.7 any Capital Expenditure that is required, or no longer required, as a result of the new or potential improvements; and
 - 7.6.8 whether the new or potential improvements would result in a Change.
- 7.7 NBPco shall ensure the information specified in its report is sufficient for the Minister to:
- 7.7.1 assess and determine if NBPco is in compliance with its obligations under this Agreement for future proofing and continuous improvement of the Services, Network, Operational Environment and Wholesale Products;
 - 7.7.2 assess and determine if NBPco is in compliance with its obligations to maintain, update and implement the Wholesale Product Roadmap;
 - 7.7.3 assess and determine if NBPco is achieving commitments and targets specified in the Wholesale Product Roadmap;

- 7.7.4 assess and determine if the Wholesale Products comply with the Wholesale Product Benchmarking Rules;
 - 7.7.5 assess and determine if NBPco is in compliance with its obligations to maintain, update and implement the Technology Roadmap;
 - 7.7.6 assess and determine if NBPco is achieving commitments and targets specified in the Technology Roadmap;
 - 7.7.7 assess and determine if NBPco is achieving commitments and targets specified in the Wholesale Product & Coverage Template;
 - 7.7.8 assess and determine if NBPco is complying with Paragraph 8 (Committed Investment); and
 - 7.7.9 evaluate properly the implications of any improvement reported by NBPco, or identified by the Minister.
- 7.8 Without limiting or affecting NBPco's obligations under this Schedule or the provisions of Clause 26 (Service and Network Future Proofing and Continuous Improvement), the Minister has the right at any time throughout the Contract Period to identify new or potential improvements to the Services, Network, Operational Environment and Wholesale Products which are required for NBPco to comply with its obligations under the provisions of this Agreement. To the extent that NBPco is not otherwise required to adopt or implement such improvements under this Agreement, the Minister shall be entitled to request a Change in accordance with the Change Control Procedure.
- 7.9 If either NBPco or the Minister wishes to incorporate any improvement to any of the Services, the Network, the Operational Environment and/or Wholesale Products identified and reported by NBPco, or any improvement is identified by the Minister through the Supplementary Product Benchmarking Process, or otherwise:
- 7.9.1 the provisions of Appendix 1 shall apply in respect of the Supplementary Product Benchmarking Process;
 - 7.9.2 any proposed Change shall be dealt with as a Change in accordance with the provisions of the Change Control Procedure (with no extra cost to the Minister in circumstances where NBPco is required to implement any such change in order to comply with its then existing obligations under the Agreement at the relevant time); and
 - 7.9.3 if such improvement would result in a change to any of the Wholesale Products, or any of their published or actual product and service performance specifications, levels, characteristics and other aspects, NBPco shall only implement such improvement in accordance with the Wholesale Product Control Procedure and provided and on condition that the proposed Wholesale Products comply with the Wholesale Product Benchmarking Rules.
- 7.10 The Minister has the right to require reasonable changes to the required format of the annual Future Proofing Plan report from time to time during the Contract Period by notice in writing to NBPco in which case NBPco shall promptly comply and implement the change to ensure its next annual report reflects the Minister's requirements.

8 COMMITTED INVESTMENT

- 8.1 NBPco committed in the Project Financial Model to a level of investment in the upgrading of the Services, Network, Operational Environment and Wholesale Products that is forecast as being required for the delivery of the NBPco Solution (including the Technology Roadmap, Wholesale Product Roadmap, Wholesale Product & Coverage Template) throughout the Contract Period following achievement of Network Deployment Complete (the “**Committed Investment**”). Without limiting or affecting NBPco’s obligations under the provisions of this Schedule or the Agreement, NBPco shall invest at least such a level of Committed Investment in the Services, Network, Operational Environment and Wholesale Products as committed to in the Project Financial Model as at the Effective Date, except if and to the extent NBPco can demonstrate that the level of investment contemplated by the NBPco Solution, Project Financial Model and this Agreement has been achieved by a lower level of investment due to efficiencies achieved by NBPco that were not contemplated at the Effective Date.
- 8.2 Where NBPco has specified in the Project Financial Model an additional level of investment that it has forecast for the delivery of additional improvements in the Services, Network, Operational Environment and Wholesale Products that may be identified and required during the Contract Period in accordance with Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules), Clause 26 (Service and Network Future Proofing and Continuous Improvement) and/or this Schedule, but which were not specified in the NBPco Solution, Technology Roadmap, Wholesale Product Roadmap and/or Wholesale Product & Coverage Template at the Commencement Date, such additional investment is not “Committed Investment” and shall only be required to be invested to the extent that such additional improvements are identified and required to be made during the Contract Period in accordance with Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules), Clause 26 (Service and Network Future Proofing and Continuous Improvement) and/or this Schedule.
- 8.3 For the avoidance of doubt, the Committed Investment and additional level of investment forecasted by NBPco for the delivery of additional improvements in the Services, Network, Operational Environment and Wholesale Products does not represent a cap on, and does not affect or limit, the level of investment that may be required during the Contract Period or limit or affect NBPco’s obligations under this Agreement.

PART 2 (COMPLIANCE AND FUTURE PROOFING REVIEW)

PURPOSE OF COMPLIANCE AND FUTURE PROOFING REVIEW

- 1.1 The objective of this Part is to provide insight and assurance to the Minister as to NBPco's compliance with the Service Requirements, NBPco Solution, Technology Roadmap, Wholesale Product Roadmap, Wholesale Product & Coverage Template, Future Proofing Plan and other matters relating to the Services, Network, Operational Environment and Wholesale Products.

2 FREQUENCY AND SCOPE OF COMPLIANCE AND FUTURE PROOFING REVIEW

- 2.1 Without limiting or affecting NBPco's obligations under the provisions of this Schedule, NBPco shall, (at no cost to the Minister, and without being entitled to any increase in the Subsidy Payments and without any disapplication of the Performance Indicators or any reduction in the Performance Levels) upon written request by the Minister, undertake and complete in accordance with the provisions of this Part, a comprehensive and full review of NBPco's compliance with:

- 2.1.1 the Service Requirements;
- 2.1.2 NBPco Solution;
- 2.1.3 Technology Roadmap;
- 2.1.4 Wholesale Product Roadmap;
- 2.1.5 Wholesale Product & Coverage Template; and
- 2.1.6 Part 1 (Service, Network and Wholesale Future Proofing) of this Schedule.

- 2.2 Without limiting or affecting the scope of Paragraph 2.1 (Frequency and Scope of Compliance and Future Proofing Review) and without limiting or affecting the requirements of Paragraph 3.2 (Compliance and Future Proofing Review Requirements), each Compliance and Future Proofing Review shall include a comprehensive and full review of NBPco's compliance with:

- 2.2.1 the Wholesale Product & Coverage Template;
- 2.2.2 commitments made for ongoing investment in the Network, Wholesale Products, Operational Environment and Services and future proofing and improvements as set out in the NBPco Solution;
- 2.2.3 commitments in the Technology Roadmap and the commitments NBPco intends to include in the Technology Roadmap for at least the next five (5) Contract Years;
- 2.2.4 commitments in the Wholesale Product Roadmap and the commitments NBPco intends to include in the Wholesale Product Roadmap for at least the next five (5) Contract Years;
- 2.2.5 the requirements to adhere to Relevant Codes and Standards as set out in Paragraph 5.3 (Requirements to adhere to standards) of Schedule 2.1 (Technical Solution Specification) including the requirement to ensure the Network is designed, maintained and operated in accordance with at least the N-2 version of all the latest relevant standards; and

2.2.6 any other matter relating to the Minimum Required Wholesale Products, Additional Required Wholesale Products, Operational Environment and the Network, as the Minister may specify in the terms of reference for the Compliance and Future Proofing Review.

2.3 [Not used]

2.4 Any request by the Minister for NBPco to conduct a Compliance and Future Proofing Review shall not be made:

2.4.1 before the expiry of the first five (5) Contract Years; and

2.4.2 with respect to, as applicable, the same Wholesale Product or same components of the Operational Environment or Network or Services the subject of the previous relevant Compliance and Future Proofing Review, at intervals of less than five (5) Contract Years after any previous Compliance and Future Proofing Review relating to, as applicable, the same Wholesale Product or the same components of the Operational Environment or Network or Services.

2.5 The Minister shall be entitled at any time during the Contract Period, including pursuant to any concerns raised with him by or on behalf of IA End Users, Services Providers, Regulator, Regulatory Bodies or otherwise, to request in writing that NBPco (at no cost to the Minister) provide a report to the Minister of its compliance with its obligations under this Schedule to ensure that the Minimum Required Wholesale Products and Additional Required Wholesale Products evolve in line with Equivalent Products in the Excluded Area. Any such report shall include details of where NBPco has identified that any Change may be required to comply with this obligation but has not done so because it has identified, in compliance with this Agreement, that:

2.5.1 a Change is not required to be implemented pursuant to the Wholesale Product Roadmap, Technology Roadmap, Wholesale Product & Coverage Template and Future Proofing Plan at a relevant time; and

2.5.2 a Change is not required under this Schedule or other provisions of this Agreement because it would materially and adversely affect the commercial risk profile of the Project and would materially reduce the Post Tax Equity Internal Rate of Return or the minimum and average Debt Service Cover Ratios in the version of the Project Financial Model pursuant to Schedule 5.3 (The Project Financial Model) prevailing immediately prior to the date that any necessary Change is identified.

The Minister shall not exercise his right to request a report under this Paragraph 2.5 (Frequency and Scope of Compliance and Future Proofing Review) more than once in every two (2) Contract Years.

3 COMPLIANCE AND FUTURE PROOFING REVIEW REQUIREMENTS

3.1 NBPco shall promptly and not later than twenty (20) Working Days following the Minister's request for NBPco to conduct a Compliance and Future Proofing Review provide to the Minister for approval NBPco's proposed plan for the review.

3.2 NBPco shall include in the plan for the Compliance and Future Proofing Review:

3.2.1 a proposed timetable for the Compliance and Future Proofing Review;

- 3.2.2 a description of the methodology to be used;
 - 3.2.3 the specific data sets, which shall be at a sufficient level of detail to allow meaningful comparisons and conclusions to be drawn, on which the Compliance and Future Proofing Review shall be based;
 - 3.2.4 the subject matter of the Compliance and Future Proofing Review; and
 - 3.2.5 an estimate of the resources required from NBPco to underpin the delivery of the plan.
- 3.3 The Minister shall give notice in writing to NBPco within twenty (20) Working Days after receiving the draft plan either:
- 3.3.1 approving the draft plan; or
 - 3.3.2 suggesting amendments to the draft plan.
- 3.4 Where the Minister suggests amendments to the draft plan pursuant to Paragraph 3.3 (Compliance and Future Proofing Review Requirements), NBPco shall **[REDACTED]** unless it properly demonstrates that the amendments are unreasonable, produce and send the amended draft plan to the Minister.
- 3.5 Any Disputes about or arising out of NBPco's draft plan for the Compliance and Future Proofing Review shall be resolved through the Dispute Resolution Procedure. Pending the resolution of the Dispute, NBPco shall continue to make all preparations for the Compliance and Future Proofing Review to ensure it can be effectively conducted and completed as soon as possible after resolution of the Dispute.
- 3.6 Once the plan is approved or amended pursuant to the provisions of this Paragraph 3 (Compliance and Future Proofing Review Requirements), NBPco shall carry out the Compliance and Future Proofing Review in accordance with the plan.
- 3.7 If NBPco fails to undertake any action described in the plan approved or amended pursuant to the provisions of this Paragraph 3 (Compliance and Future Proofing Review Requirements), the Minister may invoke the Remedial Plan Process in respect of such failure.

4 COMPLIANCE AND FUTURE PROOFING REVIEW REPORTING

- 4.1 NBPco shall prepare a Compliance and Future Proofing Review Report and deliver it to the Minister, at the time specified in the plan approved or prescribed under the provisions of Paragraph 3 (Compliance and Future Proofing Review Requirements).
- 4.2 NBPco shall ensure that the Compliance and Future Proofing Review Report comprises a format and level of detail which can meaningfully inform the Minister as to the specified subject matter of the review as set out in Paragraph 2 (Frequency and Scope of Compliance and Future Proofing Review), and the plan for the Compliance and Future Proofing Review taking into account the objective of the Compliance and Future Proofing Review set out in Paragraph 1.1 (Purpose of Compliance and Future Proofing Review).
- 4.3 NBPco shall ensure that the Compliance and Future Proofing Review Report contains:
- 4.3.1 a detailed analysis and conclusions (including a statement of compliance of NBPco's compliance with this Agreement in relation to the subject matter of the

review, such statement of compliance to include a RACM (Risk and Control Matrix) with controls signed off at an appropriate level within NBPco); and

4.3.2 a summary view of its conclusions,

which may be shared in accordance with Clause 60 (Confidentiality).

4.4 NBPco shall promptly provide the Minister with whatever information the Minister, acting reasonably, deems necessary regarding NBPco's performance of the Compliance and Future Proofing Review, and/or referenced in the Compliance and Future Proofing Review Report.

4.5 The Minister may reject any Compliance and Future Proofing Review Report if the Minister reasonably considers that the Compliance and Future Proofing Review and/or the Compliance and Future Proofing Review Report is not in compliance with the provisions of this Part 2 (Compliance and Future Proofing Review) of this Schedule, and shall provide reasons for such rejection, in which case NBPco shall promptly take all necessary steps to ensure the Compliance and Future Proofing Review and/or the Compliance and Future Proofing Review Report are brought into compliance with the requirements of this Schedule.

4.6 Clause 1.2.19 (Definitions and Interpretation) applies to any Compliance and Future Proofing Report (and compliance statements).

4.7 Where in the opinion of NBPco and/or the Minister there is non-compliance with the Service Requirements, NBPco Solution, Technology Roadmap, Wholesale Product Roadmap, Wholesale Product & Coverage Template, Future Proofing Plan and other requirements relating to the Services, Network, Operational Environment and Wholesale Products pursuant to this Schedule:

4.7.1 NBPco shall promptly make recommendations as to how any such issue could be remedied; and

4.7.2 the Minister may, but is not obliged to, make recommendations as to how any such issue could be remedied.

4.8 NBPco shall (at no cost to the Minister, without being entitled to any increase in the Subsidy Payments, and without any disapplication of the Performance Indicators or any reduction in the Performance Levels) implement all remedial actions identified under Paragraph 4.7 (Compliance and Future Proofing Review Reporting) and required by the Minister as soon as reasonably practicable within timescales agreed with the Minister but in no event later than six (6) months after the date the Minister approves the remedial action, unless otherwise agreed in writing by the Minister.

4.9 The Minister may invoke the Remedial Plan Process in respect of any failure by NBPco to properly identify any necessary remedial action or implement the remedial actions identified under Paragraph 4.7 (Compliance and Future Proofing Review Reporting).

4.10 Any Disputes about or arising out NBPco's Compliance and Future Proofing Review shall be resolved through the Dispute Resolution Procedure.

APPENDIX 1 (SUPPLEMENTARY PRODUCT BENCHMARKING PROCESS)

1 SUPPLEMENTARY PRODUCT BENCHMARKING PROCESS

1.1 Scope of Supplementary Product Benchmarking Process

- 1.1.1 The Minister shall be entitled to carry out a Supplementary Product Benchmarking Process.
- 1.1.2 The Supplementary Product Benchmarking Process may be used by the Minister, as an additional safeguard to the provisions set out in Schedule 5.2 ((Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) and this Schedule 6.4 (Service, Network and Wholesale Product Compliance and Future Proofing) with a view to ensuring that the Minimum Required Wholesale Products and Additional Required Wholesale Products keep in line with developments in the Excluded Area. The output of the Supplementary Product Benchmarking Process shall be an assessment of whether additional measures are necessary, beyond those with which NBPco must comply under and pursuant to this Agreement, to ensure that the Minimum Required Wholesale Products and Additional Required Wholesale Products are kept in line with developments in the Excluded Area and may involve a Change Request in accordance with the provisions of this Appendix 1.
- 1.1.3 The Supplementary Product Benchmarking Process is not in substitution for or to address any failure by NBPco to comply with its future-proofing and other obligations set out elsewhere in this Schedule 6.4 and is without prejudice to the Minister's rights and remedies in respect of any such failure by NBPco. The Supplementary Benchmarking Process is intended to address unforeseen developments in the Excluded Area which are not addressed by means of NBPco's obligations under or pursuant to this Agreement.
- 1.1.4 The Minister may carry out the Supplementary Product Benchmarking Process as part of the Five Year Review but shall also be entitled to carry out the Supplementary Product Benchmarking Process at other times where the Minister considers required.
- 1.1.5 The Minister shall be entitled to request that the Regulator and/or the Agency (or any agent or representative acting on any of their behalf) carry out all or part of the Supplementary Product Benchmarking Process on the Minister's behalf and/or to provide advice and assistance to the Minister in respect of the Supplementary Product Benchmarking Process.

2 PROCESS PHASES

2.1 [REDACTED]

[REDACTED]

2.2 [Not used]

2.3 Data gathering and analysis phase (Step 2 in flowchart set out in Paragraph 2.1 (Process Phases))

2.3.1 During this phase of the Supplementary Product Benchmarking Process, the Minister may gather market data to determine the set of comparator products, which may include wholesale and retail products, available in the Excluded Area which the Minister considers relevant to his consideration as to whether the Minimum Required Wholesale Products and Additional Required Wholesale Products are being kept in line with developments in the Excluded Area, having regard to factors including, but not limited to:

- (A) the technical specification, and product descriptions, of such products;
- (B) the contractual conditions under which such products are being provided;
- (C) the market segment(s) which such products occupy; and
- (D) the pricing of such products.

2.3.2 The Minister may then determine a shortlist of up to five (5) products based upon the market share of the set of products identified pursuant to Paragraph 2.3.1 (Data gathering and analysis phase). In determining the shortlist, where the Minister considers that two or more products provide:

- (A) [REDACTED]
- (B) [REDACTED]

then only the product which commands the greater market share shall be included in the shortlist.

2.4 Assessment phase (Step 3 in flowchart set out in Paragraph **Error! Reference source not found.** (Process Phases))

2.4.1 The Minister may then compare those products in the shortlist of products identified pursuant to Paragraph 2.3.2 (Data gathering and analysis phase) to the Active Wholesale Products comprised in the Minimum Required Wholesale Products and Additional Required Wholesale Products presently available in the Intervention Area, as identified in the then applicable version of Appendix 1 of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) at the relevant time. A product in the shortlist shall be considered “**Comparable**” to an Active Wholesale Product where the Minister considers the products being compared to provide:

- (A) [REDACTED]
- (B) [REDACTED]

2.5 Decision phase (Step 4 in flowchart set out in Paragraph 2.1 (Process Phases))

2.5.1 Where a shortlisted product, as determined by the analysis undertaken pursuant to Paragraph 2.3 (Data gathering and analysis phase) and Paragraph 2.3 (Assessment phase) is not considered by the Minister to be Comparable to a Minimum Required Wholesale Product or Additional Required Wholesale Product in the then applicable

version of Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) at the relevant time, the Minister may first assess whether any proposed Wholesale Product Change the Minister is considering is already addressed by NBPco in the Wholesale Product Roadmap, Technology Roadmap, Wholesale Product & Coverage Template or Future Proofing Plan within eighteen (18) months of the Minister's assessment under this Paragraph.

2.5.2 Where the proposed Wholesale Product Change is not so addressed, the Minister may, at his absolute discretion, require NBPco to implement a Wholesale Product Change, notified to NBPco by the issue of a Change Request in accordance with the Change Control Procedure.

2.5.3 The provisions of Paragraph 5.2 (NBPco's Right of Rejection of Change Request) of Part 2 (Change Procedure) of Schedule 6.2 (Change Control Procedure) shall not apply to the Supplementary Benchmarking Process and Paragraph 5.2 (NBPco's Right of Rejection of Change Request) of Part 2 (Change Procedure) of Schedule 6.2 (Change Control Procedure) shall be read accordingly.

2.6 Implementation phase (Step 5 in flowchart set out in Paragraph 2.1 (Process Phases))

2.6.1 In implementing a Wholesale Product Change pursuant to Paragraph 2.5 (Process Phases), NBPco shall (without limiting or affecting any other provisions of this Agreement):

- (A) comply with the provisions of the Wholesale Product Control Procedure;
- (B) comply with the Wholesale Pricing Rules;
- (C) comply with the provisions of Schedule 2.2 (Reference Offer); and
- (D) comply with the provisions of Paragraph 9 (Product Management), and Appendix 2 (Statement of Requirements and Product Development Processes) of Schedule 2.4 (Operational Performance).