User Pays User Committee

Terms of Reference

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1. **Definitions**

1.1. In these User Pays User Committee (UPUC) Terms of Reference the following words have the following meanings:

"Alternate"

means a person appointed in writing by a User Pays Customer's Contract Manager, from the same User Pays Customer organisation, to attend UPUC meetings and/ or to vote on behalf of that Contract Manager;

"Chairman"

means a person or organisation, proposed by xoserve, and agreed by the User Pays Customers in accordance with these Terms of Reference, to act as chairman of the UPUC meetings;

"Community Total"

means the total of all Customer Voting Values (100%) for the relevant rolling period;

"Customer Voting Value"

means the percentage value determined for each User Pays Customer in accordance with section 6;

"Secretary"

means a person appointed by the Chairman to act as secretary of the UPUC meetings;

"Square Root Transformation Technique"

means the mechanism used to determine each User Pays Customer's Customer Voting Value, as further described in section 6;

"Terms of Reference"

means these Terms of Reference, as amended from time to time in accordance with section 7;

"Voting Members"

means each User Pays Customer, as more particularly provided in section 3.2 below; and

"Voting Period"	means the period from notification by xoserve that a matter is to be voted on, such period to end at 17:00hrs on the 10th Business Day following the day such notification is sent by email from xoserve.

1.2. All other capitalised terms have the meaning given to them in the Framework Contract for the Provision of Non-Code User Pays Services ("the Framework Contract")

2. Objectives

2.1. The UPUC is established in accordance with the Framework Contract. The UPUC discharges the functions ascribed to it in the Framework Contract and enables xoserve and User Pays Customers to discuss the operation and development of the Services specified, or with the potential to be specified, in the Framework Contract, and in particular to support:

   2.1.1. the Services Schedule Change Procedure as set out in Schedule 2 of the Conditions;

   2.1.2. the provision of feedback on the operation of Services specified in the Framework Contract;

   2.1.3. for xoserve, or the Transporters, the provision of information and progress updates on proposed modifications to the Agency Charging Statement.

3. Membership

3.1. Members of UPUC may comprise:

   3.1.1. User Pays Customers;

   3.1.2. xoserve;

   3.1.3. A Chairman for the meeting;

   3.1.4. A Secretary for the meeting;

   3.1.5. A representative from each Transporter that is a party to the Agency Services Agreement. For the avoidance of doubt Transporter representatives are not Voting Members solely by virtue of being a Transporter attendee;

   3.1.6. An Ofgem representative;

3.1.7. Consultants or other representatives appointed by a Customer. For the avoidance of doubt consultants or other representatives are not Voting Members; and

3.1.8. Others subject to agreement by the Chairman that they may participate.

3.2. Only User Pays Customers shall be Voting Members.

3.3. Any participants other than xoserve and the User Pays Customers shall be excluded from all or part of any UPUC meeting if a simple majority of xoserve and the User Pays Customers present at that UPUC meeting so determines.

3.4. Each User Pays Customer's Contract Manager may, by written notice to the Chairman, and upon verification by xoserve, appoint an Alternate.

3.5. The Chairman of the UPUC (and any changes thereto) will be proposed by xoserve from time to time, and shall be subject to agreement by xoserve and a simple majority of User Pays Customers present at the UPUC meeting at which the proposal is made. The Chairman shall appoint the Secretary.

4. Quorum

4.1. A UPUC meeting shall be considered quorate where, following the correct notification of a meeting, there are present xoserve and four or more User Pays Customers. In the absence of the Chairman or Secretary at any properly convened meeting, a substitute Chairman and/ or Secretary (as applicable) shall be appointed for that meeting, the identity of such person to be approved by xoserve and a simple majority of the User Pays Customers present.

5. Meetings

5.1. The Secretary will ensure agendas and minutes of meetings and any other information is made available in a timely fashion to Voting Members and xoserve.

5.2. For a meeting to be correctly convened, normally a minimum of 5 Business Days notice of a UPUC meeting (together with full details of any proposals to be considered at that meeting) must be provided to all Voting Members and xoserve. Meetings at shorter notice shall be correctly convened provided xoserve and at least four User Pays Customers agree to the convening of a meeting at short notice. A meeting may only be convened by the Chairman or the Secretary.

5.3. Agendas, minutes and other information provided to Voting Members and xoserve will be available and published on an appropriate website as specified by xoserve.

5.4. The UPUC shall meet as deemed necessary to conduct the business of the UPUC, and the Secretary shall, as a minimum, convene one meeting per year.

5.5. Attendance at a meeting may be in person or via tele/ video conferencing facilities.

5.6. xoserve's role within the UPUC and UPUCSG is:

5.6.1. the administration of the Services Schedule Change Procedure and the calculation of the Customer Voting Values as described in section 6; and

5.6.2. the administration associated with the proposed or actual changes to the Terms of Reference as described in section 7.

Any material changes to this role are to be agreed in writing by xoserve.

6. Change Proposal Procedure

6.1. Where UPUC is to make a determination pursuant to the provisions of the Services Schedule Change Procedure, the matter for determination shall be submitted to all User Pays Customers with notification of the relevant Voting Period by xoserve. The provisions of this section 6 shall apply in establishing how UPUC is to make such determination.

6.2. Any matter submitted to UPUC for determination shall be deemed to be approved by UPUC unless at the end of the relevant Voting Period:

6.2.1. at least four (4) User Pays Customers have rejected the matter proposed; and

6.2.2. those four (4) (or more) User Pays Customers rejecting the matter proposed, hold at least twenty percent (20%) in aggregate of the Customer Voting Value,

All User Pays Customers shall submit their vote from their Contract Manager (or approved Alternate) to xoserve by email in accordance with Clause 12.7 of the Conditions.

6.3. For the purposes of section 6.2.2 and section 7.11.2 but subject to sections 6.4 and 6.5 below, each User Pays Customer shall be allocated a Customer Voting Value using the Square Root Transformation Technique (see appendix 1 for a worked example). The Square Root Transformation Technique and the calculation of the Customer Voting Value shall be as follows:

6.3.1. In May and November each year, xoserve shall determine the value of Charges for each User Pays Customer for the months of April and October respectively.

6.3.2. xoserve shall then calculate the square root (to two (2) decimal places) for each such User Pays Customer's Charges.

6.3.3. xoserve shall determine for each User Pays Customer the percentage (to two (2) decimal places) of its square root value compared to all User Pays Customers' square root values. This percentage is the Customer Voting Value.

6.3.4. xoserve shall notify each User Pays Customer of its Customer Voting Value by email as soon as reasonably practicable in May and November each year. Once notified by xoserve that Customer Voting Value shall prevail until the next notification from xoserve subject to sections 6.4 and 6.5.

6.4. New User Pays Customers who enter into the Framework Contract in between the bi-annual calculation of the Customer Voting Value (as described in section 6.3) shall be given a Customer Voting Value of zero (0) but shall have a vote for the purposes of the rule described in section 6.2.1 and section 7.11.1.

6.5. If there are any material changes (a change that would change one or more User Pays Customer's Customer Voting Value by two (2%)), for example; new entrants, terminations, mergers etc, in between the bi-annual calculation of the Customer Voting Values (as described in section 6.3), to the Customer Voting Values, or a request by UPUC or a User Pays Customer, then xoserve shall re-calculate all User Pays Customers Customer Voting Value for the month following the material change.

6.6. User Pays Customers which wish to vote may only do so by their Contract Manager or his/ her Alternate. A Contract Manager or his/ her Alternate may only vote by email in accordance with Clause 12.7 of the Conditions within the Voting Period. A vote must either be to accept or reject the proposal and may not be qualified in any way, although additional commentary may be provided which will be published (unless xoserve are advised otherwise) with the User Pays Customer's vote. In the event that a vote is qualified or unclear in any way, it will be deemed to be a vote to reject the proposal.

6.7. xoserve shall acknowledge and record each User Pays Customer's vote. Each User Pays Customer's vote (for or against, and any additional commentary) and the outcome (accepted or rejected) will be published on the Website as soon as reasonably practicable after the voting period has closed.

6.8. The outcome of the vote will determine the next steps for the Service Change in accordance with the Services Schedule Change Procedure.

6.9. In the event of a conflict between the provisions of these Terms of Reference and the Services Schedule Change Procedure, the Services Schedule Change Procedure within the Framework Contract shall prevail.

7. Maintenance of the Terms of Reference

7.1. These Terms of Reference will be maintained by the Voting Members.

7.2. Any User Pays Customer Contract Manager may submit a proposed change to these Terms of Reference. Any such proposed change must include a full draft copy of a revised terms of reference in "draft status".

7.3. xoserve will submit an acknowledgement to the User Pays Customer. xoserve shall then publish the proposal and draft revised terms of reference on the Website.

7.4. The proposal and draft revised terms shall then be discussed at the next UPUC meeting.

7.5. If, following that meeting the proposer wishes to pursue its proposal it shall re-submit to xoserve its proposal together with its proposed terms of reference in "proposed status". Such terms may include any revisions made by the proposer subsequent to its initial submission.

7.6. xoserve shall then publish such proposal and proposed terms of reference on the Website and shall notify User Pays Customers of such publication on that day.

7.7. Voting Members shall have ten (10) Business Days from the day after the date of publication to submit their vote to xoserve.

7.8. All User Pays Customers shall submit their vote from their Contract Manager (or approved Alternate) to xoserve in accordance with Clause 12.7 of the Conditions. A vote must either be to accept or reject the revised terms of reference and may not be qualified in any way. In the event that a vote is qualified or is unclear in any way, it will deemed to be a vote to reject the revised terms of reference.

7.9. All votes must be received by xoserve by 5pm on the last Business Day of the Voting Period. Any vote not received by such time shall be deemed to be a vote to approve the revised terms.

7.10. xoserve shall acknowledge and record each User Pays Customer's vote. Each User Pays Customer's vote (whether accepting or rejecting the revised terms) will be published as soon as reasonably practicable after the voting period has closed. xoserve shall notify all User Pays Customers of the outcome of the vote.

7.11. Any proposed revised terms of reference submitted to UPUC for determination shall be deemed to be approved by UPUC unless at the end of the relevant Voting Period:

7.11.1. at least four (4) User Pays Customers have rejected the proposed terms of reference; and

7.11.2. those four (4) (or more) User Pays Customers rejecting the proposed terms of reference, hold at least twenty percent (20%) in aggregate of the Customer Voting Value,

7.12. Where UPUC approves the revised terms of reference they shall immediately be adopted as the UPUC terms of reference in substitution for the then existing terms and will be published on the Website.

8. **User Pays User Committee Sub Group (UPUCSG)**

8.1. A UPUCSG shall be formed and shall discharge the functions as provided in the Services Schedule Change Procedure. xoserve shall be a non-voting member of the UPUCSG

8.2. Where a UPUCSG is formed, this UPUCSG shall be the governing body (not UPUC) for the purpose of progressing and approving a Service Change.

8.3. The members of the UPUCSG will (subject always to the Services Schedule Change Procedure) determine between them the funding and any associated voting arrangements for the purpose of progressing and approving the Service Change proposal activities.

8.4. Unless otherwise agreed by the voting members of the UPUCSG, the voting rules and processes shall be the same as for UPUC so far as the context permits. The UPUCSG and the User Pays Customers may not materially increase the obligations of xoserve without the consent in writing of xoserve.

8.5. A UPUCSG shall be disbanded as and when agreed by the members of the UPUCSG.

8.6. A UPUCSG is formed for each Change Proposal that is not funded by the Change Budget where provided in the Services Schedule Change Procedure.

9. **Code User Pays Services**

9.1. Where appropriate the UPUC may discuss any Uniform Network Code User Pays (as defined in the Uniform Network Code) services in operation, or planned to be in operation, as necessary. For the avoidance of doubt, the UPUC shall not be a governing body for proposed Uniform Network Code User Pays services.

10. **Version History**

Version Number	Date approved
1.0	11.05.2009

Appendix 1 Worked example of the Square Root Transformation Technique

Customer	User Pays Customer Charges April xx	Square root of User Pays Customer Charges	Square root of User Pays Customer Charges as a percentage of all User Pays Customers Charges (170.20)
One	£5,000	70.71	41.54% (* see note 1 below)
Two	£3,000	54.77	32.18%
Three	£2,000	44.72	26.28%
Total		170.20	100.00% (* see note 2 below)

Note 1 – this is the Customer Voting Value

Note 2 - this is the Community Total