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 value determined for each User Pays Customer to represent that User Pays Customer's percentage of the Community Total;

"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 6.1;

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

"Voting Members" means xoserve and/ or each User Pays Customer, as more particularly provided in sections 3.2 and 3.3 below.

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 administration of 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;

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 For the purpose of the administration of the Services Schedule Change Procedure, only User Pays Customers shall be Voting Members.

3.3 For the purposes of maintaining these Terms of Reference, User Pays Customers and xoserve shall be Voting Members.

3.4 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.

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

3.6 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.

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. 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 UPUC members 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.

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 UPUC

meeting, and the provisions of this section 6 shall apply in establishing how UPUC is to make such determination.

6.2   Any matter submitted to a UPUC meeting for determination shall be deemed to be approved by UPUC unless at that meeting or within ten (10) Business Days thereafter:

6.2.1   at least four User Pays Customers vote to reject the matter proposed; and

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

in such situations the matter proposed shall be deemed rejected by UPUC.

For the avoidance of doubt, where three User Pays Customers vote to reject the matter proposed and those three User Pays Customers hold at least 20% in aggregate of the Customer Voting Value, the matter shall no be rejected (it shall be approved) as there were less than four User Pays Customers voting to reject the proposal.

6.3   For the purposes of section 6.2.2 above, 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 April and October each year, xoserve shall estimate the forecast aggregate Charges for the immediately following 12 month period for each User Pays Customer.

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

6.4   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 either vote in person (or by tele/ video conference) at a UPUC meeting (such vote to be recorded in the minutes of the meeting) or by email to

xoserve.userpays@xoserve.com within 10 Business Days thereafter. A vote must either be to accept of reject the proposal and may not be qualified in any way. In the event that a vote is qualified or unclear in any way, it will deemed to be a vote to reject the proposal. Once a User Pays Customer has voted in any manner through its Contract Manager or Alternate, that vote may not be withdrawn.

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

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

6.7   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 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 or xoserve 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 validate the proposal for completeness and (where applicable) 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 (which may include xoserve) 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 (including xoserve) shall have ten (10) Business Days (or any other period as agreed by a simple majority of Voting Members at the UPUC meeting where the proposal was presented) 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 Framework Contract. The xoserve Customer Manager or his alternate shall submit the xoserve vote. 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 and xoserve'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 In the event the revised terms of reference are rejected by xoserve or by User Pays Customers holding more than 20% of the Customer Voting Value, the proposed revised terms of reference will be rejected.

7.12 Where both xoserve and User Pays Customers holding at least 80% of the Customer Voting Value approve or are deemed to approve 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.

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	

Appendix 1 Worked example of the Square Root Transformation Technique

Customer	Forecast annual spend (FAS)	Square root of FAS	Square root of FAS as a percentage of all Customers FAS (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