

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS & IT
DEPARTMENT OF TELECOMMUNICATIONS
SANCHAR BHAWAN, 20, ASHOKA ROAD,
NEW DELHI-110 117. INDIA.

LICENCE AGREEMENT

FOR

PROVISION OF

INTERNET SERVICES

IN _____ SERVICE AREA

NO. _____ DATED _____

TOTAL PAGES _____

LICENCE AGREEMENT

FOR

INTERNET SERVICES

This AGREEMENT is made on the _____ day of _____ (month) _____ (year) by and between the President of India acting through _____ (name), Assistant Director General (LR-I), Department Of Telecommunications (DOT), Sanchar Bhavan, 20, Ashoka Road, New Delhi – 110 117 (Hereinafter called the LICENSOR) of the first PARTY.

AND

M/s _____, a company registered under the Companies Act 1956, having its registered office at _____ acting through Shri. _____, the authorised signatory (hereinafter called the LICENSEE which expression shall, unless repugnant to the context, include its successor in business, administrators, liquidators and assigns or legal representatives) of the Second PARTY.

WHEREAS by virtue of the provisions of Section 4 of the Indian Telegraph Act, 1885, the licensor enjoys privilege to grant Licence and the LICENSEE has requested to grant Licence for providing Internet Services in -----Service Area. Whereupon and in pursuance to the said request, the LICENSOR has agreed to grant this Licence to provide Internet Services in -----service area as per terms and conditions described in Schedule appended hereto.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In consideration of the payment of entry fee, Licence fee, and due performance of all the terms and conditions mentioned in this Licence agreement on the part of the LICENSEE, the LICENSOR does, hereby grant under Section 4 of the Indian Telegraph Act, 1885 on a non-exclusive basis, this Licence to set up and operate the Internet Services in the licensed service area described in Schedule appended hereto.
2. The Licence hereby granted will remain valid for 15(Fifteen) years from the Effective date unless revoked earlier for any reason whatsoever.
3. The LICENSEE hereby agrees and unequivocally undertakes to fully comply with all terms and conditions stipulated in this Licence Agreement and without any deviation or reservations of any kind.

4. Effective Date of this Licence shall be
5. Additional Licences in Licensee's service area may also be issued from time to time in future without any restriction of number of operators with same entry conditions or different entry conditions.
6. Unless otherwise stated or appearing from context, all the schedules annexed hereto including the certificates given along with application form and Guide lines for grant of licence for operating Internet Service No.820-1/06-LR dated 24.08.2007 will form part and parcel of this agreement. Provided, however, in case of conflict or variance on an issue relating to this agreement, the terms set out in the main body of this agreement read with all the Schedules annexed hereto shall prevail.
7. The LICENSOR reserves the right to modify at any time the terms and conditions of the licence , if, in the opinion of the LICENSOR, it is necessary or expedient to do so in the interest of the general public or for the proper conduct of telegraphs or on security consideration, provided further that the licensor reserves right to review the terms of this agreement based on the policy of further liberalization whenever articulated in the context of New Telecom Policy.
8. The Licence shall be governed by the provision of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997 as modified or replaced from time to time.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed through their respective authorised representatives on the _____(day) _____(month), _____(year).

Signed for and on behalf of
President of India

Signed on ___/___/____,
on Behalf of

M/s. _____

By

By

Mr. _____
(Name and Designation),
Assistant Director General (LR-I),

Mr. _____
(Name and Designation),
authorized signatory and
holder
of General Power of Attorney
dated _____,
executed in accordance with
the Resolution No.
_____, dated
_____ passed by
the Board of Directors.

Department of Telecommunications
New Delhi.

In the presence of:
Witnesses:

1. Signature
Name
Occupation. Address Place.

2. Signature
Name
Occupation. Address Place.

TABLE OF CONTENTS

Page No.

| | | |
|--------------|--|----|
| Schedule- | :TERMS AND CONDITIONS | 7 |
| PART I | GENERAL CONDITIONS | 7 |
| Condition 1 | :Ownership of the LICENSEE Company | 7 |
| Condition 2 | :Scope of the Licence | 8 |
| Condition 3 | :Duration of Licence | 11 |
| Condition 4 | :Extension of Licence | 11 |
| Condition 5 | :Modifications in the Terms and Conditions of Licence | 11 |
| Condition 6 | :Restrictions on 'Transfer of Licence' | 11 |
| Condition 7 | :Provision of Service | 12 |
| Condition 8 | :Delivery of Service | 13 |
| Condition 9 | :Requirement to furnish information | 13 |
| Condition 10 | :Suspension, revocation or Termination of Licence | 14 |
| Condition 11 | :Actions pursuant to Termination of Licence | 16 |
| Condition 12 | :Force-Majeure | 17 |
| Condition 13 | :SET Off Clause | 17 |
| Condition 14 | :Way Leave | 17 |
| Condition 15 | :General | 18 |
| PART II | COMMERCIAL CONDITIONS | |
| Condition 16 | :Tariffs | 18 |
| PART III | FINANCIAL CONDITIONS | |
| Condition 17 | :Fees payable | 18 |
| Condition 18 | :Definition of 'Adjusted Gross Revenue' | 19 |
| Condition 19 | :Schedule of payment of ANNUAL LICENCE FEE and other dues | 19 |
| Condition 20 | :Preparation of Accounts. | 21 |
| Condition 21 | :Bank Guarantees | 23 |
| PART IV | TECHNICAL CONDITIONS | 24 |
| Condition 22 | :Technical Condition | 24 |
| Condition 23 | :Engineering Details | 24 |
| Condition 24 | :Network Interconnection | 24 |

| | |
|---|-----------|
| Condition 25 :Quality of Performance | 25 |
| PART V OPERATING CONDITIONS | 26 |
| Condition 26 :Customer Service | 26 |
| Condition 27 :The Subscriber Terminals | 27 |
| Condition 28 :Obligations imposed on the LICENSEE | 27 |
| Condition 29 :Inspection and Testing of Installations. | 28 |
| PART VI SECURITY CONDITIONS | 28 |
| Condition 30 :Right to inspect | 28 |
| Condition 31 :Location of Switches | 28 |
| Condition 32 :Confidentiality of information | 29 |
| Condition 33 :Prohibition of certain Activities by the LICENSEE | 30 |
| Condition 34 :Security Conditions | 31 |
| Condition 35 :Application of Indian Telegraph Act | 38 |
| PART VII FREQUENCY AUTHORISATION | 38 |
| Condition 36 :Frequency Authorisation | 38 |
| ANNEXURES | |
| Annexure-I :Definition of Terms and expressions | 41 |
| Annexure-II :Performa for Affidavit regarding details of calculation of 'Revenue' and 'Licence Fee'. | 45 |
| :Appendix-I to Annex-II 'Format of Auditors' Report' | 46 |
| :Appendix-II to Annex-II "Format of Statement of Revenue and Licence fee | 47 |
| Annexure-III :Norms for preparation of Annual Financial Statement | 50 |
| Annexure-IV:Performa for Performance Bank Guarantee | 51 |
| Annexure-V :Performa for Financial Bank Guarantee | 54 |
| Annexure-VI: Tripartite Agreement | 56 |
| Annexure-VII: Performa for checking bonafide of Internet Leased Line Customer | 69 |
| Annexure-VIII: Telecom Service Areas | 72 |

SCHEDULE

TERMS AND CONDITIONS

Part-I GENERAL CONDITIONS

1. Ownership of the LICENSEE Company:

- 1.1 The LICENSEE shall ensure that the total foreign equity in the paid up capital of the LICENSEE Company does not, at any time during the entire Licence period, exceed 74% of the total equity. The details of the Indian & Foreign promoters/shareholders with their respective equity holdings in the LICENSEE Company as disclosed on the date of signing of the Licence agreement, are as follows:

| Sl. No. | Name of Shareholders | Indian/ Foreign | Percent of Equity held |
|---------|----------------------|-----------------|------------------------|
| 1. | | | |
| 2. | | | |
| | | | |

- 1.2 Both direct and indirect foreign investment in the licensee company shall be counted for the purpose of FDI ceiling. Foreign Investment shall include investment by Foreign Institutional Investors (FIIs), Non-resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs) and convertible preference shares held by foreign entity. Indirect foreign investment shall mean foreign investment in the company/ companies holding shares of the licensee company and their holding company/companies or legal entity (such as mutual funds, trusts) on proportionate basis. Shares of the licensee company held by Indian public sector banks and Indian public sector financial institutions will be treated as 'Indian holding'. In any case, the 'Indian' shareholding will not be less than 26 percent.

- 1.3 The details of direct and indirect foreign investment as disclosed on the date of signing of the Licence Agreement are as follows:

| Sr.No. | Name | Details of Direct & Indirect foreign Investment |
|--------|------|---|
| 1. | | |
| 2. | | |
| | | |

- 1.4 FDI up to 49 percent will continue to be on the automatic route. FDI in the licensee company/Indian promoters/investment companies including their holding companies, shall require approval of the Foreign Investment Promotion Board (FIPB) if it has a bearing on the overall ceiling of 74 percent. While approving the investment proposals, FIPB shall take note that investment is not coming from countries of concern and/or unfriendly entities.
- 1.5 The investment approval by FIPB shall envisage the conditionality that Company would adhere to licence Agreement.
- 1.6 FDI shall be subject to laws of India and not the laws of the foreign country/countries.
- 1.7 Except prior permission in writing by Licensor there shall be no change in the Foreign promoter(s) or their equity participation . Normally there will be no objection in substituting an existing foreign promoter by another foreign promoter of similar standing subject to the total foreign equity being below the prescribed limit.
- 1.8 The LICENSEE Company may, under intimation to Licensor replace a promoter(s) by another promoter(s) as stipulated below:
 - (i) the Indian Promoter(s) or person(s) acquiring the foreign promoter's shareholding ; and
 - (ii) transfer of equity between Indian promoters or person(s) including Indian employees of the company .
- 1.9 The LICENSEE shall also ensure that any changes in share holding shall be subject to all applicable statutory permissions.

Explanation : In case of company listed at a stock exchange(s), shares bought and sold by way of any transaction through the stock exchange(s) where the Company shares or depository receipts are listed will not be treated as change of equity for the purpose of this clause subject to total prescribed foreign equity ceiling unless otherwise it leads to change in management control within the definition of SEBI Act.
- 1.10 The merger of Indian companies shall be permitted.
- 1.11 Change in the name of the LICENSEE Company shall be permitted in accordance with the provisions under the Indian Companies Act, 1956.

2. Scope of the Licence:

- 2.1 This licence is granted to provide SERVICE as defined in Para 2.2 of this licence agreement, on a non-exclusive basis in the category 'A' /

category 'B' _____ service area and others can also be granted licence for the said service in the same Service Area. Provided further that the LICENSOR, of its own or through a DESIGNATED OPERATOR, shall always have a right to operate the SERVICE anywhere in India including the service area for which this licence is granted. Details of various service areas are enclosed as **Annexure-VIII**.

2.2 Following services can be provided within the scope of Licence for Internet Service :

- (i) Internet Access: Internet access means use of any device/technology/methodology to provide access to internet including IPTV and all content available without access restriction on Internet including web hosting, webcolocation but it does not include service provider's configured Closed User Group Services (VPN). The content for IPTV shall be regulated as per law in force from time to time. Permission to provide IPTV services shall be granted on application by licensee provided the licensee has network of Rs. 100 crore or more.
- (ii) Internet Telephony: Internet Telephony mean a service to process and carry voice signals offered through Public Internet by the use of Personal Computers (PC) or IP based Customer Premises Equipment (CPE) connecting the following :
 - a) PC to PC; within or outside India
 - b) PC / a device / Adapter conforming to standard of any international agencies like- ITU or IETF etc. in India to PSTN/PLMN abroad.
 - c) Any device / Adapter conforming to standards of International agencies like ITU, IETF etc. connected to ISP node with static IP address to similar device / Adapter; within or outside India.

Explanation : Internet Telephony is a different service in its scope, nature and kind from real time voice service as offered by other licensed operators like Basic Service Operators (BSO), Cellular Mobile Service Operators (CMSO), Unified Access Service Operators (UASO)

- (iii) The Internet Telephony described in condition (ii) above, is only permitted.
- (iv) Addressing scheme for Internet Telephony shall only conform to IP addressing Scheme of Internet Assigned Numbers Authority (IANA) exclusive of National Numbering Scheme / plan

applicable to subscribers of Basic / Cellular Telephone service. Translation of E.164 number / private number to IP address allotted to any device and vice versa, by the licensee to show compliance with IANA numbering scheme is not permitted.

- (v) The Licensee is not permitted to have PSTN/PLMN connectivity. Voice communication to and from a telephone connected to PSTN/PLMN and following E.164 numbering is prohibited in India.
- (vi) Unified Messaging Services (UMS) without any additional PBX within the scope of (i) to (ii) above can be provided.
- (vii) The Licensee shall ensure that Bulk Encryption is not deployed by ISPs. Further, Individuals/ Groups/ Organizations are permitted to use encryption up to 40 bit key length in the symmetric key algorithms or its equivalent in other algorithms without obtaining permission from the Licensor. However, if encryption equipments higher than this limit are to be deployed, individuals/groups/organizations shall obtain prior written permission of the Licensor and deposit the decryption key, split into two parts, with the Licensor.
- (viii) Internet Service to any VSAT subscriber (who could be served by a shared hub commercial service provider or captive private VSAT network) can be provided, if the VSAT is located within the service area of the ISP. For this purpose, a direct interconnection of VSAT or VSAT-hub through leased line obtained from an authorised provider to the ISP's node/server shall be permitted only for the flow of Internet traffic. The ISP shall provide to the Licensor a monthly statement of VSAT subscribers served with their locations and details of leased line interconnection with the VSAT hub. The VSAT hub, however, need not be located in the service area of the ISP
- (ix) Licensee may install operate and commission International Internet Gateway using satellite or submarine cable as medium after obtaining security clearance/approval from Licensor.
- (x) Licensee with International internet gateway is allowed to sell internet bandwidth to other licensed internet service providers.

2.3 All subscribers except dial up subscribers have to be within the service area

2.4 LICENSEE shall make its own arrangements for the infrastructure involved in providing the service and shall be solely responsible for installation, networking and operation of necessary equipment and

systems, treatment of subscriber complaints, issue of bills to its subscribers, collection of revenue, attending to claims and damages arising out of his operations.

3. Duration of Licence:

- 3.1 This LICENCE shall be valid for a period of 15 years from the effective date unless revoked earlier.

4. Extension of Licence:

- 4.1 The Licensor may extend, if deemed expedient, the period of LICENCE by 5 years at one time, upon request of the LICENSEE, if made during 14th year of the Licence period on terms mutually agreed. The decision of the LICENSOR shall be final in regard to the grant of extension.

5. Modifications in the Terms and Conditions of Licence:

- 5.1 The LICENSOR reserves the right to modify at any time the terms and conditions of the LICENCE, if in the opinion of the LICENSOR it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the telegraphs. The decision of the LICENSOR shall be final and binding in this regard.

6. Restrictions on 'Transfer of Licence' :

- 6.1 The LICENSEE shall not, without the prior written consent as described below of the LICENSOR assign or transfer this LICENCE, either directly or indirectly, in any manner whatsoever to a third party or enter into any agreement for sub-Licence and/or partnership relating to any subject matter of the LICENCE to any third party either in whole or in part i.e. no sub-leasing/partnership/third party interest shall be created. Provided that the LICENSEE can always employ or appoint agents / franchisees and employees for provision of the service.
- 6.2 Intra service area mergers and acquisitions as well as subsequent transfer of Licences may be allowed.
- 6.3 Further, the Licensee may transfer or assign the License Agreement with prior written approval of the Licensor to be granted on fulfillment of the following conditions and if otherwise, no compromise in competition occurs in the provisions of Telecom Services :-
- (i) When transfer or assignment is requested in accordance with the terms and conditions on fulfillment of procedures of Tripartite Agreement if already executed amongst the Licensor, Licensee and Lenders; or

- (ii) Whenever amalgamation or restructuring i.e. merger or demerger is sanctioned and approved by the High Court or Tribunal as per the law in force; in accordance with the provisions; more particularly Sections 391 to 394 of Companies Act, 1956; and
- (iii) The transferee/assignee is fully eligible in accordance with eligibility criteria contained in any other document for grant of fresh license in that area and show its willingness in writing to comply with the terms and conditions of the license agreement if any ; and
- (iv) All the past dues are fully paid till the date of transfer/assignment by the transferor company and its associate(s) / sister concern(s) / promotor(s) and thereafter the transferee company undertakes to pay all future dues inclusive of anything remained unpaid of the past period by the outgoing company.

7. Provision of Service:

- 7.1 The LICENSEE shall be responsible for, and is authorized to own, install, test and commission all the Applicable system for providing the Internet Services under this Licence agreement. DTH service providers shall be permitted to provide Receive Only Internet Service after obtaining ISP licence from Department of Telecommunications. Further, ISP licensees shall be permitted to allow customers for downloading data through DTH after obtaining necessary permission from the competent authority. DTH Service providers will also be permitted to provide bidirectional Internet services after obtaining VSAT and ISP licence from DoT.
- 7.2 For the purpose of providing the SERVICE, the LICENSEE shall install his own suitable equipment so as to be compatible with the other eligible licensed service providers' equipment and connect the same directly or through any of the authorised licensed service provider to Internet Gateway for routing International Internet Traffic. ISPs are also allowed to set up International Gateways after obtaining security clearance/approval from Licensor.
- 7.3 In the process of operating the SERVICE, the LICENSEE shall be responsible for:-
- (i) The installation of the Internet Nodes i.e., routers/Servers etc.
 - (ii) the proper operation and maintenance of his network infrastructure;
- 7.4 If the LICENSEE has, in addition, leased or rented other telecommunication resources from any Licensed Telecom Service Provider for the purposes of providing the service and networking its

geographically dispersed equipment, such resources will be a matter between the ISP and the service provider(s) .

8. Delivery of Service:

- 8.1 The LICENSEE shall commission the Applicable Systems within 24 months from the effective date of the licence and offer the service on demand to its customers. Date of commercial launch would be the date on which commercial services are provided to the subscriber and shall be intimated to Licensor within 24 hours of such launch.
- 8.2 The LICENSEE shall be responsible for installation, testing and commissioning of all the equipment to provide the services. It will be the responsibility of the Licensee to obtain IP address, domain name etc. from competent authority. However, all performance tests required for successful commissioning of the service may also be carried out by the LICENSOR, if it so desires, before the services are commissioned for public use. The LICENSEE shall supply all necessary literature, drawings, installation materials regarding the equipment installed for commissioning of the services. The LICENSEE shall supply all the tools, test instruments and other accessories to the testing party of the LICENSOR for conducting the tests.
- 8.3 In case the Licensor chooses to conduct performance test, delay caused due to rectification of deficiencies, if any, in the commissioning/provision of SERVICES, will be to the account of the LICENSEE.
- 8.4 The LICENSEE indemnifies the LICENSOR against all actions brought against the LICENSOR for breach of privacy or unauthorised interruption of data transmitted by the subscribers.

9. Requirement to furnish information:

- 9.1 The LICENSEE shall furnish to the Licensor/TRAI, on demand in the manner and as per the time frames such documents, accounts, estimates, returns, reports or other information in accordance with the rules/ orders as may be prescribed from time to time. The LICENSEE shall also submit information to TRAI as per any order or direction or regulation issued from time to time under the provisions of TRAI Act, 1997 or an amended or modified statute.
- 9.2 The LICENSEE shall in no case permit service to any Telecom Service Provider (including those Other Service Providers who do not require Licence under Section 4 of Indian Telegraph Act, 1885) whose Licence is either terminated or suspended or not in operation at that point of time. Where connectivity already exists, the LICENSEE shall be obliged to disconnect or sever connectivity immediately without loss of time upon receipt of any reference from the LICENSOR in this regard. Disconnection shall be made effective within one hour of receipt of such reference.

- 9.3 The licensor shall provide to the Licensor, a quarterly report indicating the details of ISP nodes or points of presence with their locations and number of broadband/ leased/ dialup subscriber. In case new nodes are to be installed, one month prior notice is required to be given to the licensor.
- 9.4 The Licensee shall provide to the Licensor on regular basis the volume of Internet Telephony traffic flowing through his network.

10. Suspension, revocation or Termination of Licence:

- 10.1 The LICENSOR reserves the right to suspend the operation of this LICENCE in whole or in part, at any time, if, in the opinion of the LICENSOR, it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the TELEGRAPH. Licence Fee payable to the LICENSOR will not be required to be paid for the period for which the operation of this LICENCE remains suspended in whole. If situation so warrant, it shall not be necessary for Licensor to issue a notice for seeking comments of the LICENSEE for this purpose and the decision of the Licensor shall be final and binding. Provided that the LICENSOR shall not be responsible for any damage or loss caused or arisen out of aforesaid action. Provided further that the suspension of the LICENCE will not be a cause or ground for extension of the period of the LICENCE and suspension period will be taken as period spent.
- 10.2 (i) The LICENSOR may, without prejudice to any other remedy available for the breach of any conditions of LICENCE, by a written notice of 60 Calendar days from the date of issue of such notice to the LICENSEE at its registered office, terminate this LICENCE under any of the following circumstances :

If the LICENSEE:

- (a) fails to perform any obligation(s) under the LICENCE including timely payments of fee and other charges due to the LICENSOR;
- (b) fails to rectify, within the time prescribed, any defect/deficiency/correction in service/equipment as may be pointed out by the LICENSOR.
- (c) goes into liquidation or ordered to be wound up.
- (d) is recommended by TRAI for termination of LICENCE for non-compliance of the terms and conditions of the LICENCE.

- 10.2 (ii) The Licensor may impose a financial penalty not exceeding Rs. One crore for violation of terms and conditions of the licence agreement.
- 10.3 In the event of such termination of licence, the amount equivalent to Performance Bank Guarantee(PBG) shall be recovered by encashing the PBG and money so recovered shall be forfeited. The Licensee shall not be entitled to any damages or compensation for such termination.
- 10.4 The LICENSOR reserves the right to revoke the LICENCE at any time in the interest of public by giving a notice of 60 Calendar days from the date of issue of such notice.
- 10.5 The LICENSOR reserves the right to take over the entire services, equipments and networks of the LICENSEE or revoke/terminate/suspend the LICENCE in the interest of public or national security or in the event of national emergency/war or low intensity conflict or similar type of situations. Further the LICENSOR reserves the right to keep any area out of the operation zone of the SERVICE if implications of security so require.
- 10.6 Breach of non-fulfillment of Licence conditions may come to the notice of the LICENSOR through complaints or as a result of the regular monitoring. Wherever considered appropriate LICENSOR may conduct an inquiry either suo-moto or on complaint to determine whether there has been any breach in compliance of the terms and conditions of the LICENCE by the LICENSEE and upon such inquiry the LICENSEE shall extend all reasonable facilities and shall endeavor to remove the hindrance of every type.
- 10.7 It shall be the responsibility of the LICENSEE to maintain the Quality of Service, even during the period when the notice for surrender/ termination of LICENSE is pending and if the Quality of Service is not maintained, during the said notice period, it shall be liable to pay damages. The LICENSEE shall also be liable to pay the Licence Fee till the end of the notice period and more specifically till the date on which the surrender/termination becomes effective.
- 10.8 TERMINATION FOR INSOLVENCY: The LICENSOR may, at any time, terminate the licence without compensation to him, if the LICENSEE becomes bankrupt or otherwise insolvent or applies for being adjudicated as insolvent/bankrupt, provided such termination shall not prejudice or affect any right of action which has accrued or will accrue thereafter to the LICENSOR. The right of termination will arise on the LICENSEE being adjudicated or applying for being adjudicated as bankrupt.
- 10.9 TERMINATION FOR CONVENIENCE: If the LICENSEE desires to surrender the licence, it shall give an advance notice of 30 days to the Licensor to this effect. If the service is in operation, the licensee shall also intimate its subscribers of consequential withdrawal of service by serving a 15 days notice to them. The financial liability of the licensee

company for termination of the licence for convenience shall be as below:-

- (i) After start of service:- No surrender charge is payable. However, if during the notice period, acceptable level of service is not delivered to the customer, the licensee shall forfeit all claims on the Performance Bank Guarantee which shall be encashed and the amount shall be adjusted towards damages.
- (ii) Before start of service:- The licensee who have completed the allocated period to roll out Internet services counted from the date of issue of the ISP license and have not yet rolled out their services have option to surrender the license paying 5% of PBG as surrender charge within six months of such notification. Further the licensee who has not completed the allocated period to roll out Internet services counted from the date of issue of the ISP license and want to surrender ISP licenses may be permitted to do so within six months form date of such notification by paying 2.5% of PBG as surrender charges.

10.10 Licensee shall not, in any manner whatsoever, transfer the licensing rights granted to it, to any other party without written consent of Licensor. Any violation shall be construed as a breach of licence and the licence may be terminated in accordance with the provisions as contained in condition 10.2 hereinabove.

11. Actions pursuant to Termination of Licence:

- 11.1 If under the Licence Agreement, material event occurs which entitle the LICENSOR to terminate the Licence Agreement, the LICENSOR shall proceed in accordance with the terms and conditions provided in the Tripartite Agreement read with the Licence agreement wherever such agreement is executed and signed. In cases where no such agreement is signed the action will be taken as per the clause given below.
- 11.2 On termination or surrender or expiry of the LICENCE, the Bank Guarantee shall be released after a minimum period of six months to the LICENSEE only after ensuring clearance of all dues, which the LICENSEE is liable to pay to the licensor. In case of failure of the LICENSEE to pay the amounts due to the LICENSOR, the outstanding amounts shall be realized through encashment of the Bank Guarantee without prejudice to any other action(s) for recovery of the amounts due to the LICENSOR without any further communication to the Licensee.

12. Force- Majeure:

- 12.1 If at any time, during the continuance of this LICENCE, the performance in whole or in part, by either party, of any obligation under this is prevented or delayed, by reason of war, or hostility, acts of the

public enemy, civic commotion, sabotage, Act of State or direction from Statutory Authority, explosion, epidemic, quarantine restriction, strikes and lockouts (as are not limited to the establishments and facilities of the LICENSEE), fire, floods, natural calamities or any act of GOD (hereinafter referred to as EVENT), provided notice of happenings of any such EVENT is given by the affected party to the other, within 21 Calendar days from the date of occurrence thereof, neither party shall, by reason of such event, be entitled to terminate the LICENCE, nor shall either party have any such claims for damages against the other, in respect of such non-performance or delay in performance. Provided SERVICE under the LICENCE shall be resumed as soon as practicable, after such EVENT comes to an end or ceases to exist. The decision of the LICENSOR as to whether the service may be so resumed (and the time frame within which the service may be resumed) or not, shall be final and conclusive.

- 12.2 However, the Force Majeure events noted above will not in any way cause extension in the period of the LICENCE.
- 12.3 While it will normally not be a ground for non-payment of Licence Fee, the liability for payment of Licence fee for such inoperative period(s) due to force majeure clause may, however, be reduced/waived by the LICENSOR, at its discretion based on circumstances of the EVENT.

13. SET OFF CLAUSE:

- 13.1 In the event any sum of money or claim becomes recoverable from or payable by LICENSEE to the LICENSOR either against this Licence Agreement or otherwise in any manner, such money or claim can be (without restricting any right of set off for counter claim given or employed by law) deducted or adjusted against any amount or sum of money then due or which at any time thereafter may become due to the LICENCE under this Licence Agreement or any other agreement or contract between the LICENSOR and the LICENSEE.
- 13.2 The aforesaid sum of money payable to the LICENSEE company shall include any security which can be converted into money.
- 13.3 After exercising the right of set off a notice shall always be given immediately by the licensor to the LICENSEE.

14. Way Leave:

- 14.1 The LICENSEE Company shall make its own arrangements for Right of Way (ROW). However, the Central Government may issue necessary notification conferring the requisite powers upon the LICENSEE for the purposes of placing telegraph lines under Part III of the Indian Telegraph Act'1885. Provided that non-availability of the ROW or delay in getting permission / clearance from any agency shall not be construed or taken as a reason for non-fulfillment of the Roll-out

obligations and shall not be taken a valid excuse for not carrying any obligations imposed by the terms of this Licence.

15. **General:**

15.1 The LICENSEE shall be bound by the terms and conditions of this Licence Agreement as well as by such orders/directions/regulations of TRAI as per provisions of the TRAI Act, 1997 as amended from time to time and instructions as are issued by the Licensor/TRAI.

15.2 The Statutory provisions and the rules made under Indian Telegraph Act 1885 or TRAI Act, 1997 or Indian Wireless Telegraphy Act, 1933 shall govern this Licence agreement. Any order passed under these statutes shall be binding on the LICENSEE.

PART-II COMMERCIAL CONDITIONS

16. **Tariffs:**

16.1 The LICENSEE will charge the tariffs for the SERVICE as per the Tariff orders / regulations / directions issued by TRAI from time to time. The LICENSEE shall also fulfill requirements regarding publication of tariffs, notifications and provision of information as directed by TRAI through its orders / regulations / directions issued from time to time as per the provisions of TRAI Act, 1997 as amended from time to time.

PART-III FINANCIAL CONDITIONS

17. **FEES PAYABLE:**

17.1 Entry Fee: One Time non-refundable Entry Fee of Rs. _____ Lakh has been paid by the LICENSEE prior to signing of this Licence agreement.

17.2 Licence Fees: .An annual licence fee @6% of Adjusted Gross Revenue (AGR) as defined in **Condition 18** , subject to minimum of Rs.50,000/- (Rupees Fifty Thousand Only) and Rs.10,000/- (Rupees Ten Thousand Only) shall be payable for category 'A' & 'B' service areas respectively per annum per licenced service area.

17.3 Radio Spectrum Charges:

- (i) The LICENSEE shall pay spectrum charges in addition to the Licence Fees on revenue share basis as notified separately from time to time by the WPC Wing. However, while calculating 'AGR' for limited purpose of levying spectrum charges based on revenue share, revenue from wireline subscribers shall not be taken into account.

- (ii) Further royalty for the use of spectrum for point to point links and other access links shall be separately payable as per the details and prescription of Wireless Planning & Coordination Wing. The fee/ royalty for the use of spectrum /possession of wireless telegraphy equipment depends upon various factors such as frequency, hop and link length, area of operation and other related aspects etc. Authorization of frequencies for setting up Microwave links by Licensed Operators and issue of Licenses shall be separately dealt with WPC Wing as per existing rules.

18. Definition of 'Adjusted Gross Revenue' :

- 18.1 Gross Revenue: The Gross Revenue shall be inclusive of revenue from Internet access service, revenue from internet contents, revenue from Internet Telephony service, revenue from activation charges, revenue from sale, lease or renting of bandwidth, links, R&G cases, Turnkey projects etc., revenue from IPTV service, late fees, sale proceeds of terminal equipments, revenue on account of interest, dividend, value added services, supplementary services, interconnection charges, roaming charges, revenue from permissible sharing of infrastructure and any other miscellaneous revenue, without any set-off for related item of expense etc.
- 18.2 For the purpose of arriving at the "Adjusted Gross Revenue (AGR)" the following shall be excluded from the Gross Revenue to arrive at the AGR:
 - (i) Charges from pure Internet service, activation charges from pure internet subscribers. Pure Internet Services shall mean any method / device / technology to provide access to Internet unless explicitly prohibited and all content available including web-hosting, web-colocation which is available on internet without access restriction.
 - (ii) Service Tax on provision of service and Sales Tax actually paid to the Government if gross revenue had included as component of Sales Tax and Service Tax.
 - (iii) Roaming revenue actually passed on to other eligible/entitled telecom service provider.

19. Schedule of payment of ANNUAL LICENCE FEE and other dues:

- 19.1 For the purposes of the Licence Fee, the 1st year shall end on 31st March following the date of commencement of the Licence Agreement and the Licence fee for the First year shall be determined on a pro-rata basis for the actual duration of the "year". From second year onwards,

the year shall be of Twelve English calendar months from 1st of April to the 31st March for payment of Licence Fee.

EXPLANATION: The Licence fee for the last quarter of the first year and last quarter of the last year of the Licence will be computed with reference to the actual number of days after excluding the other quarters, each being of three months

- 19.2 Licence Fee shall be payable in four quarterly installments during each financial year (FY). Quarterly installment of licence fee for the first three quarters of a financial year shall be paid within 15 days of the completion of the relevant quarter. This Fee shall be paid by the LICENSEE on the basis of actual revenue (on accrual basis) for the quarter, duly certified with an affidavit by a representative of the LICENSEE, authorized by the Board Resolution coupled with General Power of Attorney. However, for the last quarter of the financial year, the LICENSEE shall pay the Licence Fee by 25th March on the basis of expected revenue for the quarter, subject to a minimum payment equal to the actual revenue share paid for the previous quarter. Further fourth quarter license fee should also be duly certified with an affidavit by authorized representative of the licensee.
- 19.3 The LICENSEE shall adjust and pay the difference between the payment made and actual amount duly payable (on accrual basis) for the last quarter of financial year within 15 days of the end of the quarter.
- 19.4 The quarterly payment shall be made together with a STATEMENT in the prescribed form as **Annexure-II**, showing the computation of revenue and Licence fee payable. The aforesaid quarterly STATEMENTS of each year shall be required to be audited by the Auditors (hereinafter called LICENSEE'S Auditors) of the LICENSEE appointed under Section 224 of the Companies' Act, 1956. The report of the Auditor should be in prescribed form as **Annexure-II**.
- 19.5 Any delay in payment of Licence Fee payable, or any other dues payable under the LICENCE beyond the stipulated period will attract interest at a rate which will be 2% above the Prime Lending Rate (PLR) of State Bank of India prevalent on the day the payment became due. The interest shall be compounded monthly and a part of the month shall be reckoned as a full month for the purposes of calculation of interest. A month shall be reckoned as an English calendar month.
- 19.6 Final adjustment of the Licence fee for the year shall be made based on the gross revenue figures duly certified by the AUDITORS of the LICENSEE in accordance with the provision of Companies' Act, 1956.
- 19.7 An audited copy of reconciliation between the figures appearing in the quarterly statements submitted in terms of the **condition 19.4** of the

agreement with those appearing in annual accounts shall be submitted along with a copy of the published annual accounts audit report and duly audited quarterly statements, within 7 (seven) Calendar days of the date of signing of the audit report. The annual financial account and the statement as prescribed above shall be prepared following the norms as prescribed in **Annexure-III**.

19.8 In case, the total amount paid as quarterly Licence Fee for the 4 (four) quarters of the financial year, falls short by more than 10% of the payable Licence Fee, it shall attract a penalty of **50%** of the entire amount of short payment. However, if such short payment is made good within 60 days from the last day of the financial year, no penalty shall be imposed. This amount of penalty shall be payable within 15 days of the date of signing the audit report on the annual accounts, failing which interest shall be further charged as per terms of **Condition 19.5**.

19.9 The Fee/royalty payable towards WPC Charges shall be payable at such time(s) and in such manner as the WPC Wing of the DoT may prescribe from time to time.

19.10 All sums becoming due and payable as mentioned in this Licence Agreement shall be paid by the LICENSEE through a demand draft or Pay Order payable at New Delhi, drawn on any Scheduled Bank, in favour of the '**Pay & Accounts Officer (HQ), DOT**' or any other Authority if so designated by LICENSOR.

19.11 The LICENSOR, to ensure proper and correct verification of revenue share paid, can, if deemed necessary, modify, alter, substitute and amend whatever stated in **Conditions 19.4, 19.7, 21.5 and 21.6** hereinbefore and hereinafter written.

20. **Preparation of Accounts.**

20.1 The LICENSEE will draw, keep and furnish independent accounts for the SERVICE and shall fully comply orders, directions or regulations as may be issued from time to time by the LICENSOR or TRAI as the case may be.

20.2 The LICENSEE shall be obliged to:

- (i) Compile and maintain accounting records, sufficient to show and explain its transactions in respect of each completed quarter of the Licence period or of such lesser periods as the LICENSOR may specify, fairly presenting the costs (including capital costs), revenue and financial position of the LICENSEE's business under the LICENCE including a reasonable assessment of the assets employed in and the liabilities attributable to the LICENSEE's business, as well as, for the quantification of Revenue or any other purpose.

- (ii) Procure in respect of each of those accounting statements prepared in respect of a completed financial year, a report by the LICENSEE's Auditor in the format prescribed by the LICENSOR, stating inter-alia whether in his opinion the statement is adequate for the purpose of this condition and thereafter deliver to the LICENSOR a copy of each of the accounting statements not later than three months at the end of the accounting period to which they relate.
 - (iii) Send to the LICENSOR a certified statement sworn on an affidavit, by authorized representative of the company, containing full account of Revenue as defined in **condition 18** for each quarter separately along with the payment for the quarter
- 20.3 The LICENSOR or the TRAI, as the case may be, shall have a right to call for and the LICENSEE shall be obliged to supply and provide for examination any books of accounts that the LICENSEE may maintain in respect of the business carried on to provide the service(s) under this Licence at any time without recording any reasons thereof.
- 20.4 LICENSEE shall invariably preserve all billing and all other accounting records (electronic as well as hard copy) for a period of THREE years from the date of publishing of duly audited & approved Accounts of the company and any dereliction thereof shall be treated as a material breach independent of any other breach, sufficient to give a cause for cancellation of the LICENCE.
- 20.5 The records of the LICENSEE will be subject to such scrutiny as may be prescribed by the LICENSOR so as to facilitate independent verification of the amount due to the LICENSOR as its share of the revenue.
- 20.6 The LICENSOR may, on forming an opinion that the statements or accounts submitted are inaccurate or misleading, order Audit of the accounts of the LICENSEE by appointing auditor at the cost of the LICENSEE and such auditor(s) shall have the same powers which the statutory auditors of the company enjoy under Section 227 of the Companies Act, 1956. The remuneration of the Auditors, as fixed by the LICENSOR, shall be borne by the LICENSEE.
- 20.7 The LICENSOR may also get conducted a 'Special Audit' of the LICENSEE company's accounts/records by "Special Auditors", the payment for which at a rate as fixed by the LICENSOR, shall be borne by the LICENSEE. This will be in the nature of auditing the audit described in **para 20.5** above. The Special Auditors shall also be provided the same facility and have the same powers as of the companies' auditors as envisaged in the Companies Act, 1956.

20.8 The LICENSEE shall be liable to prepare and furnish the company's annual financial accounts according to the accounting principles prescribed and the directions given by the LICENSOR or the TRAI, as the case may be, from time to time.

21. Bank Guarantees:

21.1 Performance Bank Guarantee: Performance Bank Guarantee (PBG) valid for two years from any scheduled bank in prescribed format as per **Annexure-IV** has to be submitted before signing of LICENCE AGREEMENT for amount equal to Rs. 2 crores/ 20 Lakh for (category 'A' & 'B' service areas).

21.2 Financial Bank Guarantee: The LICENSEE shall submit a Financial Bank Guarantee (FBG), valid for one year, from any Scheduled Bank or Public Financial Institution duly authorized to issue such Bank Guarantee, in the prescribed Performa **Annexure-V**. Initially, the financial bank guarantee shall be for an amount of Rs. 10 / 1 lakh (for category 'A' & category 'B' service areas respectively) and which has been submitted before signing the Licence agreement. Subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to license fee for two quarters and other dues not otherwise securitised and any additional amount as deemed fit by the Licensor. The amount of FBG shall be subject to periodic review by the Licensor and shall be renewed from time to time till final clearance of all dues.

21.3 The Fees, charges and royalties for the use of spectrum and also for possession of Wireless Telegraphy equipment shall be separately securitised by furnishing FBG of an amount equivalent to the estimated sum payable annually in the proforma annexed, to WPC, valid for a period of one year, renewable from time to time till final clearance of all such dues.

21.4 The Bank Guarantees PBG and FBG shall be renewed from time to time. The LICENSEE, on its own, shall extend the validity period of the Bank Guarantees for similar terms at least one month prior to date of its expiry without any demand or notice from the LICENSOR on year to year basis. Any failure to do so, shall amount to violation of the terms of the LICENCE and entitle the LICENSOR to encash the Bank Guarantees and to convert into a cash security without any reference to the LICENSEE at his risk and cost. No interest or compensation whatsoever shall be payable by the LICENSOR on such encashment.

21.5 Without prejudice to its rights of any other remedy, LICENSOR may encash Bank Guarantee (FBG as well as PBG) in case of any breach in terms & conditions of the LICENCE by the LICENSEE.

PART-IV TECHNICAL CONDITIONS

22. TECHNICAL CONDITIONS:

22.1 The Licensee shall provide on demand the details of the technology proposed to be deployed for operation of the service.

23. Engineering Details:

23.1 The LICENSEE shall furnish to the Licensor or its authorized representative(s), in such manner and at such times as may be required, complete technical details with all calculations for engineering, planning

and dimensioning of the system/network, concerned relevant literature, drawings, installation materials regarding the applicable system.

23.2 LICENSEE shall supply all tools, test instruments and other accessories to the testing party of Licensor and /or TEC for conducting tests, if it so desires, prior to commissioning of the service or at any time during the currency of the Licence.

23.3 Any delay on part of the LICENSEE in offering the system for conducting performance tests to TEC/ Licensor will not be considered as the valid reason for non-fulfillment of the Roll-out obligations imposed by the terms of this Licence.

24. Network Interconnection:

24.1 Direct interconnectivity between two separately licensed ISPs is permitted. ISPs are allowed to provide Internet Gateways after obtaining Security clearances through the Licensor. The licensee may obtain the transmission link or leased Line from any operator authorised to leased such links to the ISPs. The licensee may also establish its own transmission links within its service area for carrying traffic originated and terminating by its subscribers.

24.2 Resources required for interconnecting the licensee's network to the network of upstream internet access provider licensed by the Licensor including time frame for provision of the same, will be mutually agreed between the parties concerned. The licensee shall apply for and obtain the network resources from the concerned parties. The tariff of such network resources is outside the scope of this licence agreement. Licensor will have no obligation to obtain such resources from other parties.

24.3 Interconnectivity Requirements: ISPs shall use IP(Internet Protocol) in conjunction with Transmission Control Protocol (TCP) and shall meet the interface requirements of the Internet Service Providers to whose network, his node is connected.

- 24.4 Access to internet through authorised Cable Operator is permitted without additional licensing subject to applicable Cable Laws (The Cable Television Networks (Regulation) Act, 1995) as modified from time to time.
- 24.5 'Last mile' linkages shall be freely permitted within local area either by fibre optic or radio communication or underground copper cable for ISPs. In case of radio links, clearance from WPC wing of the DOT shall be required to be obtained by the ISPs.

25. Quality of Performance:

- 25.1 The LICENSEE shall ensure the Quality of Service (QoS) as prescribed by the LICENSOR or TRAI. The LICENSEE shall adhere to such QoS standards and provide timely information as required therein.
- 25.2 The LICENSEE shall be responsible for: -
- (i) Maintaining the performance and quality of service standards.
 - (ii) Maintaining the MTTR (Mean Time To Restore) within the specified limits of the quality of service.
 - (iii) The LICENSEE will keep a record of number of faults and rectification reports in respect of the service, which will be produced before the LICENSOR/TRAI as and when and in whatever form desired.
- 25.3 The LICENSEE shall be responsive to the complaints lodged by his subscribers. The Licensee shall rectify the anomalies within the MTTR specified and maintain the history sheets for each installation, statistics and analysis on the overall maintenance status.
- 25.4 The LICENSOR or TRAI may carry out performance tests on LICENSEE's network and also evaluate Quality of Service parameters in LICENSEE's network prior to grant of permission for commercial launch of the service after successful completion of interconnection tests and/ or at any time during the currency of the Licence to ascertain that the network meets the specified standards on Quality Of Service (QOS). The LICENSEE shall provide ingress and other support including instruments, equipment etc., for such tests.
- 25.5 The LICENSEE shall enforce and ensure QOS, as prescribed by the LICENSOR/TRAI, from the INFRASTRUCTURE PROVIDER (s) with whom it may enter into agreement / contract for leasing / hiring / buying or any such instrument for provision of infrastructure or provision of

bandwidth. The responsibility of ensuring QOS shall be that of LICENSEE.

PART-V OPERATING CONDITIONS

26. Customer Service:

- 26.1 The LICENSEE shall register demand/request for provision of service without any discrimination from any applicant, at any place in the licensed service area and provide the SERVICE, unless otherwise directed by the LICENSOR. The LICENSEE shall not in any manner discriminate between subscribers and provide service on the same commercial principle and shall be required to maintain a transparent, open to inspection, waiting list. The LICENSEE shall clearly define the scope of Service to the Subscriber(s) at the time of entering into contract with such Subscriber(s). LICENSOR shall have right to impose suitable penalty, not limited to a financial penalty, apart from any other actions for breach of this condition. The LICENSEE shall launch the SERVICE on commercial basis only after commencement of registration in the manner prescribed. Before commencement of SERVICE in an area, the LICENSEE shall notify and publicize the address where any subscriber can register demand /request for provision of service. Any change of this address shall be duly notified by the LICENSEE.
- 26.2 Provided that nothing contained herein will affect or prejudice the rights of the LICENSEE to carry out check on credit worthiness of its prospective subscribers.
- 26.3 The LICENSEE shall ensure continuity of services to its customers unless License is Terminated or Suspended by the Licensor for any reason whatsoever.
- 26.4 It shall be the responsibility of the LICENSEE to issue or cause to be issued bills to its subscribers for use of the service. The LICENSEE shall maintain such records so as to produce itemized billing information. The billing system of the LICENSEE shall be able to generate the billing information, in adequate details, to ensure satisfaction to the customer about the genuineness of the bill. The directions of TRAI, from time to time, in this regard shall apply.
- 26.5 All complaints of CUSTOMERs in this regard will be addressed / handled as per the guidelines, orders or regulations or directives issued by the LICENSOR or TRAI from time to time.
- 26.6 The LICENSEE's contractual obligations (to various Telecom Service Providers including Other Service Providers not requiring Licence under Section 4 of Indian Telegraph Act, 1885) will include terms and conditions under which the SERVICE may be obtained, utilized and terminated.

- 26.7 The LICENSEE shall notify in writing all the arrangements with respect to repair, fault rectification, compensation or refunds. All complaints in this regard will be addressed / handled as per the guidelines, order or regulation or direction issued by the LICENSOR or TRAI from time to time.
- 26.8 Any dispute, with regard to the provision of SERVICE shall be a matter only between the aggrieved party and the LICENSEE, who shall duly notify this to all before providing the SERVICE. And in no case the LICENSOR shall bear any liability or responsibility in the matter. The Licensee shall keep the Licensor indemnified for all claims, cost, charges or damages in the matter.
- 26.9 Licensee is to set up a Consumer Grievance Redressal Mechanism at the following two level
- (i) Call centre level
 - (ii) An Appellate Authority within the company.

Further, the Licensee must publicize about their Redressal mechanism on regular basis through various advertising means or through bills sent to subscriber.

27. The Subscriber Terminals:

- 27.1 The LICENSEE shall have the right to undertake the sale, hire purchase, lease or renting of the subscriber/ mobile terminals. Proper usage of terminal at subscriber's premises shall be as per agreement between the Licensee and subscriber.
- 27.2 The LICENSEE shall be responsible to ensure that the subscriber terminal is operated in accordance with the terms of the Licence and the WPC Licence. The SIM Card / any type of service enactment card, is non-transferable.
- 27.3 Subscriber will be free to obtain the Subscriber Terminal at his option from any source meeting the technical specifications prescribed by licensee and within the scope of services mentioned in the licence.

28. Obligations imposed on the LICENSEE:

- 28.1 The provisions of the Indian Telegraph Act 1885, the Indian Wireless Telegraphy Act 1933, and the Telecom Regulatory Authority of India Act, 1997 as modified from time to time or any other statute on their replacement shall govern this LICENCE.

29. Inspection and Testing of Installations.

- 29.1 The Licensor / TRAI may also carry out all performance tests required for checking Quality of Service, if it so desires. The LICENSEE shall supply all necessary literature, drawings etc. regarding the equipment installed and shall also supply all the tools, test instruments and other accessories to the testing party of the LICENSOR / TRAI for conducting the tests. The list of performance tests will be furnished by the LICENSEE one month prior to the date of commissioning to the Licensor. In case the Licensor chooses to conduct performance test and some deficiency is found therein by the licensor, the delay caused for rectification of the deficiencies, if any, will be entirely on account of the LICENSEE.
- 29.2 The Acceptance Testing for each and every interface with the BSNL/ MTNL/ or Other authorised licensed Service provider may be carried out by mutual arrangements between the LICENSEE and the other party involved. The Interconnection Test schedule shall be mutually agreed.

PART- VI SECURITY CONDITIONS

30. Right to inspect.

- 30.1 The LICENSOR or its authorized representative shall have right to inspect the sites used for extending the Service and in particular but not limited to, have the right to have access to leased lines, junctions, terminating interfaces, hardware/software, memories of semiconductor, magnetic and optical varieties, wired or wireless equipments, distribution frames, record files, logbook and conduct the performance test including to enter into dialogue with the system through Input/output devices or terminals. The LICENSEE will provide the necessary facilities for continuous monitoring of the system, as required by the LICENSOR or its authorized representative(s). The Inspection will ordinarily be carried out after reasonable notice except in circumstances where giving such a notice will defeat the very purpose of the inspection.
- 30.2 Wherever considered appropriate LICENSOR may conduct any inquiry either suo-moto or on complaint to determine whether there has been any breach in compliance of terms & conditions of the LICENCE by the LICENSEE and upon such inquiry the LICENSEE shall extend all reasonable facilities without any hindrance.

31. Location of Switches:

- 31.1 The LICENSEE on request, shall provide to the LICENSOR location details of switching centres, transmission centres, including routing details etc.

31.2 In areas which are sensitive from security point of view, as may be notified from time to time by the LICENSOR, implementation of any installation of the equipment and execution of project shall be taken up only after the LICENSOR's approval.

32. Confidentiality of information:

32.1 The LICENSEE shall not employ bulk encryption equipment in its network. However, the LICENSEE shall have the responsibility to ensure protection of privacy of communication and to ensure that unauthorised interception of MESSAGE does not take place.

32.2 Subject to conditions contained in these terms and conditions, the LICENSEE shall take all necessary steps to safeguard the privacy and confidentiality of any information about a third party and its business to whom it provides the SERVICE and from whom it has acquired such information by virtue of the SERVICE provided and shall use its best endeavors to secure that :

- (i) No person acting on behalf of the LICENSEE or the LICENSEE divulges or uses any such information except as may be necessary in the course of providing such SERVICE to the Third Party; and
- (ii) No such person seeks such information other than is necessary for the purpose of providing SERVICE to the Third Party.

Provided the above para shall not apply where:

- (i) The information relates to a specific party and that party has consented in writing to such information being divulged or used, and such information is divulged or used in accordance with the terms of that consent; or
- (ii) The information is already open to the public and otherwise known.

32.3 The LICENSEE shall take necessary steps to ensure that the LICENSEE and any person(s) acting on its behalf observe confidentiality of customer information.

32.4 The LICENSEE shall, prior to commencement of SERVICE, confirm in writing to the LICENSOR that the LICENSEE has taken all necessary steps to ensure that it and its employees shall observe confidentiality of customer information.

33. Prohibition of certain Activities by the LICENSEE.

- 33.1 The LICENSEE shall not engage on the strength of this LICENCE in the provision of any other Service requiring separate licence.
- 33.2 To remove any doubt, it is, hereby, clarified that nothing contained in condition in Para above shall preclude the LICENSEE from engaging in advertising and promotional activities relating to any of the service.
- 33.3 The LICENSEE shall take necessary measures to prevent objectionable, obscene, unauthorized or any other content, messages or communications infringing copyright, intellectual property etc., in any form, from being carried on his network, consistent with the established laws of the country. Once specific instances of such infringement are reported to the LICENSEE by the enforcement agencies, the LICENSEE shall ensure that the carriage of such material on his network is prevented immediately.
- 33.4 The LICENSEE is obliged to provide, without any delay, all the tracing facilities to trace nuisance, obnoxious or malicious calls, messages or communications transported through his equipment and network, to authorized officers of Government of India including Police, Customs, Excise, Intelligence Department officers etc. when such information is required for investigations or detection of crimes and in the interest of national security. Any damages arising on account of LICENSEE's failure in this regard shall be payable by the LICENSEE.
- 33.5 In case any confidential information is divulged to the LICENSEE for proper implementation of the Agreement, it shall be binding on the LICENSEE and its employees and servants to maintain its secrecy and confidentiality.
- 33.6 Obscene material and applicability of Cyber Laws: The LICENSEE shall ensure that objectionable, obscene, unauthorised or any other content, messages or communications infringing copyright, Intellectual property right and international & domestic cyber laws, in any form or inconsistent with the laws of India, are not carried in his network, the ISP should take all necessary measures to prevent it. In particular, LICENSEE is obliged to provide, without delay, all the tracing facilities of the nuisance or malicious messages or communications transported through his equipment and network, to authorised officers of Government of India/State Government, when such information is required for investigations of crimes or in the interest of national security. The activities shall also be complied with the provisions of the Information Technology (IT) Act 2000, as modified from time to time. Any damages arising out of default on the part of licensee in this respect shall be sole responsibility of the licensee.
- 33.7 The use of the network for anti-national activities would be construed as an offence punishable under the Indian Penal Code or other

applicable law. The networks cannot be used in such a manner as to endanger or make vulnerable a networked infrastructure. Acts such as break-ins or attempted break-ins of Indian networks shall be regarded as an anti-national act and shall be dealt with in accordance with the Indian Penal Code. ISPs must ensure that their services are not used for such purposes.

34. Security Conditions:

- 34.1 The LICENSEE shall provide necessary facilities depending upon the specific situation at the relevant time to the Government to counteract espionage, subversive act, sabotage or any other unlawful activity.
- 34.2 The LICENSEE shall make available on demand to the person authorized by the LICENSOR, full access to the switching centers, transmission centers, routes etc. for technical scrutiny and for inspection, which can be visual inspection or an operational inspection.
- 34.3 LICENSEE will ensure that the Telecommunication installation carried out by it should not become a safety hazard and is not in contravention of any statute, rule or regulation and public policy.
- 34.4 In the interests of security, suitable monitoring equipment as may be prescribed for each type of system used will be provided by the LICENSEE for monitoring as and when required by LICENSOR. The specific orders or directions from the Government, issued under such conditions, shall be applicable.
- 34.5 The precise delineation of geographical borders taken by the LICENSEE for the purpose of defining service area across International borders, if any, shall have prior approval of the Government of India. The terrestrial boundaries of India shall be as depicted in the maps issued by Survey of India.
- 34.6 The designated person of the Central/ State Government as conveyed to the Licensee from time to time in addition to the Licensor or its nominee shall have the right to monitor the telecommunication traffic in every node or any other technically feasible point in the network set up by the LICENSEE. The LICENSEE should make arrangement for monitoring simultaneous calls by Government security agencies. The hardware at LICENSEE's end and software required for monitoring of calls shall be engineered, provided/installed and maintained by the LICENSEE at LICENSEE's cost.
- 34.7 The Licensee shall install necessary infrastructure in the service area with respect to Internet telephony Services offered by the Licensee for processing /routing / directing / managing / authenticating the internet telephony calls including the generation of Call Details Record(CDR). CDR shall contain calling / called IP address, called numbers, date, duration, time and charges of internet telephony calls.

- 34.8 Each ISP must maintain a log of all users connected and the service they are using (mail, telnet, http etc.). The ISPs must also log every outward login or telnet through their computers. These logs, as well as copies of all the packets originating from the Customer Premises Equipment (CPE) of the ISP, must be available in REAL TIME to Telecom Authority. Type of logins, where the identity of the logged-in user is not known, should not be permitted.
- 34.9 The Government through appropriate notification may debar usage of mobile terminals in certain areas in the country. The LICENSEE shall deny service in areas specified by designated authority immediately and in any case within six hours on request. The LICENSEE shall also provide the facility to carry out surveillance of Mobile Terminal activity within a specified area.
- 34.10 The LICENSEE shall be responsible for ensuring privacy of communication on its network and also to ensure that unauthorized interception of message does not take place.
- 34.11 LICENSOR shall have the right to take over the SERVICE, equipment and networks of the LICENSEE (either in part or in whole of the service area) in case any directions are issued in the public interest by the Government of India in the event of a National emergency / war or low intensity conflict or any other eventuality. Any specific orders or directions from the Government of India issued under such conditions shall be applicable to the LICENSEE and shall be strictly complied with.
- 34.12 The complete list of subscribers shall be made available by the LICENSEE on their website (having password controlled access), so that authorized Intelligence Agencies are able to obtain the subscriber list at any time, as per their convenience with the help of the password. The list should be updated on regular basis. Hard copy as and when required by security agencies shall also be furnished. The LICENSEE shall ensure adequate verification of each and every customer before enrolling him as a subscriber; instructions issued by the licensor in this regard from time to time shall be scrupulously followed.
- 34.13 The list of Internet leased line (ILL) customers and their sub-customers is to be placed on a password protected website in the following Performa:-

| Name of Customer | IP Address allotted | Bandwidth provided | Address of Installation | Date of Installation/ Commissioning | Contact person with Phone No./ E-mail |
|------------------|---------------------|--------------------|-------------------------|-------------------------------------|---------------------------------------|
| | | | | | |

- 34.14 The Internet leased line (ILL) refers to any dedicated transmission link (on wired or wireless media) from ISP node to subscriber premises . The login ID/ Password shall be provided to DDG (Security) DOT HQ and concerned DDG(VTM) of DOT on monthly basis . Online updation of ILL customers data by ISPs should be done. This information shall be accessible to authorized Government agencies.
- 34.15 Monitoring of high UDP traffic value and to check for cases where upstream UDP traffic is similar to downstream UDP traffic and monitor such customers monthly with physical verification of the premises and personal identity of the customers to be submitted to DDG (Security) DOT HQ and concerned DDG(VTM) of DOT.
- 34.16 Service activation shall take place only after checking the bonafide of the Internet leased line customers, verifying details mentioned in **Annexure- VII** and physical inspection of the site. Further, the reasons for taking the link by the customer shall be recorded.
- 34.17 Periodical inspections are to be carried out at the premises of Internet leased line customers to check possible misuse and possible interconnection of Internet leased line with PSTN, ISDN, PLMN and the details thereof shall be included in the inspection as per the **Annexure-VII**. First inspection at the premises of the customer must be done within 15 days of commissioning of Internet leased line.
- 34.18 A record of complete network diagram of set up at each of the Internet leased line customer premises along with details of connectivity shall be available at the site. All details of other communications links (PSTN, NLD,ILD, WLL, GSM, other ISP) plus reasons for taking the link by the customer to be recorded before activation of the link. The same shall also be readily available for inspection at the respective premises of all Internet leased line customers.
- 34.19 An agreement shall be executed with each Internet leased line customers which clearly mentions the activities that are prohibited which, inter-alia, include the activities specified under **Condition 33** of the ISP license Agreement.
- 34.20 Any entity requesting for Internet leased line connection, who wants to/ is likely to use this inter-connection with licensee's setup for provision of Internet services to its customers, should have a valid ISP license.
- 34.21 ILL provided to customers should not be misused. In case of detection of misuse by the ILL customer on account of non abidance of above, it shall be construed as breach of terms and conditions of the license agreement. In such cases of misuse, the Licensor would determine the monetary gain derived by the customer and the same would be final and binding on the licensee. The penalty shall be determined by the licensor, based on such monetary gain derived by the customer and/or

on other factors deemed fit by the licensor, and the penalty shall be borne by the licensee as per the terms and conditions of the license agreement. This would be without prejudice to any other action under license agreement.

- 34.22 The Licensor or its representative(s) will have an access to the Database relating to the subscribers of the LICENSEE. The LICENSEE shall also update the list of his subscribers and make available the same to the Licensor at such intervals as may be prescribed. The LICENSEE shall make available, at any prescribed instant, to the Licensor or its authorized representative details of the subscribers using the service.
- 34.23 The LICENSEE shall maintain all commercial records with regard to the communications exchanged on the network. Such records shall be archived for at least one year for scrutiny by the Licensor for security reasons and may be destroyed thereafter unless directed otherwise by the licensor.
- 34.24 The LICENSEE shall provide to the LICENSOR, location details of the equipment provided by ISP. Implementation of any installation of the concerned equipment and execution of the concerned project shall be taken up only after the approval by the LICENSOR and locations of these centres shall not be changed without prior approval of the LICENSOR. This requirement shall be applicable only to such areas as are sensitive from security point of view, as may be notified from time to time by the LICENSOR. In the interest of national security or public interest, the ISPs shall block Internet sites and / or individual subscribers, as identified and directed by the Licensor from time to time.
- 34.25 The LICENSEE shall not use any hardware/software which are identified as unlawful and/or render network security vulnerable. The LICENSEE shall make available, on demand, to the agencies authorised by the Government of India, full access to the equipment provided by the ISP for technical scrutiny and detailed inspection.
- 34.26 The traffic of Internet nodes on places of security importance would be routed as per directions issued from time to time by Licensor. Interconnection of these nodes to other nodes within the country directly is not permitted.
- 34.27 Monitoring facilities.
- (a) **At each - International Gateway location and / or ISP node with a router/switch having an outbound capacity of 2 Mbps or more:**
- (i) Every international gateway location and/or the ISP node with a router/switch having a capacity of 2 Mbps or more

shall be equipped with a monitoring Centre at the cost of the ISP. Suitable appropriate monitoring system is to be set up by ISPs carrying Internet telephony traffic through their Internet gateways and /or ISP nodes at their own cost, as per the requirement of the security agencies and the cost of maintenance of the monitoring equipment and infrastructure at the monitoring centre located at the premises of the licensee shall be borne by the ISP.

- (ii). Office space of 10 feet x 10 feet with adequate uninterrupted power supply and air-conditioning which will be physically secured and accessible only to the monitoring agencies will have to be provided by the ISP at each location, free of cost.
- (iii). In addition to the equipment, one local exclusive telephone line is to be made available by the ISP at the monitoring centre, the cost to be borne by the ISPs.
- (iv). The cost of maintenance of the equipment and infrastructure mentioned above at monitoring centre located at the premises of the ISP is to be borne by the ISP.
- (v). Each router/switch of the ISP should be connected by the LAN operating at the same speed as the router/switch, the monitoring equipment will be connected to this network.
- (vi). For a national ISP or an ISP having multiple nodes/point of presence, if it is possible to monitor the traffic in all the Routers/switches from a central location, a central monitoring centre would be acceptable. However, in such a case, the ISP would, at the outset, be able to demonstrate to the Licensor that all routers / switches are accessible from the central monitoring centre. Moreover, the ISPs would have to inform the Licensor of every change that takes place in their topology /configuration, and demonstrate that all routers/switches continue to be accessible from the central monitoring centre. The decision of Licensor will be final on the issue.

(b) At location where the ISP node router/switch has an outbound capacity less than 2 Mbps :

At locations where the ISP node has router/switch with outbound capacity less than 2 Mbps, the ISPs shall provide (i) a LAN, (ii) office space of 10 feet by 10 feet and (iii) a local exclusive telephone line, all at the cost of

the ISP. The monitoring equipment will be provided by the monitoring/ security agencies.

34.28 Other General Security Conditions:

- (i) The Chief Officer In charge of technical network operations and the Chief Security Officer should be a resident Indian citizen.
- (ii) Details of infrastructure/network diagram (technical details of the network) could be provided on a need basis only to telecom equipment suppliers/manufacturers and the affiliate/parents of the licensee company. Clearance from the Licensor (Department of Telecommunications, Government of India) would be required if such information is to be provided to anybody else
- (iii) For security reasons, domestic traffic of such entities as may be identified /specified by the licensor shall not be hauled / routed to any place outside India.
- (iv) The licensee company shall take adequate and timely measures to ensure that the information transacted through a network by the subscribers is secure and protected.
- (v) The officers/officials of the licensee companies dealing with the lawful interception of messages will be resident Indian citizens.
- (vi) The majority Directors on the Board of the company shall be Indian citizens.
- (vii) The positions of the Chairman, Managing Director, Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO), if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA). Security vetting shall be required periodically on yearly basis. In case something adverse is found during the security vetting, the direction of MHA shall be binding on the licensee.
- (viii) The Company shall not transfer the following to any person/place outside India:-
 - (a) Any accounting information relating to subscriber (except for international roaming/billing) (Note: it does not restrict a statutorily required disclosure of financial nature) ; and
 - (b) User information (except pertaining to foreign subscribers using Indian Operator's network while roaming).
- (ix) The Company must provide traceable identity of their subscribers. However, in case of providing service to roaming

subscriber of foreign Companies, the Indian Company shall endeavour to obtain traceable identity of roaming subscribers from the foreign company as a part of its roaming agreement.

- (x) On request of the licensor or any other agency authorised by the licensor, the telecom service provider should be able to provide the geographical location of any subscriber (BTS location of wireless subscriber) at a given point of time.
- (xi) The Remote Access (RA) to Network would be provided only to approved location(s) abroad through approved location(s) in India. The approval for location(s) would be given by the Licensor (DOT) in consultation with the Security Agencies (IB).
- (xii) Under no circumstances, should any RA to the suppliers/manufacturers and affiliate(s) be enabled to access Lawful Interception System(LIS), Lawful Interception Monitoring(LIM), Call contents of the traffic and any such sensitive sector/data, which the licensor may notify from time to time.
- (xiii) The licensee company is not allowed to use remote access facility for monitoring of content.
- (xiv) Suitable technical device should be made available at Indian end to the designated security agency/licensor in which a mirror image of the remote access information is available on line for monitoring purposes.
- (xv) Complete audit trail of the remote access activities pertaining to the network operated in India should be maintained for a period of six months and provided on request to the licensor or any other agency authorised by the licensor.
- (xvi) The telecom service providers should ensure that necessary provision (hardware/software) is available in their equipment for doing the Lawful interception and monitoring from a centralized location.
- (xvii) The telecom service providers should familiarize/train Vigilance Technical Monitoring (VTM)/security agency officers/officials in respect of relevant operations/features of their systems.
- (xviii) It shall be open to the licensor to restrict the Licensee Company from operating in any sensitive area from the National Security angle.

- (xix) In order to maintain the privacy of voice and data, monitoring shall only be upon authorisation by the Union Home Secretary or Home Secretaries of the States/Union Territories.
- (xx) For monitoring traffic, the licensee company shall provide access of their network and other facilities as well as to books of accounts to the security agencies.
- (xxi) In case of other service providers, the bandwidth can be provided only to registered Other Service Providers

35 Application of Indian Telegraph Act:

- 35.1 The LICENSEE shall adopt all means and facilitate in every manner the application of the Indian Telegraph Act, 1885 and Indian Wireless Telegraphy Act, 1933 as modified or replaced from time to time. The Service shall be provided in accordance with the provisions of Indian Telegraph Rules as modified and amended from time to time.
- 35.2 As per the provision of Section 5 of Indian Telegraph Act, the LICENSEE will provide necessary facilities to the designated authorities of Central/State Government as conveyed by the Licensor from time to time for interception of the messages passing through its network.

Section 5 (2) of the Indian Telegraph Act 1885 reads as under:

“On the occurrence of any public emergency or in the interest of public safety, the Central Government or a State Government or any officer specially authorized in their behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient to do so in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign states or public order or for preventing incitement to the commission of an offense for class or messages to or from any person or class of persons or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted or shall be intercepted or detained or shall be disclosed to the Government making the order or an officer thereof mentioned on the order:

Provided that press messages intended to be published in India of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained, unless their transmission has been prohibited under this subsection.”

PART- VII FREQUENCY AUTHORISATION

36. Frequency Authorisation:

- 36.1 A separate specific authorization and licence (hereinafter called WPC licence) shall be required from the WPC wing of the Department of

Telecommunications, Ministry of Communications permitting utilization of appropriate frequencies / band for the establishment and possession and operation of Wireless element of the Telecom Service under the Licence Agreement of Internet Service under specified terms and conditions including payment for said authorization & WPC licence. Such grant of authorization & WPC licence will be governed by normal rules, procedures and guidelines and will be subject to completion of necessary formalities therein.

36.2 For this purpose, a separate application shall be made to the “Wireless Advisor to the Government of India, WPC Wing, Department of Telecommunications, Ministry of Communications, Sanchar Bhawan, New Delhi-110 001” in a prescribed application form available from WPC Wing.

36.3 The clearance in respect of fixed stations and its antenna mast shall be obtained from the WPC Wing for which the applicant shall separately apply to the Secretary, Standing Advisory Committee on Frequency Allocations (SACFA) WPC Wing in a prescribed application form, to the following address:

The Secretary (SACFA), WPC Wing,
Ministry of Communications,
Department of Telecommunications,
Sanchar Bhawan,
New Delhi-110 001.

EXPLANATION: SACFA is the apex body in the Ministry of Communications for considering matters regarding coordination for frequency allocations and other related issues / matters. (Siting clearance refers to the agreement of major wireless users for location of proposed fixed antenna from the point of view of compatibility with other radio systems and aviation hazard. It requires inter departmental coordination and is an involved process). Normally the siting clearance procedure may take two to six months depending on the nature of the installations and the height of the antenna /masts.

36.4 The LICENSEE shall not cause or allow to cause harmful interference to other authorized users of radio spectrum. For elimination of harmful interference to other users , LICENSEE shall abide by all instructions and orders issued by the Government.

36.5 The LICENSOR / Wireless Planning and Coordination Wing (WPC) / TRAI shall have the right to inspect from time to time the installations from technical angles to check conformity with Licence Authorising Spectrum Uses.

36.6 In case of provision of band width by the LICENSEE through the Satellite media, the LICENSEE shall abide by the prevalent

Government orders, regulation or direction on the subject like Satellite communication policy, VSAT policy etc.

- 36.7 For use of space segment and setting up and operationalisation of Earth Station etc., LICENSEE shall coordinate with and obtain clearance from Network Operations Control Centre (NOCC), apart from obtaining SACFA clearance and clearance from other authorities.

Definition of Terms and expressions

Unless the context otherwise requires, the different terms and expression used shall have the meaning assigned to them in the following paragraphs:

1. APPLICABLE SYSTEMS: The "applicable system" means all the necessary equipments/systems engineered to provide INTERNET Service as per operational/technical and quality requirements and other terms and conditions of the licence agreement and as laid down in the Guidelines for INTERNET Service No.820-1/2006-LR dated 24th August 2007.
2. BSNL means Bharat Sanchar Nigam Limited.
3. BSO means Basic Service Operators.
4. CMSO means Cellular Mobile Service Operators.
5. CONNECTABLE SYSTEM means a telecommunication system which is authorised to be run under a licence which can be connected to the applicable system.
6. CPE means Customer Premises Equipment.
7. THE AUDITOR means the Licensee's auditor for the time being appointed in accordance with the requirements of the Companies Act, 1956.
8. DIRECT EXCHANGE LINE (DEL): A telephone connection between the subscriber's terminal equipment and a local exchange.
9. DOMAIN NAME: means address of a computer, organization, or entity on a TCP/IP network such as Internet.
10. DOT means Department of Telecommunications, India, Government of India and /or its successors as the Licensor.
11. EFFECTIVE DATE: The date on which this Licence Agreement is signed by the parties and if the parties have signed on different dates, the latter of the two dates.
12. EMERGENCY means an emergency of any kind, including any circumstances whatever resulting from major accidents, natural disasters and incidents involving toxic or radio-active materials.
13. EMERGENCY SERVICES means in respect of any locality, the relevant public, police, fire, ambulance and coast guard services for that locality.

14. ENGINEERING; The technical application of the dimensioning rules and results thereof in order to provide the specified GRADE OF SERVICE (G.O.S.) or to meet specified standard.
15. ILDO: mean International Long Distance operator who has been granted License under section 4 of Indian Telegraph Act 1885 to operate International Long Distance services.
16. INTERNET: Internet is a global information system that:
 - * is logically linked together by a globally unique address, based on Internet Protocol (IP) or its subsequent enhancements/upgradations;
 - * is able to support communications using the Transmission Control Protocol/Internet Protocol (TCP/IP) suite or its subsequent enhancements/upgradations, and all other IP compatible protocols; and
17. IP ADDRESSES: Operation of Internet service requires IP address which can have up to 128 bit binary address or higher in future. This address is required for connection on Internet. Typically, it is required for the ports of the routers, other ISP equipments for the lease line connection and for the user end equipments / devices.
18. ISP: means Internet Service Provider licensed to provide Internet Service.
19. ISDN means Integrated Service Digital Network.
20. LICENCE means a licence granted or having effect as if granted under Section 4 of the Indian Telegraph Act 1885 and Indian Wireless Telegraphy Act 1933.
21. LICENSEE: A registered Indian Company that has been awarded licence for providing the SERVICE.
22. LICENSOR shall refer to the President of India acting through any authorised person, who granted Licence under Section 4 of Indian Telegraph Act 1885 and Indian Wireless Telegraphy Act 1933, unless otherwise specified.
23. LOCAL AREA: Local Area is the Short Distance Charging Area (SDCA) of Department of Telecommunication.
24. MESSAGE means anything falling within Sub Clause/paragraph (3) of Section 3 of the Indian Telegraph Act 1885.
25. MTNL means Mahanagar Telephone Nigam Limited.
26. NLDO means National Long Distance Operator.

27. OPERATOR means any person who is authorised by the LICENSOR to run a Relevant Connectable System.
28. PC means Personal Computer.
29. PLMN means Public Land Mobile Network.
30. PMRTS means Public Mobile Radio Trunking Service
31. PSTN means Public Switched Telephone Network.
32. QOS means Quality of Service.
33. SERVICE AREA: The country has been divided into separate service areas in two categories as indicated below:-
- Category A: This covers the territorial jurisdiction of the Union of India except specified areas that may be notified to be excluded from time to time.
- Category B: Any of the twenty three territorial service areas as per **Annexure-VIII**.
34. SERVICES OR SERVICE means services as defined in **Condition 2.2** of schedule
35. SERVICE PROVIDER means the Central Government and includes a licensee.
36. SIP means Session Initiated Protocol.
37. SUBSCRIBER- Subscriber means any person or legal entity who avails the service from the licensee.
38. TELECOM AUTHORITY: The Director General, Telecommunications, Government of India and includes any officer empowered by him to perform all or any of the functions of the Telegraph Authority under the Indian Telegraph Act, 1885 or such other authority as may be established by law.
39. TARIFF: Charges payable by a subscriber for the service provided.
40. TRAI – means the Telecom Regulatory Authority of India established under the TRAI Act, 1997.
41. VSNL- means "Videsh Sanchar Nigam Ltd."

42. W.P.C. means Wireless Planning & Co-ordination Wing of the Ministry of Communications and Information Technology, Department of Telecommunications, Government of India.

Annexure-II

(Performa for Affidavit regarding details of calculation of "Revenue" and "Licence Fee")

AFFIDAVIT

I, aged about years son of Shri, resident of, do solemnly affirm and state as under:

2. That I amof (Name of the Company), LICENSEE of Service inService Area and I am duly authorised by the resolutions dated passed by Board of Directors of the Company to furnish affidavit on behalf of(Name of the Company).
3. That in compliance of Condition No.. Of Schedule.....Part the Licence Agreement No. signed between the Company and the Department Of Telecommunications, for payment of Licence fee, a payment of Rs. (Rupees is being made for the period to The details of calculation of 'revenue' and Licence fee is as per Appendix-II (attached).
4. That the contents in para 2 & 3 and Statement made in Annexure ____ are true and correct to the best of my knowledge, based on the records of the company.

Deponent.

Verification:

Verified at _____ on _____ that the contents of paragraphs 1 to 3 of this Affidavit and attached 'Statement of Revenue and Licence Fee' as Annexure are true and correct to the best of my knowledge, no part of it is false and nothing has been concealed therefrom.

Deponent.

Appendix-I to Annexure-II

(Format of Auditor's Report On Statement Of Revenue And Licence Fee)

To
The Board of Directors
.....
.....

We have examined the attached Statement of Revenue and Licence Fee of(the name of the operators) for the quarter(s) ending _____. We have also examined the reconciliation of the cumulative figures for the quarter(s) ending _____ appearing in the Statement of Revenue and Licence Fee of the company with the figures appearing in the profit and loss account of the company for the year ended _____ which was audited by us. We understand that the aforesaid statement(s) (and the reconciliation) is /are to be furnished to the Central Government for assessment of the Licence fee payable by the company to the Government, in terms of the Licence agreement No..... signed between the company and the Department of Telecommunications.

We report that:

1. We have obtained all the information and explanations which to the best of our knowledge and belief were necessary for the purposes of our audit.
2. In our view, the company has an adequate internal control system in relation to revenues which is commensurate with its size and the nature of its business. The system, in our opinion, provides reasonable assurance that there is no unrecorded revenue and that all revenue is recorded in the proper amount and in the proper period.
3. No amounts payable in respect of sales tax, service tax were outstanding at the last day of the quarter(s) for a period of more than two months from the date they became payable, except for the following:.....
4. In our opinion and to the best of our knowledge and belief and according to the explanations given to us, the Statement has been prepared in accordance with the norms/guidelines contained in the said Licence agreement in this behalf and gives a true and fair view of the revenue and Licence fee payable for the period computed on the basis of the aforesaid guidelines except for the following:

* Strike off wherever not applicable.

(Signature)

Appendix-II to Annexure-II

Format of Statement of Revenue and Licence Fee
 _____(Name and address of operator)
ISP Licence No.
 in _____(Service Area)
Statement of Revenue and Licence Fee for the Quarter

of the financial year.....

(AMOUNT IN RUPEES)

| S.N. | PARTICULARS | ACTUALS FOR THE PREVIOUS QUARTER | ACTUALS FOR THE CURRENT QUARTER | CUMULATIVE UPTO THE CURRENT QUARTER. |
|----------|---|----------------------------------|---------------------------------|--------------------------------------|
| 1 | Revenue from services | | | |
| A | Revenue from Pure Internet Service (Internet Access and Content Service): | | | |
| A1. | Post paid options: | | | |
| i | Rentals | | | |
| ii | Activation Charges | | | |
| iii | Service Tax | | | |
| iv | Service charges | | | |
| V | Charges on account of any other value added services. Supplementary Services etc. | | | |
| vi | Any other income/ miscellaneous receipt from post paid options. | | | |
| | | | | |
| A2. | Pre-paid options: | | | |
| i. | Sale of pre-paid option including full value of all components charged therein. | | | |
| ii. | Any other income/ miscellaneous receipt from pre-paid options. | | | |
| | | | | |
| B | Revenue from Internet Telephony Service: | | | |
| B1. | Post paid options: | | | |
| i | Rentals | | | |
| ii | Activation Charges | | | |
| iii | Service Tax | | | |
| iv | Service charges | | | |
| v | Charges on account of any other value added services. | | | |

| | | | | |
|----------|--|--|--|--|
| | Supplementary Services etc. | | | |
| vi | Any other income/ miscellaneous receipt from post paid options. | | | |
| | | | | |
| B2. | Pre-paid options: | | | |
| i. | Sale of pre-paid option including full value of all components charged therein. | | | |
| ii. | Any other income/ miscellaneous receipt from pre-paid options. | | | |
| | | | | |
| | | | | |
| C | Revenue from any other value added service | | | |
| | | | | |
| 2 | Income from trading activity (all including of sales tax) | | | |
| (i) | Sale of Terminal Equipments | | | |
| (ii) | Sale of accessories etc. | | | |
| (iii) | Any other income/ miscellaneous receipt from trading activity. | | | |
| | | | | |
| | | | | |
| 3 | Income from investments | | | |
| (i) | Interest income | | | |
| (ii) | Dividend income | | | |
| (iii) | Any other miscellaneous receipt from investments. | | | |
| 4 | Non-refundable deposits from subscribers | | | |
| | | | | |
| 5 | Revenue from franchisees /resellers including all commissions and discounts etc. excluding the revenues already included in IA&IB | | | |
| | | | | |
| 6 | Revenue from sharing/ leasing of infrastructure | | | |
| | | | | |
| 7 | Revenue from sale/ lease renting of bandwidth, links, R&G cases, turnkey projects etc. | | | |

| | | | | |
|-----------|---|--|--|--|
| 8 | Revenue from Roaming | | | |
| i | Roaming facility revenue from own subscribers. | | | |
| ii | Roaming revenue from own subscriber visiting other networks. | | | |
| iii | Roaming Commission earned. | | | |
| iv | Roaming revenue on account of visiting subscribers from other networks. | | | |
| V | Service Tax if not included above. | | | |
| vi | Any other income/miscellaneous receipt from roaming | | | |
| | | | | |
| 9 | Revenue from IPTV Services | | | |
| | | | | |
| 10 | Revenue from other Operators on account of provisioning of interconnection | | | |
| | | | | |
| 11 | Miscellaneous Revenue | | | |
| | | | | |
| AA | GROSS REVENUE OF THE LICENSEE COMPANY :(Add 1-11) | | | |
| | | | | |
| B | DEDUCT: | | | |
| 1 | Revenue from Pure Internet Service | | | |
| 2 | Service Tax paid to the Government | | | |
| 3 | Sales Tax paid to the Government | | | |
| 4. | Roaming revenue actually passed on to other eligible/entitled telecom service provider. | | | |
| BB | TOTAL DEDUCTIBLE REVENUE (1+2+3+4) | | | |
| CC | ADJUSTED GROSS REVENUE (AA-BB) | | | |
| | REVENUE SHARE @ ----- OF ADJUSTED GROSS REVENUE | | | |

NORMS FOR PREPARATION OF ANNUAL FINANCIAL STATEMENTS

- Accounts shall be maintained separately for each telecom service operated by the LICENSEE Company.
- Any category of accrued revenue, the amount of which exceeds 5% of the total accrued revenue, shall be shown separately and not combined with any other item/category.
- Accrued Revenue shall indicate:
 - (a) All amounts billable for the period.
 - (b) Any billings for previous years that had been omitted from the previous years' P&L Accounts.
 - (c) Any non-refundable deposits collected from the customers/franchisees to the extent these are credited to P&L Account for the year.
- Subsidiary registers/ledgers shall be maintained for each item given above so as to enable easy verification.
- Service revenue (amount billable) shall be shown gross and details of discount/rebate indicated separately.
- Security or any other Deposits taken from the subscriber shall be shown separately, for each category, and the amount that has fallen due for refund but not yet paid also disclosed under two categories, namely:
 - Up to 45 days
 - More than 45 days.
- Service Tax billed, collected and remitted to the Government shall be shown separately.
- Sales Tax billed, collected and remitted to the Government shall be shown separately.
- Details of Income from sales of goods shall be furnished indicating the income and number of items sold under each category. Method of inventory valuation used shall also be disclosed along with computation of cost of goods sold.
- Sales shall be shown gross and details of discount/rebate allowed and of sales returns shall be shown separately.
- Income from interest and dividend shall be shown separately, without any related expenses being set-off against them on the income side of the P&L Account.
- Increase/decrease of stock shall be shown separately.
- Details of reversal of previous years' debits, if any, shall be shown component-wise, under the miscellaneous head (eg. Bad debts recovered etc.)
- Item-wise details of income that has been set off against corresponding expenditure.

PERFORMA FOR PERFORMANCE BANK GUARANTEE

To

The President of India

In consideration of the President of India (hereinafter referred to as 'the Authority') having agreed to grant a Licence to M/s _____ of _____ (hereinafter called 'the LICENSEE') to establish, maintain and operate Internet Service (hereinafter called 'the SERVICE') as per Letter of Intent/ Licence No. _____ dated _____ (hereinafter called 'the said Licence') on the terms and conditions contained in the said Licence, which inter-alia provides for production of a Bank Guarantee to the extent of Rs. _____ (in words _____) for the service by way of security for the due observance and performance of the terms and conditions of the said Licence. We _____ (indicate the name and address and other particulars of the Bank) (hereinafter referred to as 'the Bank') at the request of the LICENSEE hereby irrevocably and unconditionally guarantee to the Authority that the LICENSEE shall render all necessary and efficient services which may be required to be rendered by the LICENSEE in connection with and/or for the performance of the said LICENSEE and further guarantees that the service which shall be provided by the LICENSEE under the said Licence, shall be actually performed in accordance with the terms & conditions of the LICENCE to the satisfaction of the Authority.

2. We, the Bank, hereby undertake to pay the Authority an amount not exceeding Rs.(Rupees.....only) against any loss or damage caused to or suffered or would be caused to or suffered by the Authority by reason of any breach by the said LICENSEE of the terms and conditions contained in the said Licence including failure to extend the validity of this guarantee or to give a fresh guarantee in lieu of the existing one.

3. We, the Bank hereby, in pursuance of the terms of the said Licence, absolutely, irrevocably and unconditionally guarantee as primary obligor and not merely as surety the payment of an amount of Rs. _____ (Rupees _____ Only) to the Authority to secure due and faithful performance by the LICENSEE of all his/their obligations under the said Licence.

4. We, the Bank hereby also undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Authority stating that the amount claimed is due by way of loss or damage caused or would be caused to or suffered by the Authority by reason of breach by the said LICENSEE of any of the terms or conditions contained in

the said Licence or by reason of the LICENSEE's failure to perform any of it's obligations under the said Licence."

5. We, the Bank, hereby agree that the decision of the Authority as to whether the LICENSEE has failed to or neglected to perform or discharge his duties and obligations under the said license and/or whether the service is free from deficiencies and defects and is in accordance with or not of the terms & conditions of the said Licence and as to the amount payable to the Authority by the Bank hereunder shall be final and binding on the Bank.

6. WE, THE BANK, DO HEREBY DECLARE AND AGREE that:

(a) the Guarantee herein contained shall remain in full force and effect for a period of Two Years from the date hereof and that it shall continue to be enforceable till all the dues of the Authority and by virtue of the said Licence have been fully paid and its claims satisfied or discharged or till Authority satisfies that the terms and conditions of the said Licence have been fully and properly carried out by the said LICENSEE and accordingly discharged this guarantee.

(b) the Authority shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Licence or to extend time of performance of any obligations by the said LICENSEE from time to time or to postpone for any time or from time to time any of the powers exercisable by the Authority against the said LICENSEE and to forbear or to enforce any of the terms and conditions relating to the said Licence and we shall not be relieved from our liability by reason of any variation or extension being granted to the said LICENSEE or forbearance act or omission on the part of the Authority or any indulgence by the Authority to the said LICENSEE or to give such matter or thing whatsoever which under the law relating to sureties would but for this provision, have effect of so relieving us.

(c) any claim which we have against the LICENSEE shall be subject and subordinate to the prior payment and performance in full of all the obligations of us hereunder and we will not without prior written consent of the Authority exercise any legal right or remedy of any kind in respect of any such payment or performance so long as the obligations of us hereunder remains owing and outstanding.

(d) This Guarantee shall be irrevocable and the obligations of us herein shall not be conditional of any prior notice by us or by the LICENSEE.

7. We the BANK undertake not to revoke this Guarantee during its currency except with the previous consent of the Authority in writing.

8. Notwithstanding anything contained above, our liability, under the Guarantee shall be restricted to Rs..... and our Guarantee shall remain in force until....year from the date hereof. Unless a demand or claim under this

Guarantee is made on us in writing within this date i.e. all your rights under the Guarantee shall be forfeited and we shall be released and discharged from all liabilities thereunder.

Dated _____ day _____

for

(Name of the Bank)

Witness:

1.....
.....
.....
.....

2.....
.....
.....
.....

PERFORMA FOR FINANCIAL BANK GUARANTEE

To

The President of India

In consideration of the President of India (hereinafter called 'the Authority') having agreed to grant a Licence to M/s _____ of _____ (hereinafter called 'the LICENSEE') to establish, maintain and operate Internet Service (hereinafter called 'the SERVICE') in _____ Service Area (Name of Service Area) in accordance with the Letter of Intent/ Licence No. _____ dated _____ (hereinafter called 'the Licence') on the terms and conditions contained in the said Licence, which inter-alia provides for production of a Bank Guarantee to the extent of Rs. _____ (in words _____) under the said Licence by way of security for payment of the said Licence fee as well as such other fees or charges required to be paid by the LICENSEE under the Licence. We _____ (indicate the name and address and other particulars of the Bank) (hereinafter referred to as 'the Bank') at the request of the LICENSEE hereby irrevocably and unconditionally guarantee to the Authority that the LICENSEE shall pay all the dues, including but not limited to, the Licence fee etc. to the Authority.

2. We, the Bank, hereby undertake to pay the Authority an amount not exceeding Rs.(Rupees.....only) against any loss or damage caused to or suffered or would be caused to or suffered by the Authority by reason of any failure of the LICENSEE to extend the validity of the guarantee or give a fresh guarantee in lieu of existing one in terms of the Licence Agreement, pay all the above mentioned fees, dues and charges or any part thereof within the periods stipulated in the Licence.

3. We, the Bank, hereby further undertake to pay as primary obligor and not merely as surety to pay such sum not exceeding Rs. _____ (Rupees _____ Only) to the Authority immediately on demand and without demur stating that the amount claimed is due by way of failure of the LICENSEE to pay any fees or charges or any part thereof in terms of the said Licence.

4. WE, THE BANK, DO HEREBY DECLARE AND AGREE that the decision of the Authority as to whether LICENSEE has failed to pay the said Licence fees or any other fees or charge or any part thereof payable under the said Licence and as to the amount payable to the Authority by the Bank hereunder shall be final and binding on us.

5. WE, THE BANK, DO HEREBY DECLARE AND AGREE that the

(a) Guarantee herein contained shall remain in full force and effect for a period of One Year from the date hereof and that it shall continue to be enforceable till all the dues of the Authority and by virtue of the said Licence have been fully paid and its claims satisfied or discharged or till Authority satisfies that the terms and conditions of the said Licence have been fully and properly carried out by the said LICENSEE and accordingly discharged this guarantee.

(b) The Authority shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Licence or to extend time of performance of any obligations by the said LICENSEE from time to time or to postpone for any time or from time to time any of the powers exercisable by the Authority against the said LICENSEE and to forbear or to enforce any of the terms and conditions relating to the said Licence and we shall not be relieved from our liability by reason of any variation or extension being granted to the said LICENSEE or forbearance act or omission on the part of the Authority or any indulgence by the Authority to the said LICENSEE or to give such matter or thing whatsoever which under the law relating to sureties would but for this provision, have effect of so relieving us.

(c) Any claim which we have against the LICENSEE shall be subject and subordinate to the prior payment and performance in full of all the obligations of us hereunder and we will not without prior written consent of the Authority exercise any legal right or remedy of any kind in respect of any such payment or performance so long as the obligations of us hereunder remains owing and outstanding.

(d) This Guarantee shall be irrevocable and the obligations of us herein shall not be conditional of any prior notice by us or by the LICENSEE.

6. We, the BANK, undertake not to revoke this Guarantee during its currency except with the previous consent of the Authority in writing.

7. Notwithstanding anything contained above, our liability, under the Guarantee shall be restricted to Rs..... and our Guarantee shall remain in force until....year from the date hereof. Unless a demand or claim under this Guarantee is made on us in writing within this date i.e. all your rights under the Guarantee shall be forfeited and we shall be released and discharged from all liabilities thereunder.

Dated _____ day _____ for

(Name of the Bank)

Witness:

1.....
.....
.....
.....

2.....
.....
.....
.....

TRIPARTITE AGREEMENT

THIS TRIPARTITE AGREEMENT made at _____ on this the _____ day of 2000 amongst;

THE PRESIDENT OF INDIA acting through Shri _____, The Assistant Director General (), Department of Telecommunications, Sanchar Bhavan, New Delhi - 110 117 (hereinafter called "the LICENSOR");

AND

_____, a company incorporated under the Companies Act, 1956 having its Registered Office at _____ acting through Shri _____ duly constituted attorney/authorised person pursuant to the General Power of Attorney dated _____ executed as per terms of the Board Resolution dated _____, (hereinafter called the LICENSEE).

AND

_____, acting for itself as Lender, and as Agent for the Lenders listed in Schedule (hereinafter referred to as "the Agent") through Shri _____ duly constituted attorney/authorised officer pursuant to the General Power of Attorney dated _____ executed per terms of the Board Resolution dated _____.

WHEREAS:

- (i) By the LICENCE AGREEMENT dated _____ entered into between the LICENSOR and the LICENSEE, the LICENSOR has granted the LICENCE to the LICENSEE for a telecom project envisaging establishment, maintenance and working of Basic/Cellular Telephone Service/ Radio Paging/ Internet Service in _____ Circle/SERVICE AREA on the terms, conditions and covenants agreed to between them and incorporated therein.
- (ii) With a view to help and facilitate the financing of the Project to be set up by the LICENSEE pursuant to the LICENCE referred to above, the parties hereto are desirous of recording the terms and conditions to provide transfer/assignment of LICENCE as hereinafter provided in

this AGREEMENT to protect and secure the Lender's interest arising out of grant of financial assistance to the LICENSEE.

- (iii) The Lenders have agreed to grant Financial Assistance to the LICENSEE to the extent mutually agreed between them on the terms, conditions and covenants set out in the respective Loan AGREEMENTs entered into by the LICENSEE with the respective Lenders.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS :

ARTICLE-1 - DEFINITIONS

For the purpose of this AGREEMENT, the following terms shall have the following meaning:

- 1.1 "Agent" means(give name of the Agent) an Indian scheduled bank/ an Indian Public Financial Institution/ an Indian majority controlled, non-banking finance company engaged in financing of infrastructural projects in India acting for itself and as Agent for other members of a consortium of Lenders who have consented to provide Financial Assistance to the LICENSEE for the project.

{Explanation: Only Indian Financial Institution or a Scheduled Bank participating in the financial assistance to the LICENSEE will act as the Agent}

- 1.2. "Event of Default" means occurrence of any of the following events:-

- (i) A default by the LICENSEE in payment of the LICENCE Fee or other dues duly payable to the LICENSOR, under the LICENCE AGREEMENT.
- (ii) A material default of the terms and conditions of Loan AGREEMENTs.

{Explanation: 'Material Default' shall mean a continuous default by the LICENSEE for a minimum period of one month in payment of any two quarterly instalments or one half yearly instalment either of principal or interest or both under the Loan AGREEMENT or any breach by the LICENSEE of the terms & conditions of the Loan AGREEMENT or any other document duly executed by the LICENSEE in favour of the Lenders which in the considered opinion of the Agent is likely to affect adversely and substantially the ability of the LICENSEE to work or operate the project}.

- 1.3 "Financial Assistance" means the financial assistance granted or agreed to be granted by or any money due to the Lenders under the Loan AGREEMENTs and/or any other respective AGREEMENTs in respect of the projects referred to in Schedule hereto.
- 1.4 "LICENCE" means the LICENCE under the LICENCE AGREEMENT dated _____ entered into between the LICENSOR and the LICENSEE in respect of _____ Service Area including any amendments made thereto from time to time, for operation of _____ service by the LICENSEE.
- 1.5 "Lenders" means the parties referred to in the Schedule hereto and includes any syndicate members or participant lender in any syndicate /participation financing.
- 1.6. "Lender's Dues" means all monies owed by the LICENSEE to the Lenders in respect of the project whether fallen due or not under the Loan AGREEMENT or other respective AGREEMENTs related to the project.
- 1.7. "Loan AGREEMENTs" means the AGREEMENTs entered/to be entered into between the LICENSEE and the Lender or Lenders in respect of the Financial Assistance and referred to in Schedule hereto.
- 1.8 "Project" means the LICENSEE's Basic Telephone Service/Cellular Mobile Telephone Service (CMTS) /Radio Paging Service project for establishment, maintenance and operation of Basic Telephone Service /CMTS/Radio Paging Service in the _____ Circle/Service Area.
- 1.9. "Selectee" means an Indian company within the meaning of Companies Act, 1956, selected by the Lenders and proposed to the LICENSOR for the purpose of assignment/transfer of the LICENCE as provided in this AGREEMENT.

ARTICLE 2

TRANSFER OR ASSIGNMENT OF LICENCE AS SECURITY FOR FINANCIAL ASSISTANCE

- 2.1. The LICENSOR hereby agrees to transfer or assign the LICENCE by endorsement thereon in favour of the selectee selected by the Lenders in accordance with the Articles 2 and 3 hereunder provided that nothing contained herein shall entitle the Lenders to operate the Service under LICENCE themselves as a LICENSEE either individually or collectively.
- 2.2 (a) The Agent shall notify the LICENSEE and simultaneously intimate the LICENSOR about the occurrence of any event of material default and require the LICENSEE to remedy and cure the same within 30 days from the date of such notice.
- (b) The Notice of event of Default, shall be the conclusive evidence of such Event of Default under the Loan AGREEMENT and it shall be final and binding upon the LICENSEE for the purpose of this AGREEMENT.
- (c) The LICENSOR and the LICENSEE hereby agree that upon the expiry of the period of 30 days from the date of Notice of Event of Default where the LICENSEE has failed or been unable to remedy or cure the de-fault, the Lenders may invite, negotiate and procure offers or tenders for the take over and transfer of the project together with all the assets pertaining to the Project of the LICENSEE including the LICENCE to the Selectee upon such selectee's assumption of the liabilities and obligations of the LICENSEE towards the LICENSOR under the LICENCE AGREEMENT and toward the Lenders under their respective Loan AGREEMENTs.
- 2.3. The Selectee shall meet the following eligibility criterion for transfer of the assets of the Project to it.
- (a) the Selectee shall be capable of properly discharging the duties, obligations and liabilities under the LICENCE AGREEMENT.
- (b) the Selectee shall be capable and shall provide adequate security to the satisfaction of the Lenders for the Financial Assistance.
- (c) the Selectee shall have the capability and shall give necessary consent to assume the liability of the LICENCE Fee including the other dues of the LICENSOR and the Lenders' Dues;
- (d) the Selectee shall satisfy at the time of formulation of transfer proposal the networth and experience criteria as well as technical

and equity parameters as were adopted for the selection of LICENSEE.

(e) The selection should not be of such a company or its sister concern who was/has been granted any LICENCE and became/has become defaulter.

(f) Any other appropriate criteria, as may be prescribed by the LICENSOR from time to time, to ensure continuity in the service.

2.4. The Agent shall notify the LICENSOR of the accrual of right to seek transfer/assignment of the LICENCE pursuant to Article 2.2 which the LICENSOR shall take on record.

2.5. Before transferring or assigning the LICENCE to the Selectee pursuant to this AGREEMENT, the LICENSOR shall satisfy itself as to the eligibility criteria under Article 2.3 and the decision of the LICENSOR in this regard shall be final.

ARTICLE - 3

MODALITY OF TRANSFER / ASSIGNMENT AND ENDORSEMENT OF LICENCE

3.1. The modality for the Agent seeking the transfer / assignment / endorsement of the LICENCE shall be as provided below:

(i) the Agent after expiry of 30 days from the date of notice as per Article 2.2 may, invite, procure and negotiate offers under a transparent procedure either by private negotiations or public auction or tenders for transfer or takeover of the assets including the LICENCE of the LICENSEE pertaining to the project by the Selectee together with the Lenders' Dues and the dues of the LICENSOR.

(ii) The Agent on behalf of the Lenders shall recommend to the LICENSOR, the name of the Selectee for its acceptance and shall request the LICENSOR to:

a) accede to transfer to the Selectee the right to operate the network of the Project in accordance with the terms agreed to between the Lenders and the Selectee.

b) Endorse and transfer the LICENCE to the Selectee on the same terms and conditions, for the residual period of the original LICENCE.

- c) Enter into Tripartite AGREEMENT with the lenders and the Selectee on the same terms and conditions as are contained in this AGREEMENT.
 - d) Facilitate granting of WPC, SACFA and other approvals, clearance, permissions necessary for operating the service upon the appropriate applications made by the Selectee.
- (iii) The LICENSOR subject to satisfaction of criterion as to the network, experience, technical and equity parameters set out and determined in accordance with Article 2.3 & 2.5 and upon assumption of the liabilities by the Selectee as provided in Article 2.2 (c), shall proceed to transfer /assign by endorsement the existing LICENCE to the Selectee on the same terms and conditions as are contained in the LICENCE AGREEMENT for the residual period in favour of the Selectee.
- (iv) If the LICENSOR has any objection to the transfer of LICENCE in favour of the Selectee in terms of this AGREEMENT, it shall within 90 days from either the date of LICENSOR's receipt of the proposal made by the Agent, or the last date of any clarification called for by LICENSOR from the Agent, whichever date is later, give a reasoned order after hearing the Agent, for its refusal. If no objection is raised within the above mentioned time limit, by the LICENSOR for the selection of the Selectee, the Selectee shall be deemed to have been accepted except in cases of accidental or wilful omission or suppression of material facts in this connection. The LICENSOR thereupon shall transfer /assign/endorse the LICENCE within 15 days of its acceptance /deemed acceptance of the Selectee.

Provided, however, that in the event of a refusal as stated above, the Agent may propose another Selectee whereupon the process outlined in this AGREEMENT for such acceptance shall once again be repeated and followed.

- (v) Decision of LICENSOR in selection of the Selectee shall be final and binding on the LICENSEE and Lender/Agent.
 - (vi) All actions of the Agent pursuant to this AGREEMENT shall be for the benefit of the Lenders, and be binding upon Lenders. The Agent is authorised to receive payments on account of compensation or consideration for transfer of the Project in accordance with this AGREEMENT and give valid discharge for and on behalf of all Lenders. All monies so received by the Agent shall be held by it in trust for and made over to the Lenders to be distributed in accordance with their respective rights under the Loan Agreements as modified by any inter-se arrangement among the Lenders.
- 3.2. Unless otherwise agreed to by the LICENSOR, all actions as set out in Article 3.1 for the selection of a Selectee whether on first or

subsequent occasions and the Submission of the final proposal to the LICENSOR for the transfer of the LICENCE in favour of the Selectee shall be completed by the Agent within a period of six months or such other period as may be mutually agreed by the LICENSOR and the Agent, from the date of the Notice of Event of Default.

- 3.3 The LICENSEE irrevocably agrees and waives any right to challenge the actions of the Agent or the Lenders or the LICENSOR taken pursuant to this AGREEMENT including the assignment/transfer of the LICENCE in favour of the Selectee. The LICENSEE agrees, and confirms that it shall not have any right to seek re-valuation of assets of the Project or the LICENSEE's Shares. It is confirmed by the LICENSEE that the right of the Lenders is irrevocable and shall not be contested in any proceedings before any Court or Authority and the LICENSEE shall have no right or remedy to prevent, obstruct, injunct or restrain the LICENSOR or the Lenders from effecting or causing the transfer/assignment /endorsement of the LICENCE as requested by the Lenders through the Agent. Notwithstanding anything contained herein, the provisions of Article 7.11 shall continue to prevail.
- 3.4 If the LICENSOR decides to transfer the LICENCE to any person other than the Selectee, it shall take into account the Lenders' Dues as well as the LICENSOR's dues while inviting bids from the prospective transferees or assignees and shall include a suitable condition as agreed to by the Lenders for payment or take over of Lender's dues by such transferee or assignee. Such Transferee or the assignee shall have the option of repaying the Lenders' debt in full or to execute a Tripartite AGREEMENT similar to this AGREEMENT if lenders' dues remain outstanding and undischarged.
- 3.5. If a Selectee (new/alternate LICENSEE as provided in Article 3.4 above) is not found, then the LICENCE AGREEMENT shall stand terminated and the assets/infrastructure of defaulting LICENSEE shall have to be disposed off with LICENSOR having the first charge/right/precedence for recovery of its dues from proceeds of such disposal. Remainder of the proceeds of such disposal, if any, shall go to offset the dues of Lender(s) to the extent possible and balance left, if any, will go to the defaulting LICENSEE. The defaulting LICENSEE shall be liable to the LICENSOR for costs of all corrective efforts as per prevailing market forces and the decision of LICENSOR shall be final in all respects.
- 3.6. Provided always that nothing in this AGREEMENT shall be interpreted to mean that the LICENSOR has provided any guarantee or surety and it is expressly agreed that the LICENSOR has not provided any surety, guarantee or counter guarantee whether directly or indirectly for the recovery of Financial Assistance advanced or to be advanced by the Lenders to the LICENSEE.

ARTICLE 4

INTERIM PROTECTION OF SERVICE AND PRESERVATION OF SECURITY

- 4 On the Agent issuing the Notice of Event of Default (and the LICENSEE has not cured the default for a period of 30 days) as hereinabove provided or in other circumstances which in the considered opinion of the Agent is likely to affect adversely and substantially the Lenders' security, the Lenders shall be entitled to institute protective legal proceedings for a receivership to preserve and protect their security. In the first instance, the Agent shall notify the LICENSOR, to assume such receivership and operate the service, pending the transfer/assignment /endorsement of the LICENCE as provided herein but in the event LICENSOR declines to assume receivership, the Lenders shall be entitled to the appointment of a Receiver, with or without the intervention of the Court, of the Project and the receivables pending the transfer/ assignment/endorsement of the LICENCE in accordance with this AGREEMENT by the LICENSOR. The receivership shall be co-terminus with the transfer/assignment/ endorsement of the LICENCE to a Selectee. The Receiver shall be responsible for protecting the assets in receivership and rendering a true and proper account of the receivership to the Agent in accordance with the terms of its appointment. The Receiver shall make best efforts to protect the subscriber base of the Network and continue the Service, in accordance with the LICENCE obligations. Such a Receiver can be appointed by consent of the LICENSOR and the Lenders as herein contained, or in a legal proceeding for appointment of a Receiver, notwithstanding that no recovery or mortgage suit or any suit or proceeding for enforcement of the Lenders' Security is instituted by the Lenders. Such an action for appointment of the Receiver or Court Receiver as above shall be without prejudice to the other rights and remedies of the Lenders under the Loan Agreements.

ARTICLE 5

TERMINATION OF THE LICENCE BY THE LICENSOR

- 5.1. If under the LICENCE AGREEMENT, an event occurs which shall entitle the LICENSOR to terminate the LICENCE AGREEMENT, the LICENSOR shall intimate the Agent prior to exercising of its decision to terminate the LICENCE, and on such intimation the Lenders if so decide may cure such events within a period of 30 days from the date of the notice received from the LICENSOR failing which the LICENSOR without any further notice to either the LICENSEE or the Agent be entitled to terminate the LICENCE AGREEMENT, subject to

Lenders' right to receive compensation (after setting off LICENSOR's dues if any),

- 5.2. Upon receipt of the Notice as referred to in Article 5.1, intimating occurrence of an event which can entail termination of LICENCE, the Agent shall take immediate steps to consider such a notice as an Event of Default and may initiate steps to invite, negotiate and procure offers for the take over and transfer of the Project of the LICENSEE by a prospective Selectee in accordance with the procedure as provided in Articles 2 and 3 hereinabove.

ARTICLE 6

LENDERS' RIGHT TO COMPENSATION

- 6.1 The LICENSEE hereby expressly authorises payment of such compensation to the Lenders, notwithstanding the pendency of any dispute or objection or claim that the LICENSEE may have against the Lenders/LICENSOR. The payment of compensation to the Lenders directly in accordance with this Article, made or caused to be made by the LICENSOR shall constitute a valid discharge of the LICENSEE to the extent of such payment received by the Lenders. All such payments shall be in favour of and shall be receivable by the Lenders to the exclusion of any receiver or Liquidator appointed for the assets of the LICENSEE.
- 6.2. The LICENSEE shall be entitled to receive any balance amount of the compensation after the dues of the LICENSOR, and the Lenders and other direct Fees or charges connected with the transfer of network of the LICENSEE to the Selectee, having been paid therefrom.

ARTICLE 7

GENERAL

- 7.1. The parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Tripartite AGREEMENT and the agent is fully authorised by Members of the Lender's Consortium to enter into this Tripartite AGREEMENT for and on their behalf.
- 7.2. Notices under this AGREEMENT shall be sent to the Addresses first hereinabove mentioned. Any change in the address of any Party shall be duly notified by a Registered post acknowledgement due and delivered to the other parties.

- 7.3. The expressions "the LICENSOR" and "The LICENSEE" and "The Lenders" and "The Agent" herein before used shall unless there be anything repugnant to the subject or context include their respective replacements, successors, legal representatives, administrators and permitted assigns.
- 7.4. This AGREEMENT shall not be affected by reorganisation of any Lender or Agent and the successor - in - interest of such Lender or Agent, shall have the benefit of this AGREEMENT.
- 7.5 Any variation or modification to this AGREEMENT shall take effect when such variation or modification is made in writing under the signatures of the concerned parties.
- 7.6. The LICENSEE shall be bound to pay all Stamp Duty or other imposts, costs, charges and expenses as are applicable on this AGREEMENT or on any deed of assignment or transfer of the project and in the event of the Lenders making such payment for the time being, such payment shall be deemed to be a part of the Lenders' Dues.
- 7.7. The parties hereby expressly agree that for the purpose of giving full and proper effect to this AGREEMENT, the LICENCE AGREEMENT and this AGREEMENT shall be read together and construed harmoniously.
- 7.8. The consultation, recommendation or approval of the Agent under this AGREEMENT shall always be taken as a consultation, recommendation or approval of every concerned Lender.
- 7.9. Notwithstanding anything contained in this AGREEMENT, the rights and remedies available to the LICENSOR under LICENCE AGREEMENT and Interconnect AGREEMENT respectively, shall remain protected and unaffected.
- 7.10 It shall not be necessary for the Lenders to enforce or exhaust any other remedy available to them before invoking the provisions of this AGREEMENT.
- 7.11 (i) Any dispute, difference or claim arising out of or in connection with or in relation to this AGREEMENT shall be decided by arbitration and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996 (of India), or any modification or re-enactment thereof and be governed by the laws of India. The venue for arbitration shall be New Delhi and the Courts in New Delhi shall alone have jurisdiction in matters arising out of such arbitration AGREEMENT or award or protection of property or assets of the project.
- (ii) Before resorting to arbitration, the parties shall attempt to settle in good faith any dispute, difference or claim referred to above, by

negotiation between them and in the event of failure of such negotiation, the arbitration shall be resorted to.

(iii) Each party to the dispute, difference or claim shall appoint one arbitrator and the arbitral tribunal thus appointed shall make the award within 30 days after appointment of the last arbitrator. In case the arbitrators thus appointed are of even number then such appointed arbitrators shall choose another arbitrator with mutual consent who will act as the presiding arbitrator of the arbitral tribunal.

SCHEDULE _- _

LIST OF LENDERS AND PARTICULARS OF LOANS

A. List of Lenders and Loan Amounts/Financial Assistance.

| Name of Lenders | Amount of Loan | Date of AGREEMENT | Loan |
|-----------------|----------------|----------------------|------|
| | | | |

B. Particulars of Syndication/Participation in the Loans.

C.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEAL ON THE DATE, MONTH AND YEAR HEREINABOVE MENTIONED

SIGNED, SEALED AND DELIVERED FOR AND ON BEHALF OF THE PRESIDENT OF INDIA BY :

ASSTT. DIRECTOR GENERAL ()
IN PRESENCE OF

AND

SIGNED AND DELIVERED BY SHRI
-----, CONSTITUTED ATTORNEY
DULY AUTHORISED OFFICER OF.....

FOR AND ON BEHALF OF

ACTING FOR ITSELF & AS AGENT FOR OTHER LENDERS.
IN PRESENCE OF

AND

(.....)

THE COMMON SEAL OF
.....

LIMITED HAS PURSUANT TO THE
RESOLUTION OF ITS BOARD OF
DIRECTORS PASSED IN THAT
BEHALF ON THE DAY
OF 2000, HEREUNTO BEEN
AFFIXED IN THE PRESENCE OF
SHRI

AND SHRI WHO HAS/HAVE
SIGNED/COUNTERSIGNED THESE
PRESENTS IN TOKEN THEREOF.

Annexure-VII

Performa for checking bonafide of Internet Leased Line Customer of the ISPs

Photograph of
the applicant/
authorised
officer of the
company

(a) Details to be furnished in case of individual applicant

(i) Name : _____ (first) _____ (middle)
_____ (surname)

(ii) Father's/ Husband's Name :

(iii) Official address of applicant:

Telephone/Mobile No:

Fax:

(iv) Residential address of applicant:

Telephone:

Fax:

(v) Nationality :

(vi) Income Tax PAN:

(b) Details to be furnished in case the applicant is a company

INSTRUCTIONS:

(a) Please furnish proof of Identity/ address by furnishing any of the following:

- | | |
|---------------------------|------------------------|
| (i) Income-Tax PAN | (ii) Photo Credit Card |
| (iii) Photo Identity Card | (iv) Passport |
| (v) Arms Licence | (vi) Driving Licence |

(b) Companies to enclose certificate of incorporation alongwith any proof of identity as above of the authorised officer of the Company.

(c) In case of outstation subscribers, details of local reference(s) to be given.

FOOT NOTE :

1. The above proforma with the mentioned columns is to be used by all the ISPs. However, the operators may supplement (and not substitute) this proforma in accordance with their business considerations.
2. In case applicant is a company, then applicant will have to intimate change of authorization to ISPs, who in turn will update the website as mentioned at Pt (i)of Appendix.

Annexure-VIII

Details of Category 'B' Service Areas

| Sl. No. | Name of Telecom Circle/ Metro Service Area | Areas covered |
|---------|--|--|
| 01. | West Bengal | Entire area falling within the Union Territory of Andaman & Nicobar Islands and area falling within the State of West Bengal and the State of Sikkim excluding the areas covered by Kolkata Metro Service Area. |
| 02. | Andhra Pradesh | Entire area falling within the State of Andhra Pradesh. |
| 03. | Assam | Entire area falling within the State of Assam. |
| 04. | Bihar | Entire area falling within the re-organised State of Bihar and newly created State of Jharkhand pursuant to the Bihar Reorganisation Act, 2000 (No.30 of 2000) dated 25th August, 2000. |
| 05. | Gujarat | Entire area falling within the State of Gujarat and Union Territory of Daman and Diu, Silvassa (Dadra & Nagar Haveli). |
| 06. | Haryana | Entire area falling within the State of Haryana except the local areas served by Faridabad and Gurgaon Telephone exchanges. |
| 07. | Himachal Pradesh | Entire area falling within the State of Himachal Pradesh |
| 08. | Jammu & Kashmir | Entire area falling within the State of Jammu & Kashmir including the autonomous council of Ladakh. |
| 09. | Karnataka | Entire area falling within the State of Karnataka |
| 10. | Kerala | Entire area falling within the State of Kerala and Union Territory of Lakshadweep and Minicoy. |
| 11. | Madhya Pradesh | Entire area falling within the re-organised State of Madhya Pradesh as well as the newly created State of Chattisgarh pursuant to the Madhya Pradesh Reorganisation Act, 2000 (No:28 of 2000) dated 25th August, 2000. |
| 12. | Maharashtra | Entire area falling within the States of Maharashtra and Goa, excluding areas covered by Mumbai Metro Service Area. |
| 13. | North East | Entire area falling within the States of Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Manipur and Tripura. |
| 14. | Orissa | Entire area falling within the State of Orissa. |
| 15. | Punjab | Entire area falling within the State of Punjab and Union territory of Chandigarh. |
| 16. | Rajasthan | Entire area falling within the State of Rajasthan. |
| 17. | Tamilnadu | Entire area falling within the State of Tamilnadu and Union Territory of Pondichery excluding the areas covered by Chennai Metro Service Area. |

| | | |
|-----|----------------------|---|
| 18. | Uttar Pradesh-West | Entire area covered by Western Uttar Pradesh with the following as its boundary districts towards Eastern Uttar Pradesh : Pilibhit, Bareilly, Badaun, Etah, Mainpuri and Etawah. It will exclude the local telephone area of Ghaziabad and Noida. However, it will also include the newly created State of Uttaranchal pursuant to the Uttar Pradesh Re-organisation Act, 2000 (No.29 of 2000) dated 25th August, 2000. |
| 19. | Uttar Pradesh – East | Entire area covered by Eastern Uttar Pradesh with the following as its boundary districts towards Western Uttar Pradesh: Shahjahanpur, Farrukhabad, Kanpur and Jalaun. |
| 20. | Chennai | Local Areas served by Chennai Telephones, Maraimalai Nagar Export Promotion Zone (MPEZ), Minzur and Mahabalipuram Exchanges |
| 21. | Delhi | Local Areas served by Delhi, Ghaziabad, Faridabad, Noida, and Gurgaon Telephone Exchanges |
| 22. | Kolkata | Local Areas served by Calcutta Telephones. |
| 23. | Mumbai | Local Areas served by Mumbai, New Mumbai and Kalyan Telephone Exchanges |

NOTE:

1. Yenum, an area of Union Territory of Pondicherry is served under Andhra Pradesh Telecom Circle in East Godavari LDCA.
2. The definition of Local areas of exchanges will be as applicable to the existing cellular operators, i.e. at the time of grant of cellular Licences in Metro cities.
3. The definition of local areas with regard to the above service area as applicable to this Licence is as per definition applicable to Cellular Mobile Service Licences as in the year 1994 & 1995, when those Licences were granted to them. This is in accordance with respective Gazette Notification for such local areas wherever issued and as per the statutory definition under Rule 2 (w) Indian Telephones Rules, 1951, as it stood during the year 1994/1995 where no specific Gazette Notification has been issued.