

LICENCE AGREEMENT
FOR
PROVISION OF
VOICE MAIL/AUDIOTEX/UMS
SERVICES

NO. _____

TOTAL PAGES _____

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS & IT
DEPARTMENT OF TELECOMMUNICATIONS
20, ASHOKA ROAD, SANCHAR BHAWAN
NEW DELHI-110 001 INDIA

LICENSE AGREEMENT

FOR

VOICE MAIL / AUDIOTEX / UMS SERVICES

This AGREEMENT is made on the ____ Day of _____ by and between the President of India acting through _____, Department Of Telecommunications (DOT), Sanchar Bhavan, 20, Ashoka Road, New Delhi – 110 001 (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 _____ (hereinafter called the LICENSEE which expression shall, unless repugnant to the context, include its successors 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 License and the LICENSEE has requested to grant license for providing Voice Mail / Audiotex/ Unified Messaging Services. Whereupon and in pursuance to the said request, the LICENSOR has agreed to grant this License to provide Voice Mail / Audiotex / Unified Messaging Services in the licensed service area more specifically described in SCHEDULE-I appended hereto.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In consideration of the payment of levy towards Universal Service Obligation (as and when imposed), and due performance of all the terms and conditions mentioned in this License 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 license to set up and operate the Voice Mail / Audiotex / Unified Messaging Services in the licensed service area described in SCHEDULE-I appended hereto.
2. The LICENSE 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 License Agreement and without any deviation or reservations of any kind.
4. Unless otherwise mentioned or appearing from the context, the Guideline issued under letter No. 846-53/2000-VAS dated 16th July, 2001 in respect of Voice Mail / Audiotex/Unified Messaging Service including application form shall form part and parcel of this agreement. Provided that in case of conflict or inconsistency on any issue relating to this License Agreement, the terms set out in the body of this agreement with schedules annexed thereto shall prevail.

5. Effective Date of this LICENSE shall be _____.

6. Additional Licenses in LICENSEE's service area may also be issued from time to time in future without any restriction of number of operators.

7. The License 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 authorized representatives on the ____ (day) ____ (month) ____ (year).

Signed for and on behalf of President of India.

(Name)
Assistant Director General (CS-I)
Department of Telecommunications.

Signed on behalf of M/s. _____ by 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.

In the presence of:

Witnesses:

1.

Signature
Name
Occupation.
Address
Place.

2.

Signature
Name
Occupation.
Address
Place.

TABLE OF CONTENTS

		Page No.
Schedule-I	: SCHEDULE OF SERVICE AREA.	6
Schedule-II	: TERMS AND CONDITIONS	7
PART I	GENERAL CONDITIONS	
Condition 1:	Ownership of the LICENSEE Company.	7
Condition 2:	Scope of the Licence	7
Condition 3:	Duration of Licence	8
Condition 4:	Extension of Licence	8
Condition 5:	Modifications in the Terms and Conditions of Licence	8
Condition 6:	Restrictions on 'Transfer of Licence'	8
Condition 7:	Provision of Service	8
Condition 8:	Delivery of Service	9
Condition 9:	Requirement to furnish information	9
Condition 10:	Suspension, Revocation or Termination of Licence	9
Condition 11:	Actions pursuant to Termination of Licence	10
Condition 12:	Disputes Settlement	11
Condition 13:	Force- Majeure	11
Condition 14:	General	11
PART II	COMMERCIAL CONDITIONS	
Condition 15:	Tariffs	12
Condition 16:	Service Directory.	12
PART III	FINANCIAL CONDITIONS	
Condition 17:	Fees payable	13
Condition 18:	Bank Guarantee.	13
PART IV	TECHNICAL CONDITIONS	
Condition 19:	Technical Condition	14
Condition 20:	The Applicable system	14
Condition 21 :	Engineering Details	14
Condition 22:	Interconnection with networks operated by BSNL/MTNL/Other licensed Telecom Service Provider	15
Condition 23:	Quality of Performance	15

PART V OPERATING CONDITIONS

Condition 24 : Customer Service	17
Condition 25 : Obligations imposed on the LICENSEE	17
Condition 26 : Inspection and testing of installations.	18
Condition 27 : Right to inspect.	18
Condition 28 : Location of Voice Mail/ Audiotex/UMS Center.	19
Condition 29 : Confidentiality of information	19
Condition 30 : Prohibition of certain activities by the LICENSEE.	20
Condition 31 : Application of Indian Telegraph Act.	20

ANNEXURES:

Annexure-I :	Definition of Terms and expressions	22
Annexure-II :	Performa for Performance Bank Guarantee.	24

SCHEDULE-I

SCHEDULE OF SERVICE AREA.

The service area for which this licence is awarded is given below and shall be Short Distance Charging Area (SDCA) on the basis of local dialing.

The Service Area is

TERMS AND CONDITIONS

PART I : GENERAL CONDITIONS

1. Ownership of the LICENSEE Company.

- 1.1 FDI upto 100% with 49% under automatic route and beyond 49% through FIPB route subject to observance of licensing and security conditions by licensee as well as investors as notified by DoT from time to time.
- (i) Both direct and indirect foreign investment in the Licensee Company shall be counted for the purpose of calculating FDI.
 - (ii) The Licensee Company/ Indian Promoters/ Investment Companies including their holding companies shall comply relevant provisions of extant FDI policy of the Government. While approving the investment proposals, FIPB may take into account security concerns.
 - (iii) FDI shall be subject to laws of India and not the laws of the foreign country/ countries.
- 1.2 The LICENSEE shall also intimate any change in ‘Substantial Equity Structure’ at any later stage during the entire period of licence agreement. ‘Substantial equity Structure’ herein will mean ‘an equity of 10% or more’.

2. Scope of the Licence

- 2.1 The LICENSEE shall be permitted to provide in its area of operation Voice Mail/Audiotex/Unified Messaging Service using MTNL/BSNL/Other Licensed Private Operators Network.
- 2.2. The LICENSEE shall clearly define the scope of Service to the subscriber(s) at the time of entering into contract with such subscriber(s). Any dispute with regard to the service provided to the subscriber shall be a matter between the subscriber and the LICENSEE only.
- 2.3 LICENSEE shall make its own arrangements for all infrastructure involved in providing the service and shall be solely responsible for installation and operation of necessary equipment, 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 for whatever reasons.

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 SERVICE.

6. **Restrictions on ‘Transfer of LICENCE’**

6.1 The LICENSEE will not assign or transfer its right in any manner whatsoever under this licence 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 any part i.e. no sub-licensing/partnership/third party interest shall be created.

7. **Provision of Service :**

7.1 The LICENSEE shall be responsible for and is authorised to own, install, test and commission all the equipment to commission the applicable system for providing Voice Mail/Audiotex/ Unified Messaging Services under this Licence Agreement.

7.2 From outside the SDCA the service will be allowed to be accessed on STD calls basis. The Service Provider could install his equipment within the SDCA for which Licence is granted.

7.3 Transport of Voice Mail Messages to other locations and subsequent retrieval by the subscriber must be on a non-real time basis. To ensure this LICENSEE shall ensure that there is no dialing out for delivery of the message to the recipient.

7.4 For providing UMS under the licence, in addition to the licence for Voice Mail/Audiotex/Unified Messaging Service, the licensee must also have an ISP licence. The ISP licence as well as Voice Mail/Audiotex/Unified Messaging Service Licence should be for the areas proposed to be covered by UMS Service.

8. **Delivery of Service**

8.1 The LICENSEE shall commission the Applicable Systems within one year from the effective date of the Licence. Commissioning of service shall mean providing commercial service to customers and due intimation to the Licensor.

9. **Requirement to furnish information:**

9.1 The LICENSEE shall furnish to the LICENSOR, 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 disclose complete details on terms and conditions and obligations under all contracts entered into with other Licensed Telecom Service Providers within 15 calendar days of entering into such contracts etc. and shall also provide the authenticated copies of all such contracts within such period.

9.3 The LICENSEE shall in no case permit digital transmission 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 any point of time. Where connectivity already exists, the LICENSEE shall be obliged to disconnect or severe 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.

10. **Suspension, Revocation or Termination of LICENCE.**

10.1 The LICENSOR reserves the right to suspend the operation of this LICENCE, 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 SERVICE.

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 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 issued 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;
- b) fails to rectify, within the time prescribed, any defect 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.

10.3 LICENCEE may surrender the LICENCE, by giving notice of at least 60 calendar days in advance. In that case it shall also notify all its customer of consequential withdrawal of SERVICE by sending a 30-calendar days notice to each of them. The effective date of surrender of LICENCE will be 60 Calendar days counted from the date of receipt of such notice by the LICENSOR.

10.4 It shall be the responsibility of the LICENCEE to maintain the Quality of Service, even during the period when the notice for surrender/termination of LICENCE is pending and if the Quality of Service is not maintained, during the said notice period, it shall be treated as material breach liable for termination at risk and consequence of the LICENCEE and Performance Bank Guarantee of Rs.3 lakhs shall be forfeited.

10.5 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.

10.6 The LICENSOR reserves the right to 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.

10.7 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 LICENCEE and upon such inquiry the LICENCEE shall extend all reasonable facilities and shall endeavor to remove the hindrance of every type.

11. **Actions pursuant to Termination of LICENCE:**

11.1 On termination or surrender or expiry of the LICENCE, the Performance Bank Guarantee shall be released to the LICENCEE only after ensuring clearance of dues, if any, which the LICENCEE is liable to pay to the LICENSOR. In case of failure of the LICENCEE to pay the amounts due to the LICENSOR, the outstanding amounts shall be realised through encashment of the Bank Guarantee without prejudice to any other action(s) for recovery of the amounts due to the LICENSOR.

12. **DISPUTES SETTLEMENT:**

12.1 As per provision of Telecom Regulatory Authority of India Act 1997 as amended from time to time, dispute, if any, between:

- (i) the Licensee and a Group of Consumers, and
- (ii) the Licensee and LICENSOR,

shall be settled in Telecom Dispute Settlement and Appellate Tribunal (TDSAT), if such dispute arises out of or connected with the provisions of the Licence Agreement .

13. **Force- Majeure**

13.1 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.

13.2 However, the Force Majeure events noted above will not in any way cause extension in the period of the LICENCE.

14. **General:**

14.1 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.

14.2 All matters relating to this licence will be subject to jurisdiction of Telecom Dispute Settlement and Appellate Tribunal (TDSAT) in terms of TRAI Act 1997 including any amendment or modification thereof.

14.3 The statutory provisions and the rules made under Indian Telegraph Act, 1885 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

15. Tariffs:

15.1 The LICENSEE will charge the tariffs for the SERVICE as per the TRAI Tariff orders / regulations / directions issued in this regard 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.

16. Service Directory.

16.1 The LICENSEE shall keep a record containing the information on the service with name and address, and access number of the subscribers.

PART III: FINANCIAL CONDITIONS

17. FEES PAYABLE

17.1 There will be no **Entry Fee** as well as **Licence Fee**. However, a Performance Bank Guarantee of Rs. 3 lakhs for each Licence shall be required.

17.2 The LICENSEE shall be required to pay levy towards Universal Service Obligations (USO) as and when decided by the Government based on TRAI recommendations alongwith prescribed statements.

17.3 The above nil licence fee has no relation to other mutual obligation(s) between the LICENSEE and any other Licensed Telecom Service Provider including MTNL and BSNL and Central or State Government, Local or Statutory Body etc.

18. BANK GUARANTEE:

18.1 The LICENSEE company shall submit Performance Bank Guarantee (PBG) of Rs.3 lakhs in the prescribed proforma (proforma for PBG is annexed with Licence Agreement), before signing the Licence Agreement for ensuring full compliance of licence conditions. Initially, the PBGs valid for atleast one year or beyond expected date of commissioning of the service, whichever is later and shall be renewed from time to time till the expiry of Licence as directed by the LICENSOR. The LICENSEE on its own shall extend the validity period of the bank guarantee for similar terms atleast 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 LICENCE and entitle the LICENSOR to encash the bank guarantee and to covert into a cash security without any reference to the LICENSEE and at his risk and cost. No interest or compensation whatsoever shall be payable by the LICENSOR on such encashment.

18.2 Without prejudice to its rights of any other remedy, LICENSOR may encash Performance Bank Guarantee in case of any breach in terms and conditions of the Licence Agreement by the LICENSEE.

PART IV: TECHNICAL CONDITIONS

19. TECHNICAL CONDITIONS :

19.1 The technology for Voice Mail/Audiotex/ Unified Messaging Services shall be based on standards issued by TEC.

19.2 TEC specification number V/VMS-01/02.September, 1994 defines the parameter of the Voice Mail Service, scope of service its key element its interface specification, service description and quality of service to be, by a LICENSEE.

19.3 TEC specification V/ATS.01/01.September, 1994 define the parameters of Audiotex Service, scope of service, its key element, service description and quality of service to be provided by the LICENSEE.

19.4 TEC specification No. GR/UMS-01/01.AUG 2000 define the parameters of Unified Messaging Service, scope of service, its key element, service description and quality of service to be provided by the LICENSEE.

20. THE APPLICABLE SYSTEM:

20.1 The equipment/system capable of providing Voice Mail/Audiotex/ Unified Messaging Services as per technical and quality requirement contained in the TEC specification V/VMS-01/02 September, 1994, and V/ATS.01/01.September, 1994 respectively.

20.2 In the process of operating the Services, the LICENSEE shall be responsible for :-

- (i) Installation of the equipment;
- (ii) proper upkeep and maintenance of the equipment;
- (iii) maintaining the criteria of performance;
- (iv) maintaining the MTTR within the specified scope.

21. Engineering Details:

21.1 The LICENSEE shall furnish to the LICENSOR or its authorised representative(s), in such manner and at such times as may be required by the LICENSOR 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.

22. Interconnection with network operated by BSNL/MTNL/Other Licensed Telecom Service Providers.

22.1 The resources required for the operation of the services and for extending them over the network of the BSNL/MTNL/Other Licensed Telecom Service Providers will be mutually agreed upon between the parties. The resources may include but are not limited to - physical junctions, PCM derive channels, private wires, leased lines, data circuits and other communications elements etc. The LICENSEE may apply for and obtain from the BSNL/MTNL/Other Licensed Telecom Service Providers the desired resources. The operation and tariff for the traffic passed through these resources as well as provision of these resources shall be governed by the prevailing rules and regulations of LICENSOR/TRAI.

In case Voice Mail/Audiotex/ Unified Messaging Services licensee takes resources for the operation of the services from more than one telecom service provider, the dial out facility will not be permitted. In case the resources are taken by the Voice Mail/Audiotex/ Unified Messaging Service licensee from only one service provider the dial out facility will be permissible. However, for UMS licensee the dial out facility shall not be permitted.

22.2 Necessary interface specification and requirements with full details with BSNL/MTNL/Other Licensed Telecom Service Providers equipment for interconnecting the Voice Mail/Audiotex/Unified Messaging Service equipment shall be furnished within one month from the effective date of the licence to the LICENSOR.

22.3 The acceptance testing for every interface with the BSNL/MTNL/Other Licensed Telecom Service Providers shall be carried out by the acceptance testing party of that organization. The acceptance-testing schedule shall be mutually agreed to.

22.4 Adequate time not less than one month will be given by the LICENSEE for acceptance testing.

22.5 Prohibition of interconnection with other networks :

Interconnection with any other private/public/value added network not having proper telecom licence would not be done by the LICENSEE without prior permission from the LICENSOR. Also, no other service than the one for which the licence is granted should be made available to the public on this network. The LICENSOR reserves the right to grant or not to grant such permission and also the right to impose conditions if the permission is granted. The LICENSEE will ensure that this condition is not violated by any of its subscribers.

23. Quality of Performance:

23.1 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.

23.2 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 as given below in respect of normal failures excluding catastrophes:
 - a) 90% of faults resulting due to subscriber's complaints should be rectified within 24 hours and 99% within 3 Calendar days.
 - b) 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.

23.3 The LICENSEE shall be responsive to the complaints lodged by his subscribers. He shall rectify the anomalies within the MTTR specified and maintain the history sheets for each installation, statistics and analysis on the overall maintenance status.

PART V: OPERATING CONDITIONS.

24. Customer Service.

24.1 The LICENSEE will be bound to register the demand/request for Voice Mail/Audiotex/ Unified Messaging Service Connection and shall provide the service to any individual or legal person without any discrimination, unless directed by the LICENSOR in writing. The LICENSEE shall be required to maintain a transparent, open to inspection, waiting list, if any. The LICENSEE shall be permitted to launch the commercial service only after commencement of registration in the manner prescribed.

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.

24.2 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 itemised billing information.

24.3 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, utilised and terminated.

24.4 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.

24.5 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.

25. Obligations imposed on the LICENSEE.

25.1 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.

25.2 The LICENSEE shall furnish all necessary means and facilities as required for the application of provisions of Section 5(2) of the Indian Telegraph Act, 1885, whenever occasion so demands. Nothing provided and contained anywhere in this Licence Agreement shall be deemed to affect adversely anything provided or laid under the provisions of Indian Telegraph Act, 1885 or any other law in force.

26. Inspection and Testing of Installations.

26.1 The LICENSOR will also carry out all performance tests required for successful commissioning of the service, if it so desires, before the service is commissioned for public use. The LICENSEE shall supply all necessary literature, drawings etc. regarding the equipment installed for commissioning of the services, and shall also supply all the tools, test instruments and other accessories to the testing party of the LICENSOR 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 LICENSEE will clear the same before commissioning the service.

26.2 The Acceptance testing for each and every interface with the BSNL/ MTNL/or Other Service provider may be carried out by mutual arrangements between the LICENSEE and the other party involved. The Acceptance Testing schedule shall be mutually agreed.

27. Right to inspect.

27.1 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 options, distribution frames, 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.

27.2 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.

27.3 Voice Mail/Audiotex/ Unified Messaging Services licensee shall provide a watchdog terminal with access limited to unfiltered CDR file to the licensor/designatd monitoring agencies.

27.4 The Voice Mail/Audiotex/ Unified Messaging Services provider shall make available all detailed information about the conference calls e.g. the parties in conference, date, time, duration of the conference etc. on demand, to licensing authority. The list of registered subscribers of Audiotex service provider shall also be given, on demand, to licensing authority. The information shall be stored for at least two years period.

28. Location of Voice Mail/Audiotex/Unified Messaging Service Centre :

28.1 The LICENSEE shall provide to the LICENSOR location details of Voice Mail/Audiotex/Unified Messaging Service Centre and location of these Centres shall not be changed without prior approval of the LICENSOR.

29. Confidentiality of information:

29.1 The LICENSEE shall not employ bulk encryption equipment in its network. Any encryption equipment connected to the LICENSEE's network for specific requirements has to have prior evaluation and approval of the LICENSOR or officer specially designated for the purpose.

29.2 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 :

- a) No person acting on behalf of the LICENSEE or the LICENSOR divulges or uses any such information except as may be necessary in the course of providing such SERVICE to the Third Party; and
- b) 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:

- a) 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
- b) The information is already open to the public and otherwise known.

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

29.4 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.

30. Prohibition of certain Activities by the LICENSEE.

30.1 The LICENSEE shall not engage on the strength of this LICENCE in the provision of any other Service other than the SERVICE as defined in this Licence Agreement.

30.2 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 Applicable Systems.

30.3 The LICENSEE shall take measures to prevent an objectionable, obscene, unauthorized or any other content or harmful and unlawful messages or communications infringing upon copyrights, intellectual property etc., in any form, from being carried on his network, consistent with the legal frame-work of the country. Once specific instances of such infringement are reported to the LICENSEE by the Authority, the LICENSEE shall ensure without fail that the carriage of such material on his network is prevented immediately.

30.4 The LICENSEE is obliged to provide, without any delay the tracing facility to trace origin or content of nuisance obnoxious or malicious calls, messages or communications transported through his equipment and network. Any damages arising out of default on the part of LICENSEE in this regard shall be sole liability of the LICENSEE.

30.5 In case any confidential information is divulged to the LICENSEE for proper implementation of an Agreement, it shall be binding on the LICENSEE and its employees and servants to maintain its secrecy and confidentiality.

30.6 Point to point conferencing and calling card facility shall not be provided by Voice Mail/Audiotex/ Unified Messaging Service licensees.

30.7 Dial out facility shall not be used in whatsoever manner for any illegal by pass of STD/ISD traffic of any licenced access service providers. Voice Mail/Audiotex/ Unified Messaging Service licensee shall have to give undertaking in this regard.

31. Application of Indian Telegraph Act.

31.1 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.

31.2 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 authorised 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.”

DEFINITIONS 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 paragraph:

1. The “applicable system” means all the equipment, sub-systems engineered to provide Voice Mail/Audiotex/Unified Messaging Service in accordance with operational/technical and quality requirements and other terms and conditions of the Licence Agreement.
2. “Connectable System “ means a telecommunication system, which is authorized to be run under a license, which authorises connection of that system to the applicable System;
3. “Engineering” refers to the technical application of the dimensioning rules and results thereof in order to promise a Quality of service;
4. “Effective date” is the date on which this Licence Agreement is signed.
5. “Message” means anything falling within paragraph 3 of section.3 of the Indian Telegraph Act 1885;
6. “Operator” means any person who is authorized by a License to run a Relevant Connectable System;
7. “Public Switched Telephone Network” means a Switched Fixed Specified Public Telecommunication System providing a two-way switched telecommunication service;
8. “Quality of Service” means evaluation of service on the basis of observed measures on the grade of service, calls lost due to wrong processing, the bit error rate or the response time. The Quality of Service also includes acceptable grade of number of faults per unit population of the subscribers served the Mean Time to Repair (MTTR), faults carried over beyond the MTTR and the satisfactory disposal thereof.
9. “Service Area” defines the Short Distance Charging Area (SDCA) within which the LICENSEE may operate and offer the Services as given in Schedule “A”. Applicant will be required to submit separate application for each Service Area.
10. “Specified Public Telecommunication System” means the public telecommunication systems run by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited or any other Licensed public telecommunication system which is specified by the LICENSOR for the purpose of this license and described in a list

kept for that purpose by the Director General Telecommunications and made available by him for inspection by the general public;

11. “Technical specifications” means the specifications referred to as Operational/Quality Requirement of related service;
12. “LICENSOR” shall refer to the Director General, Telecommunication, Government of India, or his representative vested with the sole responsibility of the business of Telecommunications, which will be Department of Telecommunications, India (DOT), unless otherwise specified;
13. “Validity of the license” is the period for which this license may be effective.;
14. The term “Services” or “Service” means Voice Mail/Audiotex/Unified Messaging Service;
15. “DOT” means the Department of Telecommunications.
16. “LICENSE” means a license granted or having effect as if granted under section.4 of the Indian Telegraph Act 1885 and Indian Wireless Telegraphy Act 1933.
17. “LICENSEE” shall refer to a registered Indian Association/Company or an Establishment, that is awarded license for providing the Voice Mail/Audiotex/UMS Service.
18. “MTNL” means Mahanagar Telephone Nigam Limited.
19. “BSNL” means Bharat Sanchar Nigam Limited.
20. “Tariff” ‘Charges payable by the subscriber for the service provided.
21. “TRAI” means Telecom Regulatory Authority of India established under the TRAI Act, 1997.

ANNEXURE-II

PERFORMA FOR PERFORMANCE BANK GUARANTEE

To

The President of India
(Acting through the Telegraph Authority)

In consideration of the President of India, acting through the Telegraph Authority (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 Voice Mail/Audiotex/Unified Messaging Service (hereinafter called 'the SERVICE') as per the Licence Agreement No. _____ (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 terms & conditions of the LICENSEE 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 any 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 as aforesaid 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 Three 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.....
.....
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- 2.....
.....
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