

LICENCE AGREEMENT
FOR
PROVISION OF
GLOBAL MOBILE PERSONAL
COMMUNICATION BY SATELLITE
(GMPCS SERVICE)
IN INDIA

NO. _____ DATED _____

TOTAL PAGES _____

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS
TELECOM COMMISSION

20, ASHOKA ROAD, SANCHAR BHAWAN
NEW DELHI-110 001. INDIA.

LICENSE AGREEMENT

FOR

GLOBAL MOBILE PERSONAL COMMUNICATIONS BY SATELLITE

(GMPCS) SERVICE

This AGREEMENT is made on the _____ day of _____ (month) _____ (year) by and between the President of India acting through _____ (name), Director (VAS-II), Department Of Telecommunications (DOT), Sanchar Bhavan, 20, Ashoka Road, New Delhi – 110 001 (hereinafter called the LICENSOR which expression shall, unless excluded by or repugnant to the context, include its successor in office and permitted assigns) 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 excluded by or 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 License and the LICENSEE has requested to grant license for **providing Global Mobile Personal Communications by Satellite (GMPCS) Service (as defined by ITU) in India** whereupon and in pursuance to the said request, the LICENSOR has agreed to grant this License **to provide GMPCS Service** within the geographical boundaries of India

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In consideration of the payment of license fee, 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 GMPCS Service in the licensed service area.**

2. The LICENSE hereby granted will remain valid for 20 (Twenty) 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 more particularly described in Schedule-I appended hereto, without any deviation or reservations of any kind.

4. Unless otherwise mentioned or appearing from the context, the proposals submitted and clarifications provided thereof by the Licensee 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 schedule annexed thereto shall prevail.

5. Effective Date of this LICENSE shall be

6. Additional Licenses in Licensee's service area may also be issued to others 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 (including the rules framed under either of them) 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.

(Name)

By Director (VAS-II), Department of Telecommunications.

Signed on behalf of M/s. _____ by Mr. _____

(Name and Designation), authorised 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.

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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 LICENSEE Company does not, at any time during the entire Licence period, exceed 49% of the total equity. The details of the Indian & Foreign promoters with their respective equity holdings in the LICENSEE Company as disclosed on the date of signing of the LICENSE AGREEMENT, are as follows:

Sl. No.	Name of Promoter.	Indian/ Foreign	Percent of Equity held
1.			
2.			
3.			

1.2 There shall be no change in the Indian and Foreign promoter(s) or their equity participation unless permitted by the LICENSOR in writing.

1.3 The Licensee Company may, with prior written consent of the Licensor replace a promoter(s) by another promoter(s) of equal or higher standing as stipulated below:

- (a) an existing foreign promoter may be substituted by another foreign promoter of similar standing;
- (b) the existing Indian Promoter(s) may also be allowed to acquire the foreign promoter's shareholding; and
- (c) transfer of equity inter-se between existing Indian promoters may be permitted, provided the majority Indian promoter continues to hold at least the present shareholding for a period of five years from the effective date of licence agreement. The merger of Indian companies may be permitted as long as competition is not compromised; TRAI will be consulted by the licensor in this matter.

1.4 The licensee shall also ensure that:

- (i) Any changes in share holding shall be subject to all necessary statutory requirements.
- (ii) Management control of the Licensee Company shall remain in Indian Hands.

2. Scope of the Licence

2.1 The licensee shall be permitted to provide, in its area of operation, all types of mobile services including voice and non-voice messages, data services utilizing any type of network equipment including circuit and/or packet switches, that meet the relevant International Telecommunication Union (ITU)/Telecommunication Engineering Center (TEC) standards.

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, 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 20 years from the effective date unless revoked earlier for reasons as specified elsewhere in the document.

4. Extension of Licence

4.1 The LICENSOR may extend, if deemed expedient, the period of LICENCE by 10 years at one time, upon request of the LICENSEE, if made during 19th 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. The decision of the LICENSOR shall be final in this regard. **However, a reference to TRAI shall be made in such a situation.**

6. Restrictions on 'Transfer of Licence'

6.1 The LICENSEE shall not, without the prior written consent as described below, of the LICENSOR, either directly or indirectly, assign or transfer this LICENCE 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 and employees for provision of the service.

6.2 The written consent permitting transfer or assignment of the LICENCE may be granted by the LICENSOR in accordance with the terms and conditions, and procedures described in Tripartite Agreement if duly executed amongst LICENSOR, LICENSEE and LENDERS.

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 the GMPCS Service under this Licence agreement.

8. Delivery of Service

8.1 The LICENSEE shall commission the Applicable Systems within one year from the effective date of the license. Commissioning of service shall mean providing of an effective commercial service to customers after obtaining clearance from the LICENSOR in this regard.

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 of the contracts/licenses entered into with its parent/associate company and/or space-segment/satellite-system owner/operator including those contained in contracts/licences issued by the Governments/Authorities of the country where the parent/associate company is registered and/or carries on its business prior to grant of license and before security clearance for the service in India. The information so furnished to the Licensor along with authenticated copies of all such contracts/licenses are true and correct to the best knowledge of the licensee. The information shall be regularly updated, as and when any changes occur, during the validity of the license.

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 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 SERVICE. 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.

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 including timely payments of fee and other charges due to the LICENSOR;
- 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 LICENSEE 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 LICENSEE shall pay all fees payable by it till the date on which the surrender of the LICENCE becomes effective. 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 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 keep any area out of the operation zone of the SERVICE if implications of security so require; whose decision shall be final and conclusive

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 hinderance 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 quantum of damages and to whom payable shall be determined by the TRAI. 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.

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 clauses given below.

11.2 On termination or surrender or expiry of the LICENCE, the Bank Guarantee shall be released 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 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 provisions 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 Disputes Settlement and Appellate Tribunal, if such dispute arises out of or connected with the provisions of the license 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.

13.3 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.

14. SET OFF CLAUSE:

14.1 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.

14.2 The aforesaid sum of money payable to the LICENSEE Company shall include any security, which can be converted into money.

14.3 After exercising the right of set off a notice shall always be given immediately by the licensor to the licensee.

15. WAY LEAVE:

15.1 The LICENSEE 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.

16. **General:**

16.1 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.

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

16.3 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

17. Tariffs:

17.1 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.

18. Publication of the Telephone Service Directory.

18.1 Determination of TRAI with regard to publication of telephone service directory containing information of subscribers of GMPCS Service shall be applicable and binding.

PART-III FINANCIAL CONDITIONS

19. FEES PAYABLE

19.1 Entry Fee:

One –Time Entry Fee of Rs. One Crore is payable by the LICENSEE at the time of signing of the Licence Agreement.

19.2 License Fees:

In addition to the Entry fee described above, the Licensee shall also pay Licence fee annually @ 10% of Adjusted Gross Revenue (AGR), in addition to spectrum charges. The Licence Fee as Revenue share include contribution towards (i) USO, (ii) R&D, Administration and Regulation.

19.3 Radio Spectrum Charges:

The LICENSEE shall also pay licence fee and royalty charges as decided by Government of India from time to time for establishment, maintenance and operation of Satellite station, which includes GMPCS Gateway(s) and mobile terminal.

20. Definition of ‘Adjusted Gross Revenue’:

20.1 Gross Revenue:

The Gross Revenue shall be inclusive of installation charges, late fees, sale proceeds of handsets (or any other terminal equipment etc.), revenue on account of interest, dividend, value added services, supplementary services, access or 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.

20.2 For the purpose of arriving at the “Adjusted Gross Revenue” the following will be excluded from the Gross Revenue to arrive at the adjusted gross revenue:

- (i) PSTN related Call charges (access charges) actually paid to Bharat Sanchar Nigam Ltd. (BSNL) / Mahanagar Telephone Nigam Ltd. (MTNL) or other telecom service providers within India.
- (ii) Roaming revenues actually passed on to other telecom service providers, and
- (iii) Service Tax on provision of service and Sales Tax actually paid to the Government; if gross revenue had included the component of Service Tax.

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

21.1 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.

21.2 Licence Fee shall be payable in four quarterly installments during each financial year. Each Quarterly installment shall be paid in advance within 15 days of the commencement of that quarter. This Fee for each quarter shall be paid by the LICENSEE on the basis of own assessment of revenue (on accrual basis) for the current quarter subject to a minimum payment equal to the actual revenue share of the previous 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 first quarter of the first year, the licensee shall pay the Licence Fee on the basis of the expected revenue from the SERVICE in the first quarter.

21.3 The quarterly payment shall be made together with a STATEMENT in the prescribed form as **annexed**, showing the computation of revenue and licence fee payable for the previous quarter. The aforesaid 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 **annexed**.

21.4 The LICENSEE shall adjust and pay the difference between the advance payment made and actual amount duly payable (on accrual basis) of the previous quarter, along with the advance payment for the current quarter.

21.5 Any delay in payment of Licence Fee, or any other dues payable under the LICENCE beyond the stipulated period will attract interest at a rate which will be 5% 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.

21.6 Final adjustment of the licence fee for the year shall be made on or before 30th June of the following year based on the gross revenue figures duly certified by the AUDITORS of the LICENSEE in accordance with the provision of Companies' Act, 1956.

21.7 A reconciliation between the figures appearing in the quarterly statements with those appearing in annual accounts shall be submitted along with a copy of the published annual accounts and audit report, 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**.

21.8 In case, the total amount paid on the self assessment of the LICENSEE 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 150% of the entire amount of short payment. This amount of short payment along with the 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

per terms of **Condition 21.5**. However, if such short payment is made good within 60 days from the last day of the financial year, no penalty shall be imposed.

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

21.10 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.

21.11 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 21.3, 21.7, 23.5 and 23.6** herein before and herein after written.

21.12 The LICENSEE, shall separately pay the access charges for carriage of calls originating in his network but carried and terminated in the BSNL/MTNL/Other Service Providers' networks. The LICENSEE shall also separately pay charges for network resources obtained by the licensee from BSNL/MTNL/other licensed service providers. This will be governed by the determination of TRAI.

22. BANK GUARANTEES:

22.1 The licensee shall submit a Financial Bank Guarantee (FBG) **of Rs. one Crore**, valid for two years, from any Scheduled Bank or Indian Public Financial Institution duly authorized to issue such Bank Guarantee, in the prescribed Performa **annexed, prior to signing of the Licence Agreement**. The financial bank guarantee shall be **required to be revalidated if the commissioning of the Service is delayed**. Subsequently, the amount of FBG shall be equivalent to the estimated sum payable annually towards the Licence fee and other dues not otherwise securitised. The amount of FBG shall be subject to periodic review by the Licensor.

22.2 Initially, the Bank Guarantees shall be valid for a period of two years and 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.

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

23. Preparation of Accounts.

23.1 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.

23.2 The LICENSEE shall be obliged to:

a) 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.

(b) 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.

c) Send to the LICENSOR a certified statement sworn on an affidavit, by authorized representative of the company, containing full account of Revenue earned from the SERVICE for each quarter separately along with the payment for the current quarter.

23.3 (a) 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.

(b) The 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.

23.4 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.

23.5 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.

23.6 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 23.5** 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.

23.7 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.

Part-IV TECHNICAL CONDITIONS

24. THE APPLICABLE SYSTEM:

24.1 LICENSEE shall provide the ‘Applicable System’ using any type of network equipment, including circuit and/or packet switches, that meet the relevant International Telecommunication Union (ITU)/ Telecommunication Engineering Centre (TEC) standards.

24.2 In the process of operating the Services, the Licensee shall be responsible for:-

- (i) The installation of the sites excluding the installation of the equipment at the subscriber’s premises which will be left at the option of the subscriber;
- (ii) the proper upkeep and maintenance of the equipment;
- (iii) maintaining the criteria of performance;
- (iv) maintaining the MTTR within the specified scope.

25. Engineering Details:

- (a) The Licensee shall furnish to the Licensor or its authorised 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.
- (b) List of performance tests shall be furnished by the Licensee to the licensor and/ or to TEC one month prior to the date of commissioning of service.
- (c) 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.

26. Network Interconnection.

26.1 Interconnection between the networks of different service providers shall be as per national standards of CCS No.7 issued from time to time by Telecom Engineering Centre (TEC), and also subject to technical feasibility and technical integrity of the Networks and shall be within the overall framework of interconnection regulations issued by the TRAI from time to time.

26.2 The GMPCS Service LICENSEE may enter into suitable arrangements with other service providers to negotiate Interconnection Agreements whereby the interconnected networks will provide the following:

(a) To meet all reasonable demand for the transmission and reception of messages between the interconnected systems.

(b) To establish and maintain such one or more points of interconnect as are reasonably required and are of sufficient capacity and in sufficient numbers to enable transmission and reception of the messages by means of the applicable systems,

(c) To connect, and keep connected, to their Applicable Systems,

26.3 The provision of any equipment and its installation for the purpose of Interconnection shall depend on the mutual agreement of the concerned parties

26.4 The Interconnection Tests for each and every interface with any Service provider may be carried out by mutual arrangement between the LICENSEE and the other party involved. The Interconnection Tests schedule shall be mutually agreed.

26.5 It shall be mandatory for GMPCS Service providers to provide interconnection to all eligible Telecom Service Providers whereby the subscribers could have a free choice to make inter-circle/international long distance calls through NLD service provider. For international long distance call, the GMPCS service operator shall access international long distance operator through national long distance operator only

27.6 Point of Inter-connection (POI) between the networks of GMPCS service providers and fixed service providers shall be only with Level-I TAXs and Tandem exchanges in the Metros. In Telecom Circles the interconnection shall be with level I TAX/interconnection with level II TAXs may also be allowed, however, transiting of traffic to other LDCAs at POIs on level II TAX is not permitted.

27. Interface

27.1 The LICENSEE shall operate and maintain the licensed Network conforming to Quality of Service standards to be mutually agreed in respect of Network- Network Interface. For the purpose of providing the SERVICE, the LICENSEE shall install his own equipment so as to be compatible with other service providers' equipment to which the LICENSEE's Applicable Systems are intended for interconnection. The LICENSEE shall be solely responsible for attending claims and damages arising out of his operations.

27.2 The additional telecommunication resources for the provision of the service and networking the geographically dispersed equipment of the LICENSEE shall be leased/rented on mutually agreed terms from service providers including BSNL, MTNL or authorised Telecom Service Providers. The same will be governed by the orders/notifications of the TRAI issued from time to time on interconnection/access charges.

27.3 The charges for accessing other networks i.e. PSTN, PLMN etc. for inter-network calls shall be based on mutual agreements between the service providers conforming to the Orders/Regulations/Guidelines issued by the TRAI from time to time.

27.4 The network resources including the cost of upgrading/modifying interconnecting networks to meet the service requirements of the LICENSEE will be mutually negotiated keeping in view the orders and regulations issued by the TRAI from time to time.

28. Quality of Performance:

28.1 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.

28.2 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.

28.3 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.

28.4 The LICENSOR or TRAI shall 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.

29. Emergency and Public Utility Services:

29.1 Licensee shall independently provide all emergency and public utility services to its subscribers, including directory information services with names and address of subscribers.

PART-V OPERATING CONDITIONS

30. Customer Service.

30.1 The LICENSEE will be bound to register the demand/request for Mobile Telephone 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. 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.

30.2 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. 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.

30.3 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.

30.4 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.

30.5 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.

31. The User Terminals (Mobile Telephone or Handset).

31.1 The Licensee shall have the right to undertake the sale, hire purchase, lease or renting of the user/mobile terminals. Proper usage of terminal at subscriber's premises shall be responsibility of the subscriber.

31.2 The Licensee shall be responsible to ensure that the user /mobile terminal is operated in accordance with the terms of the Licence and the WPC Licence. The SIM Card in the user terminal is non-transferable.

31.3 The user/ mobile terminals employed in the network shall be of a type/model certified by an internationally accredited agency with respect to ITU/ETSI/TEC standards or any other international standard as may be approved by the Government. They should carry a marking specifying their compliance with such standards. Only such category of subscriber unit as has been granted such a certificate shall be brought into and operated within India under this Agreement.

31.4 Administrative approval for the User Terminals (UT) which have been registered with ITU or certified by other International Scientific Test Laboratories shall be accorded by TEC on behalf of Licensing Authority, for use in India, after satisfying themselves that the terminal meets the security requirement of Indian Government.

32. Obligations imposed on the Licensee.

32.1 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.

32.2 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.

33. Direct interconnectivity between other Telecom Service Providers :

Direct interconnectivity between licensed GMPCS Operator and any other Telecom service provider is permitted for the purpose of only terminating traffic of each other; intimation shall have to be given to the LICENSOR within 15 Calendar days of establishing such direct interconnectivity. Such interconnection shall be as per mutual agreement between the service providers. The interconnection shall have to be withdrawn in case of termination of the respective licensed network of other Telecom service providers within one hour or within such time as directed by the LICENSOR in writing, after receiving intimation from the LICENSOR in this regard.

34. Coverage Criteria:

34.1 The LICENSEE shall invariably cover the entire Service Area within a period of one year from the effective date of the licence agreement.

35. Additional Entry Fee for late delivery of service:

35.1 The time period of delivery of the Service stipulated in this Licence shall be deemed as the essence of the contract and the service must be brought into commission not later than such specified time period. No extension in delivery date will be granted. If the Service is brought into commission after the expiry of the due date of commissioning, without prior written concurrence of the licensor and is accepted, such commissioning will entail recovery of **additional entry fee** under this Condition. Provided further that if the commissioning of service is effected within 15 calendar days of the expiry of the due commissioning date then the Licensor shall accept the services without levy of **additional entry fee**.

35.2 In case the Licensee fails to bring the Service or any part thereof into commission (i.e., fails to deliver the service or to meet the required coverage criteria) within the period prescribed for the commissioning, the Licensor shall be entitled to recover **additional entry fee as below:**

(a) Delay up to 1 year : Rs. 5 Lakh shall be payable on

the first day of the second year.

(b) Delay of more than one year and upto than two years : Rs.5 Lakhs as at (a) above plus Rs. 5 lakhs payable on the first day of the third year.

(c) Delay of more than 2 years : Rs. 10 Lakhs as of (b) above plus Rs. 5 lakhs payable on first day of the fourth year and also the licence is liable to termination in accordance with Condition No.10, Part-I.

36. Inspection and Testing of Installations.

36.1 The Licensor will 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 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.

36.2 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.

Part-VI SECURITY CONDITIONS

37. Right to inspect.

37.1 The LICENSOR or its authorised 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 authorised 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.

37.2 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 hinderance.

38. Location of Hub Station /Gateways :

38.1 The LICENSEE shall provide to the LICENSOR location details of Hub Station/Gateways, _Control Centres including routine details etc. and location of these Centres shall not be changed without prior approval of the LICENSOR.

39. Confidentiality of information:

39.1 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.

39.2 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 LICENSEE 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.

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

39.4 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.

40. Prohibition of certain Activities by the Licensee.

40.1 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.

40.2 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.

40.3 The LICENSEE shall take necessary measures to prevent objectionable, obscene, unauthorised or any other content, messages or communications infringing copyright, intellectual

property etc., in any form, from being carried on his network, inconsistent 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.

40.4 The LICENSEE is obliged to provide, without any delay, tracing facility to trace 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 borne by the LICENSEE.

40.5 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.

41. Security Conditions:

41.1 The operation and maintenance of the GMPCS gateway, which may be located in India, shall be entrusted to VSNL or an agency authorised by the Government for this purpose. The LICENSEE shall demonstrate the system capabilities with respect to security aspects including monitoring to the LICENSOR or its authorised representative prior to starting of operations in India.

41.2 The precise delineation of geographical borders taken by the LICENSEE for the purpose of defining service area in India 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.

41.3 The LICENSEE to its best knowledge undertakes that satellites deployed for GMPCS service shall be used over the Indian territory only for the services authorised by the LICENSOR. No activities such as surveillance, electronic warfare etc. shall be carried

out over the Indian territory, which may jeopardise the sovereignty and security of the country.

41.4 The LICENSEE shall create a buffer zone along the Indian international border where no service would be permitted. Width of this buffer zone along the borders within the Indian Territory shall be as decided by the Govt. of India from time to time. The Government will spell out the area and width of the buffer zone. As and when there is any change in the structure of defined buffer zone, for whatsoever reason, it should be reported to the LICENSOR immediately. The Government and its authorised representatives may carry out physical verification of the accuracy of buffer zone so created.

41.5 The designated Authority of the Central /State Government as conveyed to the Telecom Authority from time to time in addition to the Telecom Authority or its nominee shall have the right to monitor the telecommunication traffic in every Gateway Switch set up in India. The LICENSEE shall make arrangement for monitoring of calls as given below :

<u>Total Subscriber Base</u>	<u>Calls to be monitored</u>
	<u>upto</u>
Upto 1000	50
1000-2000	100
2000-3000	150
3000-5000	200

The above will be the total number of target subscribers to be monitored at any given time by either one or more of the security agencies. The matter shall be further reviewed, if needed, once the subscriber base increases beyond 5000.

The hardware/software required for monitoring of calls shall be engineered, provided/installed and maintained by the LICENSEE at the ICC (Intercept Control Centre) to be established at the GMPCS Gateway(s) as also in the premises of security agencies at LICENSEE's cost. However, the respective Government Agencies shall bear the cost of leased line circuits from GMPCS Gateway(s) to the monitoring Centres to be

located as per their choice. The Interface requirements as well as features and facilities shall be worked out and implemented by the LICENSEE for both data and speech. The LICENSEE should ensure suitable redundancy in the complete chain of Monitoring equipment for trouble free operations. The LICENSEE should also provide suitable training to Gateway Operators in operation and maintenance of Monitoring equipment (ICC & MC). Interception of target subscribers using messaging services should also be provided even if retrieval is carried out using PSTN links.

The LICENSEE shall make following type of provision for extending monitored calls:

- (a) Extension on PSTN line
- (b) Extension on E-1 links (30 Channels Pulse code Modulation – PCM), which can be stored in a voice logger at Gateway and simultaneously to user agencies on dedicated line with co-related call Related Information (CRI).

Along with the monitored call following records should be made available:

- (i) Called/calling party mobile/PSTN numbers.
- (ii) Time/date and duration of interception.
- (iii) Precise location of target subscribers.
- (iv) PSTN numbers if any, call-forwarding feature has been invoked by target subscriber.
- (v) Data records for even failed call attempts.

The LICENSEE should be required to provide the call data records of all the calls handled by the system at specified periodicity, if and as and when required by the security agencies.

41.6 The Government through appropriate notification may debar usage of mobile terminals in certain areas in the country. The LICENSEE shall deny service to areas specified by designated authority immediately and in any case within six hours on request. The accuracy of denial should be +/- 100 meters of the area boundary specified. The Government or its authorised representative may carry out the accuracy of the areas so

debarred. The LICENSEE shall also provide the facility to carry out surveillance of UT activity within a specified area.

By suitable man/ machine command to be given by the operation and maintenance personnel of the GMPCS gateway, it should be possible to deny service to subscribers in certain specified areas immediately on receipt of request.

41.7 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. Standard GSM encryption techniques will however, be allowed. The LICENSEE shall be responsible for ensuring privacy of communication on its network and also to ensure that unauthorised interception of message does not take place.

41.8 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 in the event of a national emergency / war or low intensity conflict or any other eventuality. Any specific orders or directions from the Government issued under such conditions shall be applicable to the LICENSEE and shall be strictly complied with.

41.9 The LICENSEE shall make available on demand to the agencies authorised by the Government full access to the Gateways routes etc. for detailed technical security/ inspection. The LICENSEE shall provide necessary facilities to the Government to counter acts of subversion, sabotage, espionage or any other unlawful activity.

41.10 All foreign personnel likely to be deployed by the LICENSEE for installation, operation and maintenance of the licensed network shall be security cleared by the Government of India prior to their deployment. The security clearance will be obtained from the Ministry of Home Affairs, Govt. of India.

41.11 LICENSOR reserves the right to modify these conditions or incorporate new conditions considered necessary in the interest of national security.

41.12 Adequate monitoring facility should be made available by the LICENSEE at the GMPCS Gateway to monitor all traffic (traffic originating/terminating in India) passing through the applicable system. For this purpose, the LICENSEE shall set up at his cost, the requisite interfaces, as well as features and facilities for monitoring of calls by authorised agencies as directed by the LICENSOR from time to time. In addition to the Target Intercept List (TIL), it should also be possible to carry out specific geographic location based interception, if so desired by the authorised security agencies. Monitoring of calls should not be perceptible to mobile users either during direct monitoring or when call has been grounded for monitoring. No charges shall be leviable for grounding a call for monitoring purposes. No records to be maintained regarding monitoring activities and air-time used.

41.13 The LICENSEE shall ensure that any User terminal registered in the gateway of another country shall re-register with Indian Gateway when operating from Indian Territory. Any UT registered outside India, when attempting to make/receive calls from within India, without due authority, shall be automatically denied service by the system and occurrence of such attempts along with information about UT identity as well as location shall be reported to the designated authority immediately.

41.14 The LICENSEE should provide a list of his subscribers, to authorised security agencies directly as well as to the LICENSOR which should be updated at quarterly intervals. Additions and deletions in this list should be reported on monthly basis. The LICENSEE shall ensure adequate verification of each and every customer before enrolling him as a subscriber. The User terminal to be used shall be registered against each subscriber. The LICENSEE shall make it clear to the subscriber that the mobile terminal registered against him is non-transferable and that he alone will be responsible for proper and bonafide use of the service. The LICENSEE shall have provision to scan operation of subscribers specified by security/ law enforcement agencies through certain sensitive areas within the Indian territory and shall provide their identity and positional location (latitude and longitude) to LICENSOR on as and when required basis.

41.15 Any foreign subscriber entering this country with a registered GMPCS mobile terminal should declare the same to the Custom Authorities, who will record the details on his Passport and issue an authorization for the use of the terminal. Provided that such visiting Subscriber shall give an undertaking to take back the same mobile terminal out of India.

It should be the duty of the Custom Authorities to inform the service provider as well as the security agencies about the foreigners having brought the User Terminal in India.

41.16 The User Terminals clandestinely brought into the Indian Territory shall be denied Service. The LICENSEE shall have in-built capabilities in the System for denial of service to such user-terminals. Any User Terminal that is not duly authorized to work from within India, if tries to make or receive a call in India, it should be denied access automatically and such events should be logged and information in this regard should be suitably made over to the LICENSOR/Security Agencies, as specified. The visiting subscribers shall be required to register their user terminals on the Equipment Identity Register (EIR) of the LICENSEE. The LICENSOR will separately notify suitable administrative mechanism in consultation with the Custom Authority for on-line co-ordination on a regular basis between the Air/Land/ Sea Customs and the LICENSEE for exchange of information in respect of all mobile terminals legally brought into the country. This arrangement would facilitate the identification and segregation of mobile terminals (registered in other countries) clandestinely brought into the Indian Territory for denial of Service.

41.17 A format would be prescribed by the LICENSOR to delineate the details of information required before enrolling a customer as a subscriber. Such details could be uniformly maintained by the service providers and submitted for verification whenever called for by the Government agency.

41.18 All calls originating or terminating from Mobile Terminals in India shall pass through the GMPCS Gateway located in India. Such calls will not be routed through any other Gateway i.e., located outside India. VSNL is also to be compensated, in case the

Gateway is being bypassed. (Compensation to VSNL may be reviewed after VSNL's monopoly on carriage of international traffic ends.) All inter-network calls will be routed through two gateway switches i.e., one of the LICENSEE and that of the VSNL or Government owned Basic Service operators (e.g. BSNL/MTNL). All International calls outgoing or terminating in a PSTN shall be routed via VSNL gateway switches. All national calls outgoing or terminating in a PSTN shall be routed via BSNL/MTNL TAX Switches.

42. Application of Indian Telegraph Act.

42.1 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.

42.2 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.”

PART-VII WPC WING'S LICENSE

43. WPC WING'S LICENCE

43.1 A separate specific authorisation shall be required from the WPC wing of the Department of Telecommunications, Ministry of Communications which will permit utilization of appropriate frequencies / band for the establishment and possession and operation of Wireless element of the Telecom Service under specified terms and conditions including payment for said authorisation. Such grant of authorisation will be governed by normal rules, procedures and guidelines and will be subject to completion of necessary the prescribed formalities.

43.2 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, Dak Bhavan, Sansad Marg, New Delhi-110 001” in a prescribed application form available from WPC Wing.

43.3 Site 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,
Dak Bhavan, Sansad Marg,
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.

43.4 For establishing various point to point radio links the frequency bands earmarked for various agencies has been indicated in the National Frequency Allocation Plan (hereinafter called NFAP) –2000. Mere indication of the band does not guarantee availability of the frequency spectrum which has to be coordinated on case to case basis.

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

Interpretation of Terms/ Definitions

1. **APPLICABLE SYSTEMS:** The "applicable system" means all the necessary equipment/ sub-systems engineered to provide GLOBAL MOBILE PERSONAL COMMUNICATION BY SATELLITE in accordance with operational/technical and quality requirements and other terms and conditions of the license agreement.
2. **AUDITOR** means the LICENSEE's auditor for the time being appointed in accordance with the requirements of the Companies Act, 1965.
3. **CONNECTABLE SYSTEM** means a telecommunication system which is authorised to be run under a License to provide public telecommunications service and is authorised to be connected to the Applicable system.
4. **DIRECT EXCHANGE LINE (DEL):** A telephone connection between the subscriber's terminal equipment and the terminal exchange.
6. **DOT** means Department of Telecommunications, Government of India as LICENSOR.
7. **BSNL** means Bharat Sanchar Nigam Limited as a Telecom Service Provider and/ or its successors.
8. **EFFECTIVE DATE:** The effective date is the date on which this License Agreement is signed by the parties. This license comes into effect from the effective date of the license.
9. **EMERGENCY** means an emergency of any kind, including any circumstances whatever resulting from major accidents, natural disasters and incidents involving toxic or radioactive materials.
10. **EMERGENCY SERVICES** in respect of any locality means the relevant public, police, fire, ambulance and coast guard services for that locality.

11. ENGINEERING: The technical application of the dimensioning rules and results thereof in order to provide network resources to meet specified Grade of Service (GOS).

12. GMPCS: GMPCS means Global Mobile Personal Communications by Satellite. The GMPCS system is defined as "any satellite system (i.e. fixed or mobile, broad-band or narrow-band, global or regional, geo-stationary or non geo-stationery, existing or planned) providing telecommunication services directly to end users from a constellation of satellites" (in accordance with the GMPCS-MOU).

13. "GMPCS Gateway" means a land based satellite link station established to provide a communication link between the Satellite/Satellite Constellation and the 'National PSTN' and 'International Gateway', thereby facilitating the provisions of telecommunications services between Mobile terminal and any telephone linked to the connected PSTN or PLMN.

14. "GMPCS Service Provider" means an Indian registered company, which has been licensed under this license to set up and operate GMPCS Service (as defined by ITU) to the public within the boundaries of Indian Union.

15. GMPCS Operator means the legal entity responsible for the operation/ provision of GMPCS system/ network and/ or space segment.

16. "GMPCS Network" means any satellite based telecommunication network providing telecommunication services directly to end users through the use of mobile terminal from a satellite/constellation of satellite.

17. GMPCS user terminal or mobile terminal means the equipment used by the subscribers to avail the GMPCS service.

18. LICENSE: License means a license granted or having effect as if granted under section 4 of the Indian Telegraph Act 1885 and Indian Wireless Act 1933.

19. LICENSEE: A registered Indian Company that has been awarded license to provide the GMPCS service, within the geographical boundaries of Indian Union.
20. "LICENSOR" shall refer to the President of India acting through any authorised person, who granted License under Section 4 of Indian Telegraph Act 1885 and Indian Wireless Telegraph Act 1933, unless otherwise specified.
21. "MESSAGE" means anything falling within sub Clause/paragraph (3) of section 3 of the Indian Telegraph Act 1885.
22. MTNL means Mahanagar Telephone Nigam Limited.
23. OR/QR Specifications means technical and quality requirements contained in the OR/QR Specifications of Telecom Engineering Centre Department of Telecommunications unless otherwise specified.
24. Public Switched Telephone Network (PSTN) means a fixed specified switched public telephone network a two-way switched telecommunications service to the general public.
25. Public Land Mobile Network (PLMN) means land based mobile network e.g. Cellular Mobile Telephone Service being operated within the country under license from Telecom Authority on non-exclusive basis.
26. QUALITY OF SERVICE: "Quality of Service" is evaluated on the basis of observable measure on the grade of service, calls lost due to wrong processing, the bit error rate or the response time and also included acceptable grade of number of faults per unit population of the subscriber served, the mean time to restore (MTTR), faults carried over beyond the MTTR and the satisfactory disposal thereof.
27. SERVICE AREA: Service area for Global Mobile Personal Communication Service by Satellite is the territorial jurisdiction of the Union of India except specified areas that may be notified to be excluded from time to time.

28. SERVICES OR SERVICE means Global Mobile Personal Communications by Satellite Service and shall include the tele-services, bearer services and supplementary services as defined by ITU.

29. SUBSCRIBER: Subscriber means any person or legal entity, which avails of the Global Mobile Personal Communications by Satellite Service from the LICENSEE.

30. 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 authority as may be established by law.

31. TARIFF: Tariff means rates and related conditions at which telecommunication services within India and outside India may be provided including rates and related conditions at which messages shall be transmitted to any country outside India, deposits, installation fees, rentals, free calls, usage charges and any other related fees or service charge. The term tariff will have the same meaning as may be defined in the Telecommunication Tariff Orders to be issued by the TRAI from time to time.

32. TRAI means Telecom Regulatory Authority of India constituted under the TRAI Act, 1997 as amended from time to time.

33. VSNL means "Videsh Sanchar Nigam Ltd."

34. WPC means Wireless Planning and Co-ordination Wing of the Ministry of Communications, Department of Telecommunications, Government of India.

PROFORMA FOR FINANCIAL BANK GUARANTEE

To

The President of India, acting through the Telegraph Authority.

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 Global Mobile Personal Communication by Satellite (GMPCS) Service (hereinafter called 'the SERVICE') in India in accordance with the Letter of Intent/Licence Agreement 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 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.

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.....

.....

.....

.....

ANNEXURE-III

(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 Global Mobile Personnel Communication by Satellite Service in India 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 and **Annexure**.....of the License Agreement No. signed between the Company and the Department Of Telecommunications, for payment of license fee, a payment of Rs. (Rupees is being made for the period to The details of calculation of ‘revenue’ and license fee is as per **Annexure** (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 License 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.

Format Of Auditor’s Report On Statement Of Revenue And License Fee

To

The Board of Directors

.....

.....

We have examined the attached Statement of Revenue and License 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 License 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 license fee payable by the company to the Government, in terms of the license 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 or PSTN/ toll /roaming charges 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 license agreement in this behalf and gives a true and fair view of the revenue and license 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-III

Format of Statement of Revenue and License Fee

_____ (Name and address of operator)

Global Mobile Personnel Communication by Satellite Service in India

**Statement of Revenue and License Fee for the Quarter
of the financial year.....**

(AMOUNT IN RUPEES)

S.N.	PARTICULARS	ACTUALS OF THE PREVIOUS QUARTER	FIGURES FOR THE CURRENT QUARTER	CUMULATIVE FIGURES UP TO THE PREVIOUS QUARTER
1.	Revenue from Services:			
A.	Post paid options:			
i.	Rentals			
ii	Activation Charges			
iii.	Airtime Revenue			
iv.	Pass through charges			
v.	Service Tax			
vi.	Roaming charges			
vii	Service charges			
viii.	Charges on account of any other value added services. Supplementary Services etc.			
ix.	Any other income/ miscellaneous receipt from post paid options.			
B.	Pre-paid options:			
i.	Sale of pre-paid sim cards including full value of all			

	components charged therein.			
ii.	Any other income/ miscellaneous receipt from pre-paid options.			
C.	Revenue from Mobile			
i.	Community phone service including full value of all components charged therein.			
ii.	Any other income/ miscellaneous receipt from Mobile Community phone service.			
2.	Income from Trading activity: (all inclusive of sales tax)			
i.	Sale of handsets			
ii.	Sale of accessories, including sim cards etc.			
iii.	Any other income/miscellaneous receipt from trading activity.			
3.	Revenue from roaming.			
i.	Roaming facility revenue from own subscribers.			
ii.	Roaming revenue from own subscriber visiting other			

	networks including STD/ISD/pass thru charges for transmission of incoming call during roaming.			
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.			
4.	Income from investments.			
i.	Interest income			
ii.	Dividend income			
iii.	Any other miscellaneous receipt from investments.			
5.	Non-refundable deposits from subscribers.			
6.	Revenue from franchisees / resellers, excluding revenues already included in 1A&1B			
7.	Revenue from			

	sharing/leasing of infrastructure			
8.	Revenue from other operators from sale of bandwidth			
9.	Revenue from other operators on account of pass thru call charges.			
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.	PSTN related Call charges passed on to basic, cellular and long distance service provider(s) (operator-wise)			
2.	Roaming revenues actually passed on to CMSPs and other GMPCS service providers. (operator-wise)			
3.	Service Tax paid to the Government.			

4.	Sales Tax paid to the Government.			
BB	TOTAL DEDUCTION (1-4B)			
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.
- Roaming Charges shall be shown under the following heads separately;
 - (a) Roaming airtime charges collected for each external network from own (home) subscribers.
 - (b) Roaming airtime charges actually remitted to each external network.
 - (c) Roaming commission retained (Network-wise)
 - (d) Roaming commission paid (Network-wise)
- Any other variable charges collected and retained/passed on to other operators, with details.