

AGREEMENT

SUBSIDY DISBURSEMENT
TOWARDS
REPLACEMENT OF MARR VPTs

UNDER

UNIVERSAL SERVICE OBLIGATION

No.30-107/2002-USF DATED 25/09/2003

IN ORISSA SERVICE AREA

TOTAL PAGES-29

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS & INFORMATION
TECHNOLOGY
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF ADMINISTRATOR (USF)
20, ASHOKA ROAD, NEW DELHI-110 001 INDIA

AGREEMENT
FOR REPLACEMENT OF MARR VPTs

This Agreement is entered into on the 25th day of September,2003 by and between the President of India acting through Shri N.K.Joshi,Jt Administrator(USF),Department of Telecommunications (DOT),Sanchar Bhavan,20.Ashok Road, New Delhi – 110 001 (hereinafter called the Administrator) of the FIRST PARTY.

AND

M/s Bharat Sanchar Nigam Limited, a company registered under the Companies Act 1956, having its registered office at Sanchar Bhavan,20,Ashoka Road, New Delhi-110 001,acting through Shri H.C.Pant. Company Secretary and GM (Legal), the authorized signatory(herein after called the Universal Service Provider or USP which expression shall, unless repugnant to the context, include its successor in business,administrators,liquidators and assigns or legal representatives)of the SECOND PARTY.

WHEREAS the USP has requested and the Administrator agreed to enter into Agreement for replacement of MARR VPTs in the service area described in SCHEDULE-I appended hereto on the terms and conditions recorded herein after in these presents.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In consideration of the performance of all the terms and conditions mentioned in this Agreement on the part of the USP, the Administrator does, enter into this Agreement for replacement of MARR VPTs in the contracted service area as described in SCHEDULE-I appended hereto.
2. This Agreement will remain valid for 9(Nine) years from the Effective date unless revoked earlier for any reason whatsoever.
3. The USP hereby agrees and unequivocally undertakes to fully comply with all terms and conditions stipulated in this Agreement without any deviation or reservation of any kind.
4. Effective Date of this Agreement shall be 01st July, 2003
5. More Agreements in USPs Service Area viz, Orissa may also be entered into from time to time in future without any restriction on number of USPs at the sole decision of Administrator.
6. This Agreement does not modify in any way the obligations for providing VPTs under the Basic/Cellular Service License Agreement No.10-3/2000-BS-II Dated 29.09.2000 for all India Service Areas.
7. Unless otherwise mentioned or appearing from the context, the Tender Document and clarification to the Tender Document or Letter of Intent shall form part and parcel of this Agreement. Provided that in case of conflict or inconsistency on any issue relating to this Agreement, the terms set out in the body of this Agreement with schedules annexed thereto shall prevail.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed through their respective authorized representative on the 25th September, 2003.

Signed for and on behalf of President of India.

By (N.K.Joshi)
Jt.Administrator (USF), Department of Telecommunications.

Signed on behalf of M/s BSNL by Mr.H.C.Pant, authorized signatory and holder of General Power of Attorney dated 06.08.2003, executed in accordance with the Resolution No. - Nil, dated 02.08.2003, passed by the Board of Directors.

In the presence of:

Witness:

1.
Signature

Name Anil Kumar
Occupation Jt.DDG (GP)
Address BSNL Corporate Office.
Place New Delhi

2.
Signature

Name S.K.Shrivastava
Occupation Asst.Administrator (T), USF
Address O/o Administrator (USF), DOT, Sanchar Bhawan,
Place New Delhi

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SCHEDULE-I

SCHEDULE OF SERVICE AREA

The Service Area for which this Agreement is entered into is given below:

ORISSA

SCHEDULE-II

TERMS AND CONDITIONS

PART I

GENERAL CONDITIONS

1.0 Transfer, Assignment or Franchising of the Agreement entered into shall be subject to relevant conditions of the Basic Service License.

2.0 Scope of the Agreement

2.1 The Universal Service Provider shall provide new VPTs in replacement of existing MARR VPTs and operate and maintain all such new VPTs working in the SSA(s) in the Service Area for which this Agreement has been entered into.

2.2 The Universal Service Provider shall be solely responsible for provision and operation of necessary equipment and systems, treatment of subscriber complaints, collection of call charges and issue of receipts thereof, attending to claims and damages arising out of his operations.

3.0 Duration of Agreement

3.1 The Agreement shall be valid for a total **period of 9(nine) years** from the effective date unless revoked earlier for reasons as specified elsewhere in the document.

4.0 Extension of Agreement

4.1 The Administrator may extend, if deemed expedient, the validity of Agreement for such period and on such terms as may be mutually agreed which shall be final in this regard. On expiry of the Agreement, period, the responsibility of operation & maintenance of the VPTs shall lie on the owner operator. Further ,after the mid term review of the Representative rate of subsidy during the third year, if it is found that based on net cost no subsidy is payable, the USP shall be obliged to operate and maintain the replaced VPTs for the period of Agreement without any subsidy from the Administrator.

5.0 Modifications in the Terms and Conditions of Agreement

5.1 The Administrator reserves the right to modify at any time the terms and conditions of the Agreement, if in the opinion of the Administrator 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 Administrator shall be final in this regard.

6.0 **Requirement to furnish information**

6.1 The Universal Service Provider shall furnish to the Administrator, on demand, such documents, accounts, estimates, returns, reports or other information as may be called for by the Administrators. The Universal Service Provider 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 as amended, modified or replaced from time to time.

7.0 **Suspension, Revocation or Termination of Agreement**

7.1 The Administrator reserves the right to suspend the operation of the Agreement in whole or in part ,at any time, if in the opinion of the Administrator it is necessary or expedient to do so in public interest or in the interest of the security of the State. However, the Administrator shall not be responsible for any damage, claim or loss caused or arising out of such action. The suspension of the Agreement will not be a cause or ground for extension of the period of the Agreement and suspension period will be counted towards period spent under the validity of Agreement.

7.2 The Administrator may, without prejudice to any other remedy available for the breach of any conditions of Agreement, by a written notice of 90 calendar days issued to the Universal Service Provider at its registered office, terminate the Agreement under any of the following circumstances:

- (a) Failure to perform any obligation(s) under the Agreement
- (b) Failing to rectify, within the time prescribed, any defect as may be pointed out by the Administrator
- (c) Going into liquidation or is ordered to be wound up.

Provided that if the respective Basic/Cellular Service license of the USP is terminated, then the Agreement for replacement of MARR VPTs shall also be deemed to be terminated forth-with.

7.2.1 The Administrator reserves the right to revoke the Agreement at any time in public interest by giving a notice of 60 days counted from date of issue of such notice.

7.3 Wherever considered appropriate, Administrator may conduct an inquiry to determine whether there has been any breach in compliance of the terms and conditions of the Agreement by the Universal Service Provider and upon such inquiry the Universal Service Provider shall extend all reasonable facilities and shall endeavor to remove the hindrance of every type.

7.4 It shall be the responsibility of the Universal Service Provider to maintain the Quality of Service as per conditions of the Agreements, during the period of notice for termination of Agreement; otherwise this shall be a cause for invocation and forfeiture of PBG.

8.0 **Actions pursuant to Termination of Agreement**

8.1 Wherever the Agreement is terminated prematurely, the Administrator may, at his sole discretion, in order to ensure continuity of Service, enter into an Agreement with another

Operator for running the Service, who will be paid subsidy at the Representative Rate determined under the Agreement based on this tender.

8.2.1 If the QoS had not been maintained as per standard prescribed hereto during the notice period then no subsidy for the notice period shall be payable.

8.2.2 In case of termination of the Agreement before the expiry period, the prescribed PBG will be encased and forfeited. Additionally, if it is found that the Universal Service Provider had received any payment in excess of the amounts under the Agreement prior to termination, then such amount shall be paid back immediately on demand by the USP to the Administrator.

9.0 **INDEMNITY**

9.1 The Universal Service Provider shall indemnify the Administrator in respect of any damages, claims, loss or action against Administrator for acts of commission or omission on the part of the Universal Service Provider, its agents or servants.

10.0 **Disputes Settlements**

10.1 In the event of any question, dispute or difference arising under the Agreement, or in connection thereof, except as to the matter, the decision of which is specifically provided elsewhere under the Agreement the same shall be referred to an Arbitral Tribunal. Herein after called the "TRIBUNAL" consisting of sole Arbitrator to be appointed upon nomination made by Secretary, Department of Legal Affairs, and Ministry of Law & Justice. Government of India.

10.2 The venue of Arbitration shall be New Delhi or anywhere in India, as may be fixed by the TRIBUNAL. The Arbitration proceedings shall be conducted in accordance with provisions of Arbitration and Conciliation Act 1996 as amended or replaced from time to time.

11.0 **Force-Majeure**

11.1 If at any time ,during the continuance of the Agreement ,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 Statuary Authority, explosion, epidemic, quarantine restriction, strikes and lockouts(not limited to the establishments or facilities of the Universal Service Provider) ,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 10 Calendar days from the date of occurrence thereof, neither party shall, by reason of such event, be entitled to terminate the Agreement ,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 Agreement shall be resumed as soon as practicable, after such EVENT comes to an end or ceases to exist.

The decision of the Administrator 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, binding and conclusive.

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

12.0 **SET OFF CLAUSE**

12.1 In the event any sum of money or claim becomes recoverable from or payable by the Universal Service Provider to the Administrator either against the 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 Universal Service Provider under this Agreement or any other Agreement or Contract between the Administrator and the Universal Service Provider.

12.2 The aforesaid sum of money payable to the Universal Service Provider shall include any valuable security which can be converted into money.

12.3 After exercising the right of set off, a notice shall always be given immediately by the Administrator to the Universal Service Provider.

13.0 **OTHER OBLIGATIONS**

13.1 The Universal Service Provider shall be bound by the terms and conditions of the 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 Administrator.

13.2 The Statutory provisions and the rules made under Indian Telegraph Act 1885 or Indian Wireless Telegraphy Act, 1993 or any order passed under these statutes, so far applicable, shall be binding on the Universal Service Provider.

PART II

COMMERCIAL CONDITIONS

14.0 Tariffs

14.1 The Universal Service Provider will charge the tariff for the SERVICE from the customer/users as per the TRAI Tariff orders/ regulations/directions issued in this regard from time to time. The Universal Service Provider shall also fulfill requirements regarding publication of tariffs, notifications and provisions of information as per the provisions of TRAI Act, 1997 as replaced or amended from time to time.

14.2 All rates must be prominently displayed in (i) local language, and (ii) Hindi and/or English near each public access telephone facility operated by the Universal Service Provider. The USP shall also display the names and particulars of the concerned persons with whom the customer/user of the VPT Service may lodge their complaints/grievances. The USP should also display Toll free Public Utility Telephone numbers such as Fire, Police, and Ambulance etc. A complaint book shall also be available at each VPT site and shall be produced for inspection by the Administrator and/or persons/organizations authorized in this regard.

SECTION V

TECHNICAL CONDITIONS

15.0 TECHNICAL CONDITIONS

15.1 The Universal Service Provider shall work within the framework of the Technical conditions of the Basic Service License.

16.0 Quality of Service Parameters:

The Quality of Service Parameters for Basic Telecommunication Services as prescribed by TRAI shall prevail.

16.1 The Universal Service Provider shall ensure the Quality of Service (QoS) as prescribed by the TRAI from time to time .The Universal Service Provider shall adhere to such QoS standards and provide timely information as required therein.

16.2 The ADMINISTRATOR or TRAO may carry out performance tests either directly by themselves or through authorized agency and also evaluate the QoS parameters for the VPTs at any time during the tenure of the AGREEMENT .The Universal Service Provider shall provide ingress and other support including documents, instruments, equipments etc for carrying out such performance tests and evaluation of Quality of Service parameters.

16.3 The Universal Service Provider will keep a record of VPTs provided in replacement of existing MARR VPTs indicating faults and rectification reports of such new VPTs provide in replacement and other related details in respect of the service rendered, will be produced before the ADMINISTRATOR or TRAI as and when and in whatever from desired.

16.4 The Universal Service Provider shall be responsive to the complaints lodged by its customers. He shall rectify the anomalies and maintain the history sheets for each installation, statistics and analysis on the overall maintenance status.

16.5 Proper arrangements should be made by the USPs for reporting /booking faulty VPTs and its regular testing .Print out of line tests of VPTs got conducted on daily basis and record of metered call units (MCU) should be preserved by the Universal Service Provider for a period of at least one year or till the final settlement of subsidy claimed, whichever is later. The broad guidelines for maintenance of VPTs is given in **Annexure-I**.

SECTION VI

FINANCIAL CONDITIONS

17.0 Subsidy from Universal Service Fund (USF)

17.1 SSA-wise Representative rate, at which subsidy is disbursable, shall be as follows:

SLNo.	Name of SSA	Total no. of MARR VPTs to be replaced	Representative rate per VPT per annum (In Rs.)
1.	BALASORE	562	14800
2.	BARIPADA	723	14900
3.	BERHAMPUR	296	15200
4.	BHUBANESHWAR(PURI)	755	15000
5.	BOLANGIRI	515	14900
6.	CUTTACK	854	14900
7.	DHENKANAL	858	15100
8.	KALAHANDI	503	15100
9.	KORAPUT	1610	16700
10.	PHULBANI	38	15100
11.	SAMBALPUR	989	15300
12.	SUNDERGARH	266	14900

The Representative rate for payment of subsidy shall be reviewed during the third year of the Agreement. The modified rate of subsidy will be determined based on review taking into consideration, inter-alia, the increase in revenue receipts in view of provision of STD facility on all VPTs by end 2004 in terms of TRAI recommendations. The modified Representative rate for subsidy based on review shall be applicable from the 4th year of the Agreement.

Further, after the mid-term review of the Representative rate of subsidy during the third year, if it is found that based on net cost, no subsidy is payable, the USP shall be obliged to operate and maintain the replaced VPTs for the period of Agreement without any subsidy from the Administrator.

17.2 The Universal Service Provider shall receive the Subsidy from the date the new VPT is provided in replacement of MARR VPTs and made functional as per details provided in **Annexure-3 of the Tender Document**. Such subsidy shall be given up to a maximum period of seven years from the date of initial replacement of each MARR VPT.

18.0 Schedule for disbursement of Subsidy by the Administrator to the Universal Service Provider.

18.1 For the purpose of the Agreement and disbursement of funds from USF, the 1st year shall end on 31st March, following the date of commencement of the Agreement and the disbursement 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 April to the 31st March.

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

18.2 The Subsidy from USF shall be disbursed in four quarterly, installments during each financial year .Each installment shall be disbursed quarterly in arrears generally within thirty days of receipt of a valid claim for the VPTs maintained up to the close of the previous quarter.

18.3 The Universal Service Provider shall submit its claim for quarterly Subsidy in a STATEMENT in the prescribed form given in **Attachment 1&2 to Annexure II** showing the computation of subsidy for the quarter, by 15th of the month following the quarter. The **Attachment 3 to Annexure 2** lays down the norm for preparation of subsidy claim .The SSA wise subsidy claims should be submitted as prescribed on a hard copy in the formats of **Attachments 1 and 2 to Annexure 2** which should be duly signed by the Authorized Signatory of the Company. In the addition to the hard copy the USP should also submit the claim on a CD ROM in MS Excel format for each Service Area .The Authorized Signatory of the company should also put his signature and seal of the Company on the CD ROM Disc.

18.4 The claim shall be duly certified with an Affidavit as per **Annexure II** by a representative of the Universal Service Provider duly authorized by a Board resolution of the Universal Service Provider .In preparation of the statement, the norms as per **Attachments 3 to Annexure II** shall be followed.

18.5 The aforesaid quarterly STATEMENTS of each year shall be required to be ed by the Auditors of the Universal Service Provider appointed under Section 224 of the Companies ‘Act, 1956 .The report of the Auditors should be in the prescribed form given in Annexure III to be filed with the Administrator within 7 (seven) calendar days of the date of signing of the Audit Report but not later than 30th September of the following year.

18.6 The VPTs that remain faulty for more than 7 days in a quarter ,shall not be reckoned for the purpose of disbursement of full subsidy from USF and subsidy payable shall be reduced proportionately for the total no. days the VPT remains faulty during the quarter.

Provided further that if a VPT remained faulty for forty five days or more during the quarter, no subsidy for the entire quarter for that VPT shall be disbursed.

Explanation:

The VPTs remaining non functional for any reason are to be treated as faulty.

18.7 All claims for subsidy shall be accompanied by a pre-receipted bill with revenue stamp. Disbursement of Subsidy shall be by cheque, through the Office of the Administrator or controller of Communication Accounts of the respective Telecom Circles or any other designated Authority.

18.8 The Administrator shall pay the subsidy for a quarter after making adjustments, if any, for the payments made in the previous quarter.

18.9 Final adjustment, if any in respect of excess or shortage in the Subsidy disbursed shall be made in the following year based on the quarterly Statements duly certified by the Auditors of the Universal Service Provider.

18.10 IN case the Universal Service Provider is found to have claimed and received in excess of 10% of the Subsidy due to him ,the entire amount in excess shall be recovered along with an interest from the date of disbursement at the Prime Lending Rate (PLR) of State Bank of India prevalent an the day the disbursement was made .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.(Month for this purpose shall be taken as an English calendar month).No further subsidy shall be disbursed until final adjustment of the excess Payment .No interest shall be payable for any short payment made to the USP by the Administrator.

18.11 The records of the Universal Service Provider shall be subject to such scrutiny as may be prescribed by the administrator so as to facilitate independent verification of the Subsidy claimed.

18.12 The Administrator, to ensure proper and correct verification of subsidy paid, can if deemed necessary modify, alter, or substitute and amend whatever is stated herein.

19.0 **BANK GUARANTEES:**

19.1 There is no requirement for submission of Performance Bank Guarantee (PBG)by BSNL, as long as it is a 100% Government owned Company.

20.0 **Maintenance of records**

20.1 The Universal Service Provider will dram, keep and furnish accounts for the VPTs for which the Agreement has been entered into and it shall fully comply to orders, directions or regulations as may be issued from time to time by the ADMINISTRATOR.

20.2 (a)The ADMINISTRATOR or the TRAI, as the case be ,shall have the right to call for, and the Universal Service Provider shall be obliged to maintain, supply and provide for examination the books of accounts and records of faults. The Universal Service provider shall also be required to supply and provide for examination any other records that it maintains in respect in respect of the business carried on to provide the Service(s)under this Agreement at any time.

(b)The Universal Service Provider shall invariably preserve all accounting records and other 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 AGREEMENT.

20.3 The Service Provider shall submit by 30th June of the following year the actual cost and revenue details for the Service provided in the format prescribed in **Annexure-V**.

20.4 The relevant records of the Universal Service Provider will be subject to such scrutiny as may be prescribed by the ADMINISTRATOR or TRAI so as to facilitate independent verification of the amount due to the Universal Service Provider as subsidy From the USF.

SECTION VII

OPERATING CONDITIONS

21.0 Customer Service

21.1 The terms and conditions of the Basic Service License Agreement shall prevail and shall be binding mutatis mutandi.

22.0 Right to inspect

22.1 The Administrator or his authorized representative shall have the 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 entering into dialogue with the system through Input/Output devices or terminals. The Universal Service Provider will provide the necessary facilities at own cost for continuous monitoring of the system as required by the Administrator 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 every purpose of the inspection.

22.2 Wherever considered appropriate Administrator may conduct any inquiry either so-motto or on a complaint, to determine whether there has been any breach in compliance of terms & conditions of the Agreement by the Universal Service Provider, and during such inquiry the Universal Service Provider shall extend all reasonable facilities without any hindrance.

23.0 Location of VPTs

23.1 The Universal Service Provider may change the location of the VPTs to provide better access to the public within the geographical boundaries of the same village under intimation to the Administrator. No subsidy support towards relocation of VPT shall be payable to the USP.

24.0 Change of Technology

24.1 The USP may provide new VPTs based on new technology in place of the MARR VPTs already replaced by its as a part of maintenance effort during the validity of the Agreement provided it meets all other performance parameters of Quality of Service. The subsidy shall however be disbursed at the Representative rate.

25.0 **Roll Out**

At least 50% of the MARR VPTs in the Service Area for which the Agreement is signed shall be replaced by the Universal Service Provider within one year from the effective date of the Agreement and the balance must be replaced within two years from the effective date of the Agreement. For the VPTs that are not replaced within the relevant period from the effective date of the Agreement, such delays shall entail recovery of Liquidated Damages (L.D).The USP shall provide a monthly statement in Annexure-VI containing details of the MARR VPTs replaced during the month.

Providing further, that for the VPTs that are replaced within 15 calendar days of the expiry of the relevant period from the effective date, the Administrator shall accept the services without levy of the L.D charges. For failure to replace the VPT within the prescribed stipulated time, the Administrator shall be entitled to recover Liquidated Damages at the rate of 10% of the annual subsidy payable for those VPTs for each calendar month of delay or part thereof subject to maximum of 20% .For the purpose of charging the Liquidated Damages .the Representative rate applicable for the respective SSAs in the Service Area, where the relevant roll out obligation of replacement of MARR VPTs has not been fulfilled shall be taken into account.

26.0 **Confidentially of information**

26.1 The terms and conditions of the Basic Service License shall be binding mutatis mutandi.

27.0 **Prohibition of certain Activities by the Universal Service Provider**

27.1 The terms and conditions of the Basic Service License shall be binding mutatis mutandi.

28.0 **Security Conditions**

28.1 The terms and conditions of the Basic Service License shall be binding mutatis mutandi.

29.0 **Application of Indian Telegraph Act**

29.1 The terms and conditions of the Basic Service License shall be binding mutatis mutandi.

SECTION VIII

DEFINITIONS

30.0 Interpretation of Terms/Definitions

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

30.1 **ADMINISTRATOR** means the Administrator, Universal Service Fund in the Department of Telecommunications under Ministry of Communication & IT

30.2 **BENCHMARK:** Benchmark is the rate shall form the upper ceiling for submission of bids which includes the subsidy both towards annualized Capital recovery and operation and maintenance of replaced MARR VPTs minus revenue.

30.3 **AGREEMENT** shall mean the Agreement signed by the Universal Service provider with the Administrator, related to Universal Service obligation on the basis of the outcome of the bidding process.

30.4 **CAPEX** means Capital Expenditure incurred in providing new VPTs in replacement of MARR VPTs. The expenditure shall include the cost incurred on the VPTs terminal equipment, solar panel/batteries if required, line (wired or wireless) up to, and inclusive of line card in the telephone exchange.

30.5 **CAPITAL RECOVERY** means annual recovery towards depreciation, interest on loan and return on equity, worked out over a period of seven years to subsidize the Capital expenditure for replacement of MARR VPTs.

30.6 **CUSTOMER** includes any subscriber which subscribers to/avails of the service from the service Provider.

30.7 **DESIGNATED MONITORING AGENCIES** refers to the agencies authorized by the Administrator to carry out inspection of the records, claims and installations including physical verification in order to ensure compliance with conditions of the Agreement.

30.8 **EFFECTIVE DATE** is the date on which this Agreement comes into effect.

30.9 **LICENCE** means a License granted or having effect as if granted under section 4 of the Indian Telegraph Act 1885 and Indian Wireless Act 1933.

30.10 **LICENSEE:** A registered Indian Company that has been awarded License to provide the service (Basic and / or CMTS), within the geographical boundaries of the specified Service Area.

30.11 **MARR** refers to Access technology known as Multi Access Radio Relay.

30.12 **NET COST:** Net cost for the purpose of this Agreement shall be

Annual Capital recovery and Operating Expenses minus Annual revenues.
For the purpose of arriving at revenue no deduction of any kind whatsoever except service tax, if any, paid to the Government is allowed.

30.13 **OPEX** refers to Operating Expense involved in operation and maintenance of VPTs terminal equipment, line (wired or wireless) up to, and inclusive of the line card in the telephone exchange. It shall include the staff cost, office and administrative expenses, expenditure on maintenance, licenses fees and spectrum charges paid to the Government and commission paid to the custodian for running the VPT.

30.14 **QUALITY OF SERVICE (QoS)** is evaluated on the basis of observable measure on the grade of service or the response time and also includes acceptable grade of number of faults per unit population of the subscriber served, the mean time to restore (MTTR), and faults carried over beyond the MTTR and the satisfactory disposal thereof.

30.15 **SERVICE AREA:** Service Area means the territorial jurisdiction as specified under the Basic Service License except the areas that may be notified to be excluded from time to time.

30.16 **SECONDARY SWITCHING AREA (SSA):** SSA is one of the several areas into which the country is divided by the Telecom Authority and declared as such for the purpose of charging for trunk calls which generally is co-terminus with Revenue District.

30.17 **SUBSIDY** from Universal Service Fund (USF) means the disbursements made from USF towards meeting the universal service obligations in terms of the Agreement.

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

30.19 **USO** means Universal Service Obligation as enunciated in NTP-99 and the guidelines issued by the DOT and amended from time to time.

30.20 **VPT** means the first public telephone installed in a village which till then did not have any telephone.

GUIDELINES FOR PROVISION OF VPT SERVICE

MAINTENANCE AND PERFORMANCE MONITORING OF THE VPTs

Provision of fault free and efficient VPT service is one of the prime concerns of the Administrator. The broad guidelines given below should be followed by the Universal Service Providers (USPs) to ensure proper functioning of VPTs:

1. Testing of VPTs should be carried out daily from the exchange .Any VPT not responding on two consecutive days should be treated as faulty.
2. Testing of WLL links should be carried out daily from Base Station.
3. Meter reading should be checked fortnightly and low reading should be taken as indication of the system not performing properly and subsequently be checked.
4. VPT Custodians should be advised to book their fault at telephone exchange and/or the nominated nodal officer.
5. Repair Centers should be set up in each Service Area.
6. Sufficient spare units should be procured and stocked.
7. Annual repair Contract/AMC should be entered into with supplier of the systems as far as possible.
8. Inspection schedules should be formulated by Universal Service Provider and should be strictly adhered to.
9. Monthly/Weekly performance report should be maintained for monitoring and kept ready for inspection by USF Administration.
10. Meetings should be held with villagers to sort out the grievances.
11. VPTs disconnected for non –payment may be shifted to new location/custodian.
12. Un-serviceable components of the system should be replaced.
13. In case of public complaints about non-availability of VPT on account of their location. Selections in Panchayat Bhawan etc, USPs are authorized to relocate VPTs in grocery shops etc.
14. In cases where meter readings remain zero due to non use VPTs for a prolonged time and not due to faults, USPs are authorized to shift VPTs to other suitable location. Selection of alternate custodian/location in the same village in this situation should be made by USP, preferably at grocer's shop.
15. The VPT should be available to general public without discrimination for at least 12 Hrs preferably from 9AM to 9PM.
16. The MARR VPTs replaced by using any wireless technology shall use Fixed Wireless Terminal (FWT) only as Customer's Premises Equipment.

AFFIDAVIT AND FORMAT FOR SUBSIDY CLAIM

AFFIDAVIT (ON STAMP PAPER)

- I Aged about.....years son of Shri.....resident ofDo solemnly affirm and state as under:
2. That I amof (Name of the Company), Basic/Cellular Service provider of.....inService Area and I am duly authorized by the resolutions datedpassed by Board of Directors of the Company to furnish affidavit on behalf of (Name of the Company).
 3. That a claim of Rs (Rupees.....)is being made for the periodtoThe details of calculation of subsidy is as per Attachments enclosed.
 4. That the contents of Attachments____& _____ are true and correct to the best of my knowledge, based on the records of the company, which are available for further verification by the appropriate authorities and that the new VPTs provided in replacement of MARR VPTs were functional from the date of replacement shown in the statements (in the prescribed Proforma vide Attachments 1&2 of Annexure II of the Agreement.
 5. That excess payment or shortage, if any, in the subsidy received shall be adjusted in the following year based on the quarterly statements duly certified by the Auditors of the Company and Scrutiny as prescribed by the Administrator.
 6. That subsidy for the MARR VPTs on their replacement has not been claimed under any other Agreement entered into with the Administrator for the same Service Area.

Deponent.

VERIFICATION

Verified at.....on..... That the contents of the affidavit and Attachments ____& _____are true and correct to the best of my knowledge. no part of it is false and nothing has been concealed there from.

Deponent

Attachments 1/3 to Annexure II

SUMMARY STATEMENT OF NUMBER OF VPTs INSTALLED AS REPLACEMENT FOR THE FOR THE SERVICE AREA _____ AS PER AGREEMENT NO_____

NAME OF THE SERVICE PROVIDER:

NAME OF THE SERVICE AREA:

FOR THE QUARTER ENDING:

SL No.	NAME OF THE SSA	Opening Balance(VPTs replaced till the end of the previous quarter effective from the date of Agreement)	VPTs replaced during the quarter	Total No of VPTs for which subsidy has been claimed (Closing Balance i.e.,(3) (4)	Subsidy payable for the quarter	Subsidy deduction for period of fault	Net subsidy payable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

(Signature of the authorized representative with Company Seal)

STATEMENT OF SUBSIDY CLAIM FOR VPTs PROVIDED IN REPLACEMENT OF MARR VPTs AS PER AGREEMENT NO.

NAME OF THE SERVICE PROVIDER:

NAME OF THE SERVICE AREA:

NAME OF THE SSA:

QUARTER ENDING:

QUARTER BEGINNING:

REPRESENTATIVE RATE FOR THE SSA:

1	2	3	4	5	6	7	8	9	10	11	12
S. NO.	Name of village	MARR VPT No. with STD Code as Prefix	Date of replacement	STD code & No. of the VPT Provide in replacement	Technology used in replacement	Period Of Fault of the VPT Provided in replacement From To	No. of Days of Fault (each Of fault For a VPT to be Added up	No. of Days of existence in the Quarter Of VPT Provided In Replacement	Subsidy Payable For The Period In Column 9	Subsidy Deduction For fault (as per agreement)	Net subsidy Payable (10-11)

(Signature of authorized with Company seal)

NOTE:

1. Please refer detailed norms given at Attachment 3/3 to Annexure 8.
2. The MARR VPT s replaced in the previous quarters (effective from the date of Agreement) should also be included in the claim for the current quarter.
3. The VPTs in the above format should be sorted by the date of replacement in ascending order.

**NORMS FOR PREPARATION OF SUBSIDY CLAIM FOR VPTs PROVIDED IN
REPLACEMENT OF MARR VPTs**

1. The number of VPTs as per Agreement only will be considered for subsidy claim.
2. The date of replacement will be included to arrive at the number of days.
3. The No. of days of existence of the VPT (column No..9 of Attachments 2/3) provided in replacement of MARR VPT shall include all the days from the date of replacement till the end of the quarter. In the case of VPTs replaced in the previous quarters, the no. days of existence would be equal to the total no. of days in the quarter.
4. All the dates in Attachments 2/3 should be presented as DD/MM/YY uniformly throughout the claim.
5. Actual number of days in the quarter may be taken for calculation of subsidy i.e. 90 or 91 or 92, as the case may be.
6. For calculation of pro-rata subsidy actual number of days in the quarter shall be considered i.e, to say pro-rata subsidy
**Subsidy for quarter X-Actual number of days of existence of
The VPT in the quarter**
=-----
No. of days in the quarter
7. In the case of replacements during the quarter, deduction of subsidy for the VPT remaining faulty for more than 45 days in the quarter ,shall be limited to the actual amount of subsidy payable for the VPT in the quarter instead of deducting the full quarters subsidy.
8. The periods of fault shall include the duration for which VPTs have remained non functional for any reason.
No subsidy for the Qtr shall be admissible for the VPTs disconnected due to non-payment (DNP) or that have registered no (NIMR)
9. For deduction of subsidy for duration of fault,' from & to' will be included.
10. Rounding off to the nearest rupee may be done only in the total of each Attachment and not in individual cases.
11. Rough work, corrections or overwriting in the Annexure will not be accepted.
12. Only claims submitted SSA wise as perm the list of SSA provided in the Agreement shall be accepted claims submitted separately for Revenue Districts or any other category shall be rejected.
13. Page number should be indicated on each page of the claim and should contain the initials in original, of an officer authorized for this purpose. The last page of Attachment 2/3 should contain the signature of the authorized representative with Company seal.

Format of Auditors Report on Statement of Claim for Subsidy from USF

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

We have examined the attached Statements(s) of claim for subsidy from USF of.....(the name of the Basic /Cellular Service Provider) for the quarter(s) ending-----We understand that the aforesaid statements(s)is/are to be furnished to the Central Government for assessment of the subsidy payable to the Universal Service Provider by the Government, in the terms of the Tender document No.30-107/2002-USF for Subsidy Disbursement for Replacement of MARR VPTs installed prior to 1.4.2002 under Universal Service Obligation,StreamI.

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 opinion and to the best of our knowledge and belief and according to the explanations given to us, the Statements have been prepared in accordance with the conditions contained in the said Tender document /Agreement and clarification thereon in this behalf and gives a true and fair view of the subsidy claimed for the period computed on the basis of the aforesaid conditions.
3. In our opinion and to the best of information, record of faults is kept in such a manner as to reflect the correct position, for the purpose of claiming subsidy.

(NAME AND SIGNATURE WITH COMPANY 'S SEAL)

PROFORMA FOR PERFORMANCE BANK GUARANTEE

To

The President of India
Acting through the Administrator, USF

In consideration of the President of India (hereinafter referred to as the Administrator) having agreed to enter into an Agreement with Ms..... Of (hereinafter called the Universal Service Provider) to replace the MARR VPTs as per the Tender Conditions and maintain and operate the new VPTs as per the Tender Conditions and maintain and operate the new VPTs provided on replacement under the Agreement (hereinafter called the said Agreement) on the terms and conditions contained in the said agreement which inter-alias 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 Agreement .We.....(indicate the name and address and other particulars of the Bank)(herein after referred to as to 'Bank') at the request of the UNIVERSAL SERVICE PROVIDER hereby irrevocably and unconditionally guarantee to the Administrator that the Universal Service Provider shall render all necessary and efficient services which may be required to be rendered by the UNIVERSAL SERVICE PROVIDER in connection with and/or for the performance of the said AGREEMENT and further guarantees that the service which shall be provided by the Universal Service Provider under the said Agreement ,shall be actually performed in accordance of the AGREEMENT to the satisfaction of the Administrator.

2. We the Bank hereby undertake to pay the Administrator 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 Administrator by reason of any breach by the said AGREEMENT of any of the terms and conditions contained in the said Agreement including non extension of the validity of this guarantee.

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

4. We,theBank hereby also undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Administrator stating that the amount claimed is due by way of loss or damage caused or would be caused to or suffered by the Administrator by reason of breach by the said Universal Service Provider of any of the terms or conditions contained in the said Agreement or by reason of the Service Provider's failure to perform any of its obligation under the said Agreement.

5. We, the Bank, hereby agree that the decision of the Administrator as to whether the Universal Service Provider has failed to or neglected or discharge his duties and obligations as aforesaid and

/or whether the service is free from deficiencies and defects is in accordance to the or not of the terms & conditions of the said Agreement and as to the amount payable to the Administrator 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 one Year from the date hereof and that it shall continue to be enforceable till Administrator certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Universal Service Provider and accordingly discharged this guarantee.

(b) the Administrator shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of he terms and conditions of the said Agreement or to extend time of performance of any obligations by the said Universal Service Provider from time to time or to postpone for any time or from time to time any of the powers exercisable by the Administrator against the said Universal Service Provider and to forbear or to enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any variation or extension being granted to the said Universal Service Provider 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.

© any claim which we have against the Universal Service provider shall be subject and subordinate to the prior payment and performance in full of all the obligations of us hereunder ad we will not without prior written consent of the Administrator exercise any legal right or 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 Universal Service Provider.

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

SIGNED and SEALD with the common seal of Bank on

Dated-----day----- for-----
(Name of the Bank)

Witness:
1.....
.....
.....
.....
2.....
.....
.....
.....

ANNEXURE-V

**FORMAT FOR SUBMISSION OF COST AND REVENUE DETAILS OF THE VPTs
PERIOD IS REPLACEMENT OF MARR VPTs AS PER THE AGREEMENT NO.**

FOR THE FINANCIAL YEAR

SERVICE AREA

NAME OF THE SSA

SL NO.		(A)LANDLINE		(B)WLL		© VSAT		(D)OTHERS pl Specify	
		STD	NON-STD	STD	NON-STD	STD	NON-STD	STD	NON-STD
1.	NO/.OF VPTs								
2.	Average Annual Revenue(Net of Service Tax)per VPT								
3.	Average Annual OPEX per VPT (a)License Fee (b)Spectrum Charges ©Staff Cost (d)Office & Admn.exp (e)Maintenance expenditure (f)Commission paid to custodian								
	TOTAL								

Signature of the Authorized Signatory

For and on behalf of (Name of the Company)

STATEMENT OF MARR VPTs REPLACED DURING THE MONTH**NAME OF THE SERVICE PROVIDER:****NAME OF THE SERVICE AREA:****FOR THE MONTH ENDING:**

SL NO.	NAME OF THE SSA	NAME OF THE VILLAGE	TEL NO.OF MARR VPT WITH STD CODE	TEL NO. OF REPLACEMENT VPT WITH STD CODE	DATE OF REPLACEMENT	TECHNOLOGY USED FOR REPLACEMENT
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Note: In column (4) & (5), complete area code, operator code and telephone No. of VPT should be given.

Signature of the Authorized Signatory

For and on behalf of (Name of the Company)