

**WHOLESALE WIRELESS ACCESS SERVICE LICENCE
(XXXXXXXXXX)**

Granted to

XXXXXXXXXXXX LIMITED

By

**NIGERIAN COMMUNICATIONS COMMISSION
Under Section 32 of the Nigerian Communications Act, 2003**

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WHOLESALE WIRELESS ACCESS SERVICE LICENCE

NO. XXXX/XXXX/XX

GRANTED TO

XXXXXXXXXX LIMITED

UNDER SECTION 32 OF THE NIGERIAN COMMUNICATIONS ACT 2003

THE LICENCE

1. The **Nigerian Communications Commission** (hereinafter referred to as “**the Commission**”) being a body corporate with perpetual succession rights and a seal, established by Section 3 of Nigerian Communications Act 2003 (hereinafter referred to as “the Act”) and in exercise of the powers conferred on it by Section 32 of the Act hereby grants to **XXXXXXXXXX LIMITED** (hereinafter referred to as “**the Licensee**” who, where the context so admits, shall include its successors and/or assigns) a Licence for the period specified in Paragraph 2 subject to the Conditions set out in Schedules 1 and 2, to provide Wholesale Wireless Access Services (hereinafter referred to as the “**Licensed Undertaking**”) in the Licensed Area.
2. This Licence shall enter into force on the **1st day of April, 2014** and shall have tenure of **ten (10) years** thereafter, in the first instance, but subject to Condition 21 of Schedule 1 to this Licence, shall be subject to revocation thereafter upon the giving of twelve (12) months notice in writing by the Commission to the Licensee of such revocation. The Licence may be renewed subject to Condition 19 of Schedule 1 to this Licence.
3. This Licence shall be governed by the provisions of the Nigerian Communications Act 2003 and Wireless Telegraphy Act as may be amended from time to time.

DR EUGENE I. JUWAH
EXECUTIVE VICE-CHAIRMAN/CEO

DEFINITIONS AND INTERPRETATIONS

1. In these Conditions unless the context otherwise requires, the expressions shall have the following meanings:

“Access Point Transceivers” Any Station that provides connection between the Fixed Wireless Access Network and another telecommunications network.

“Act” The Nigerian Communications Act 2003.

“Carrier” or “Multi-Access Operator” An Operator of a Public or privately owned Service Telecommunications Network comprising Radio or Cable or Satellite sub-systems or any combination of these media deployed for the purpose of providing Domestic and International point-to-point and switched/unswitched point-to-multipoint Communications Services.

“Commission” The Nigerian Communications Commission and agents appointed pursuant to the powers under the Act.

“Commercial Launch Date” The date when Licensee commences provision of commercial service.

“Communications” The provision of a service for Communication through a communications System for the transmission or routing of signals or a combination of these functions.

“Communications Equipment” Any equipment or apparatus for the purpose of or intended to be used for Communications as part of or comprising a communications system.

“Communications Service” The provision of a service for Communication through a Communications System for the transmission or routing of signals or a combination of these functions.

“Community” A group of people or persons within a limited geographical area such as a housing estate, village or Local Government Area.

“Connect” To install, maintain and use any telecommunications line or other apparatus used for Telecommunications so that Messages which are:

- (a) Conveyed by one Operator are also conveyed by another Operator; or

- (b) Sent by means of one item of apparatus are conveyed or received by means of another item of apparatus.

"Connectable System"	A Telecommunications System approved for use in Nigeria by the Commission, which entitles the Licensee to interconnection under Section 96 of the Act.
"Cross-ownership Situation"	A cross-ownership situation exists when any person or entity that owns, directly or indirectly ("Attributable Interest"), an ownership stake of more than 25% (twenty five percent) of the Licensee has, directly or indirectly, an ownership stake of more than 25% (twenty five percent) in some other Operator(s) or in any person or entity that has an Attributable Interest in any Operator.
"Customer"	A person who has entered into a contract with the Licensee for the provision of the service, irrespective of the payment terms thereof, subject to the Licensee's terms and conditions lodged in accordance with Condition 37.
"Effective Date"	The date the licence enters into force as specified in Paragraph 2 of the Licence.
"Emergency"	An emergency of any kind, including but not limited to medical emergencies and circumstances whatsoever resulting from major accidents, natural disasters and incidents.
"Emergency Organisation"	In respect of any locality, the relevant Government Department such as the Nigeria Police Force, hospital and ambulance services, and the Federal Fire Service.
"Fixed Telephony" or "Fixed Service"	A Communications Service in which the end user terminal is located at a fixed point.
"Fixed Wireless Access"	The provision of two-way wireless communications links, over which data, video or voice may be transmitted and received on demand and whereby end users can gain access to other telecommunications networks.
"GSM"	Global System for Mobile Communications.

“Interconnection Fees”	Fees payable in terms of an Interconnection Agreement for the carriage of messages originating in one network by means of another network.
“Infracos”	Licensed Infrastructure Companies
“Interconnection Regulations”	The Telecommunications Networks Interconnection Regulations 2007 made by the Commission establishing requirements for Interconnection between Licensees as stated in Condition 15.
“International Gateway”	Telecommunications facility for transmission of signals from Nigeria to countries outside Nigeria and vice versa.
“ITU-T”	The standardisation Bureau of the International Telecommunications Union.
“Leased Line”	A dedicated point-to-point circuit, complying with ITUT recommendations leased by the Licensee from a Carrier or any other Licensee or infrastructure providers for the sole purpose of conveying the Licensee's traffic.
“Licence”	A licence granted or having effect as if granted under Section 32(1) of the Act.
“Licence Fee”	The amount specified by the Commission and paid by the Licensee to the Commission in consideration of this Licence.
“Licensed Line”	A telecommunications line or any part thereof, which the Licensee is authorised to construct, maintain and use in terms of this Licence.
“Licensed Area”	The specified geographical territory within which the Licensee is licensed to operate and provide the service which in the case of this National Licence shall be the entire area of the Federal Republic of Nigeria.
“Licensee's Group”	Licensee's associated and/or subsidiary companies with significant common equity/shareholding structure.
“Long Distance Operator”	A Telecommunications Operator that is licensed by the Commission to construct, own and operate national and/or international transmission networks and provide national and/or international long distance services.

“Message”	Any sound, signal, sign or image sent, or to be sent, for conveyance by means of a licensed line.
“Mobile Operator”	Any person licensed by the Commission to operate and provide Mobile Service.
“Monopoly situation”	<p>Subject to specific relevant Legislations and/or Regulations, a monopoly situation shall be taken to exist in relation to the supply of telecommunications facilities and/or services of any description in the following cases, amongst others, that is to say -</p> <ul style="list-style-type: none"> (a) If at least 50% (fifty percent) of all the telecommunications facilities and/or services of that description which are supplied in Nigeria are supplied by one and the same Operator, or are supplied to one and the same Operator; or (b) If at least 50% (fifty percent) of all the telecommunications facilities and/or services of that description which are supplied in Nigeria are supplied by members of one and the same group of associated bodies corporate, or are supplied to members of one and the same group of associated bodies corporate; or (c) If at least 50% (fifty percent) of all the telecommunications facilities and/or services of that description which are supplied in Nigeria are supplied by members of one and the same group consisting of two or more such Operators as are mentioned in paragraph (a) hereof, or are supplied to members of one and the same group consisting of two or more such Operators; or (d) If one or more agreements are in operation, the result or collective result of which is that telecommunications facilities and/or services of that description are not supplied in Nigeria at all.

The two or more Operators referred to in paragraph (c) hereof, in relation to telecommunications facilities and/or services of any description, are any two or more Operators (not being a group of associated bodies corporate) who whether voluntarily or not, and whether by agreement or not, so conduct their respective affairs as in any way to

prevent, restrict or distort competition in connection with the production or supply of telecommunications facilities of that description, whether or not they themselves are affected by the competition and whether the competition is between Operators interested as producers or suppliers or (in relation to telecommunications facilities) between Operators interested as Customers or Producers or Suppliers or (in regard to Communications Services) between Operators interested as Operators by whom or as Operators for whom services are supplied.

“Naira” or “N”

The lawful currency of the Federal Republic of Nigeria.

“National Frequency Plan”

The manifestations of the actions of the Commission to exercise control over and Manage the commercial wavebands of the Radio frequency spectrum in accordance with accepted International Standards.

“Net Revenues”

For any period, gross revenues collected by the Licensee for the services during such period (after deducting any value-added taxes or other taxes with similar effect); it is being understood and agreed that “Net Revenues” shall include all payments received by the Licensee during such period from any other Licensee for interconnection pursuant to an Interconnection agreement or otherwise only to the extent that the total of all such receipts exceed the total of all payments made by the Licensee during such period to any other Licensee for Interconnection pursuant to an Interconnection Agreement or otherwise.

“Network”

A Network consisting of a Mobile Communication System, a Fixed Wireless Access Telecommunications System, or a combination of any of these systems.

“Nigeria”

The entire geographical area, the territorial waters, air limits of Nigeria and any area to which the provisions of the Act apply.

“Operator”

A Provider of a Communication Service duly licensed by the Commission.

“Person”

Any individual, Firm, Corporation, Partnership, Trust, Limited Liability Company, Joint Venture, Government or other Entity.

“PLMN”

Public Land Mobile Network

“Radio Equipment”	Equipment used as fixed wireless access transceivers including Access Point Transceivers, Customer premises equipment and radio relay repeaters, which are connected within a network.
“Radio Regulations”	The publication of the International Telecommunications Union (ITU) that delineates radio frequencies into bands and stipulates the services applicable to each frequency band and the conditions of bringing into use of such frequencies.
“Regulations”	The Regulations or guidelines made by the Commission or any other competent authority under the Act and/or WTA and such further Regulations or guidelines relating to the Services as the Commission may adopt from time to time.
“Roaming Service”	A type of service or facility which enables the customer of one Operator to utilise the facilities of another such Provider with whom the customer has no direct pre-existing service or contractual relationship to place an outgoing call or receive an incoming call.
“Rural Area”	A geographical area without a telephone exchange or with a telephone exchange that has less than 500 lines.
“Service Provider”	Any Person who is in the business of providing the Service to another and who has a contract with the Licensee and is licensed by the Commission for such purpose.
“Tariffs”	The charges by a Communications Service Provider to the customers.
“Telecommunications”	Any form of transmission, broadcast or reception of signs, signals, texts, images, sounds or data by wire, by optical means, microwave or other electromagnetic means.
“Telecommunications Network Infrastructure”	Any form of installation or group of installations which ensure either the transmission or the transmission and routing of telecommunications signals and the associated exchange of the control and operational information, between network termination points.
“Territory”	Geographical area of the Federal Republic of Nigeria.

“Wireless Telegraphy Act”

Wireless Telegraphy Act Cap 469 Laws of the Federation or
“WTA” of Nigeria 1990 as amended by Wireless Telegraphy
(Amendment) Act No. 31 of 1998

2. The Interpretation Act Cap. 192 LAWS OF THE FEDERATION OF NIGERIA [“Interpretation Act”] shall apply for the purpose of interpreting these Conditions.
3. Any word or expression used in these Conditions shall unless the context otherwise require have the same meaning as it has in the Act.
4. For the purposes of interpreting these Conditions, headings and titles to any Condition shall be disregarded.
5. Any reference in any of the Conditions, however expressed, to the Commission notifying the Licensee of any matter, consulting the Licensee about any matter, affording the Licensee an opportunity to make representation, taking representations made by the Licensee into account, or explaining, or giving reasons for, any matter to the Licensee, shall be without prejudice to any obligation of due process or similar obligation which the Commission is or may be under by virtue of any rule or principle of law or otherwise.
6. This Licence and the legal relations between the licensee and the Commission and any claim instituted by the Licensee or the Commission with respect to matters arising under or in connection with or in respect of this Licence shall be governed by and construed in accordance with the Laws of the Federal Republic of Nigeria.
7. This Licence constitutes the entire set of terms and conditions applicable to the Licence and supersedes all other prior understandings, both written and oral, between the Commission and the Licensee.
8. If any provision in or obligation under this Licence is considered invalid, illegal or unenforceable by a Court of competent Jurisdiction, such judicial decision must, as regards such invalidity, be strictly interpreted and shall not affect or impair the validity, legality or enforceability of any other provision in or obligation under this Licence.

SCHEDULE 1

GENERAL CONDITIONS

Condition 1

Compliance with the Act, WTA and Regulations

- 1.1 The Licensee shall comply with the provisions of the Act, WTA and Regulations made thereto and with any direction, determination or order that the Act and/or WTA provide for the Commission to give or make.
- 1.2 Where any conflict arise between the provisions of this license and provisions of the Act, WTA or Regulations, the provisions of the Act, WTA or Regulations shall prevail.
- 1.3 Neither the Licensee, its officers, directors, employees, agents nor counsel shall in any response to the Commission or any inquiry or in any application, pleading, report or any other written statement submitted to the Commission, make any misrepresentation or wilful material omission bearing on any matter within the Commission's jurisdiction.
- 1.4 Unless otherwise provided in this Licence, any notifications, service of process, petitions, claims and other communications requested or permitted pursuant to this Licence shall be made in writing and shall be considered validly made when delivered by hand or by courier, telex or facsimile to the Licensee at the Licensee's address provided to the Commission for contact purposes and for the Commission at the Head Office of the Commission.

Condition 2

Emergency Situations

2.1. The Licensee shall provide at its own cost and by means of its lines, such infrastructural facilities as would enable a caller free of charge, in the event of an emergency in the area serviced by the Licensee, to

- (a) Access operator assistance services; and
- (b) Access emergency services and communicate with an emergency organisation.

The Licensee shall ensure that such emergency calls have priority access over all other routine calls in the Network.

2.2 The Licensee shall, after consultation with the authorities responsible for Emergency Organisations and services as the Commission may from time to time determine and whose names are notified to the Licensee by the Commission make plans or other arrangements for the provision or, as the case may be, the rapid restoration of such telecommunication services as are practicable and may reasonably be required in Emergencies.

2.3 The Licensee shall take all reasonably practicable steps to maintain, to the greatest extent possible,

- (a) The availability of its Services, having particular regard to the needs of Emergency Organisations, in the event of catastrophic network failure or in cases of Force Majeure such as flood, lightning, fire, etc;
- (b) The integrity of the Licensee's Network, having particular regard to the needs of Emergency Organisations, that is to say, protection of the physical and functional operation of such systems and services against malfunctions or failure caused by electrical conditions, signalling protocols or traffic loads.

2.4 The Commission shall instruct the Licensee, in an emergency, to cooperate with the relevant Government entity that is responsible for managing that emergency. Within 9 (nine) months from the Effective Date, the Licensee shall submit to the Commission the procedural and operational plans that the Licensee would adopt in the event of any emergency.

Condition 3

Approval of Tariffs

- 3.1 The Licensee shall lodge with the Commission, a notice of tariffs and any variation thereto, which sets out in relation to each kind of service that the Licensee proposes to offer:
- (a) a description of the service;
 - (b) details of the nature and amounts of charges payable for the service; and
 - (c) the method adopted for determining the charges.
- 3.3 If the charges in the tariff plan vary, in nature, in their amounts or both, the notice must set out, why and how the charges vary. The notice must be precise and detailed enough to be used to work out the nature and amounts of charges payable for the supply of the particular service. The tariffs must be in a form approved by the Commission who, subject to Condition 3.5, will provide written reasons in the event of non-approval.
- 3.3 The notice of tariffs lodged with the Commission must state the period (i.e. the term) for which it is to be in force. Subject to Condition 3.5, the term must not begin until approval for the tariffs is given by the Commission and shall not operate simultaneously with any previously approved Licensee's tariff for the same service.
- 3.4 The Licensee shall provide the specified Communications Service at the charges and upon the terms and conditions so approved by the Commission and shall not depart therefrom without prior written approval by the Commission of the proposed changes, terms and conditions.
- 3.5 The Commission shall communicate to the Licensee its decision on the notice of tariffs or any application for changes thereto within 45 (forty five) days from the date of receipt of the notice by the Commission. A failure by the Commission to communicate its decision to the Licensee within the timeline herein specified shall be deemed to constitute an approval of the tariff or changes thereto and the Licensee shall, in that event, be at liberty upon the expiry of the said timeline to implement the tariff structure or the revisions thereto.
- 3.6 The Licensee shall publish in a manner and at the times indicated in Condition 3.7 the charges, terms and conditions, including subsequent revisions thereto, on which it offers to provide the specified Communications Service in accordance with an obligation imposed by or under this Licence.
- 3.7 Publication shall be effected by:
- (a) Placing a copy thereof in a publicly accessible part of every office of the Licensee in such manner and in such place that is readily available for inspection free of charge by members of the general public during normal office hours on every working day.

(b) Sending a copy thereof or such parts thereof as are appropriate to any person who may request such a copy.

3.8 Where the Licensee publishes a notice of amendment to a charge in the form of an extract from the Licensee's price list the new price shall be clearly identifiable and the operative date specified.

Condition 4

Prohibition of Undue Preference and

Undue Discrimination

- 4.1 The Licensee shall not (whether in respect of charges, application of discount schemes, or other terms or conditions applied or otherwise) show undue preference to or exercise undue discrimination against any particular person or persons of any class or description in respect of:
- (a) the provision of a service under this Licence; or
 - (b) the connection of any equipment approved by the Commission.
- 4.2 The Licensee shall be deemed to have shown such undue preference or to have exercised such discrimination if inter alia it unfairly favours to a material extent a business carried on by it or by its lawful telecommunications associates in relation to any of the matters mentioned in Condition 4.1 so as to place at a significant competitive disadvantage persons competing with that business.
- 4.3 Notwithstanding the provisions of Condition 4.1, the Licensee may provide the Service to a Customer on charges, terms and conditions that are preferential if the charge in question is in accordance with a tariff plan and terms and conditions that have been approved by the Commission as required hereunder.
- 4.4 Without prejudice to provisions of the Collocation/Infrastructure Sharing Guidelines developed by the Commission, the Licensee shall be entitled to request for Collocation and obliged to provide Collocation to a requesting party in respect of its infrastructure which are amenable to collocation.
- 4.5 Any question relating to whether any act done or course of conduct pursued by the Licensee amounts to such undue preference or such undue discrimination shall be determined by the Commission, but nothing done in any manner by the Licensee shall be regarded as undue preference or undue discrimination if and to the extent that the Licensee is required to do that thing in that manner by or under any provision of this Licence.

Condition 5

Prohibition of Cross-Subsidies

- 5.1 The Licensee shall ensure that his business under this Licence is not unfairly cross-subsidised from any other source, except in cases where the Licensee is under an obligation to provide service at a place in an area in which the demand or the prospective demand for the service is not sufficient, having regard to the revenue likely to be earned from the provision of the service in the area, to meet all the costs reasonably to be incurred by the Licensee in providing the service there, including;
- i. the cost of equipment necessary for the provision of the service there;
 - ii. the cost of installing, maintaining and operating such equipment for the purpose of providing service there, and
 - iii. the cost of the trained manpower necessary to provide the service there;
- in which case prior approval shall be obtained from the Commission.
- 5.2 Where it appears to the Commission that the Licensee's business is unfairly cross-subsidised from any other source whatsoever, it shall take such steps as the Commission shall deem necessary to remedy the situation.
- 5.3 For the purposes of determining cross-subsidy, the Licensee shall record at full cost in its accounting records any material transfer between it and any other member of the Licensee's Group or any other source whatsoever. For the purposes of this Condition:
- (a) A transfer from one business to another business or company takes place when anything (including any service or money) produced or acquired by, normally used in, or otherwise at the disposal of, the first mentioned business is made available for the purposes of the other business or company; and
 - (b) "Full cost" in the case of money transferred includes the market rate of interest for that money.

Condition 6

Prohibition of Anti-competitive Conduct

- 6.1 The Licensee shall not engage in any conduct which in the opinion of the Commission has the purpose or effect of preventing or substantially lessening, restricting or distorting competition in the operation of the Service or in any market for the provision or acquisition of telecommunication installation, service or apparatus.
- 6.2 The conduct which the Commission may consider as the relevant purpose or effect referred to in Condition 6.1 are more particularly described in the Competition Regulations published by the Commission and includes but is not limited to:
- i. Collusive agreements to fix the price of any apparatus or service
 - ii. Boycotting the supply of goods or services to competitors;
 - iii. Predatory pricing;
 - iv. Entering into exclusive arrangements which prevent competitors from having access to supplies;
 - v. Agreements between Licensees to share the available market between them along geographic or customer lines;
 - vi. Agreements limiting production, markets, distribution of equipment or technical development to the prejudice of consumers;
 - vii. Applying dissimilar conditions to equivalent transactions with different parties, thereby placing one or some of the parties at a competitive disadvantage.
- 6.3 In particular but without limiting the generality of the conduct referred to in Condition 6.1, the Licensee shall not:
- (i) Enter into any agreement, arrangement, or understanding, whether legally enforceable or not, which has or is likely to have the purpose or effect of preventing or substantially lessening competition in any market for the provision or acquisition of any telecommunication installations, services or apparatus;
 - (ii) Give an undue preference to, or receive an unfair advantage from a business carried on by it or by an associated or affiliated company, service or person, if in the opinion of the Commission, competitors would be placed at a significant competitive disadvantage or competition would be prevented or substantially lessened within the meaning of Condition 6.1.
 - (iii) Make it a condition of:
 - (a) Providing any telecommunication service;

(b) Supplying any telecommunication equipment;

that any person should acquire from the Licensee or from any other person specified or described by the Licensee:

- i. any telecommunication service other than the telecommunication service requested save where that service cannot be provided without the provision of that other telecommunication service; or
- ii. any telecommunication equipment not incorporated in the Systems supplied save where the telecommunication service requested cannot otherwise be provided or the telecommunication equipment cannot otherwise be used.

6.4 Except where the Commission has agreed otherwise, the Licensee shall not do either of the things described in paragraphs (a) and (b) of Condition 6.3(iii) together with the other in a manner or for charges or on terms or conditions more favourable than would be available for doing one thing without that other.

6.5 Notwithstanding the provisions of Conditions 6.3(iii) and 6.4 the Licensee may where it supplies as part of the same transaction or interconnected series of transactions two or more items of telecommunications equipment, offer quantity discounts or more favourable terms and conditions in respect of quantity in relation to such equipment which it so supplies whether those items or equipment are of the same or different descriptions.

6.6 In the event of default by the Licensee in regard to any of the provisions of this Condition, the Commission shall, subject to specific prevailing legislation and/or regulations, take such steps as it deems necessary to remedy the situation including but not limited to issuance of directives to the Licensee and application of sanctions and/or fines against the Licensee.

Condition 7

- 7.1 The Licensee shall in consultation with the Commission prepare and publish in accordance with Regulations published in this respect and Condition 7.6 and 7.7 not later than three months after the Effective Date a Code of Practice including:
- (a) Guidance to their customers and employees in respect of disputes or complaints relating to the provision of service by them and the time frame for handling complaints through this procedure;
 - (b) Further recourse available to a customer who is dissatisfied with the Licensee's complaints handling procedure;
 - (c) Advice to such customers on charging, billing and enquiries in relation thereof;
 - (d) Advise and procedures on the proper use of the service by such customers;
 - (e) Procedures adopted by the Licensee to check the accuracy of a customer's service account;
 - (f) Procedures adopted by the Licensee to assist customers in emergency situations; and
 - (g) Availability to customers of quality of service information relating to the Licensee's network services.
- 7.2 The Licensee shall consult the Commission once every year about the operation of the Code of Practice.
- 7.3 The Licensee must keep and maintain all information on the complaints made to the Licensee by the Licensee's Customers and shall provide such information to the Commission at least once in each year. The Commission may, after consultation with the Licensee publish the information provided that such publication shall relate to a period of not less than three months range calculated on the basis of the date of complaint and shall be published together with similar information pertaining to other Operators.
- 7.4 The Licensee shall establish and maintain efficient information and assistance to assist the Customers in resolving questions relating to the installation and all other relevant issues relating to the Services. In the provision of such services the Licensee shall not discriminate between the Customers.
- 7.5 The Licensee shall have available copies of any forms that may be issued by the Commission for the filing of formal or informal complaints, and shall make such forms available to the Customers promptly upon request. The Licensee will train its personnel responsible for interfacing with the Customers to inform the Customers that they have a right to lodge formal or informal complaints with the Commission, and that the Licensee can make any issued forms available.

Condition 8

Arbitration of Disputes with Customers

- 8.1 The Licensee shall include in the standard terms and conditions on which it provides Communication Services, provisions giving persons who have entered into contracts with it for the provision of Communication Services the opportunity to refer to an inexpensive independent arbitration procedure, instead of to a court of law, any dispute relating to the provision of these services which does not involve a complicated issue of law or a sum greater than such sum as the Commission may from time to time determine. The arbitration procedures and the method of appointment of the arbitrators shall be in accordance with the Dispute Resolution Guidelines as may be issued by the Commission.

Condition 9

Separate Accounts for all Activities

- 9.1 This Condition applies for the purpose of ensuring that a Licensee establishes as soon as reasonably practicable, not later than 12 (twelve) months from the Effective Date, accounting and reporting arrangements sufficient to enable the Licensee's finances in relation to a Communications Services provided pursuant to this Licence to be assessed and reported separately from its other Communications Services and from the other commercial activities of the Licensee.
- 9.2 The Licensee shall:
- (a) Maintain accounting records in such a form that the activities of one commercial Communications Services and another Licensed undertaking and/or other commercial activities (collectively referred to in this Condition as "Businesses") are separately identifiable or separately attributable in the books of the Licensee, being records sufficient to show and explain the transactions of each of those Businesses;
 - (b) Prepare in respect of each complete financial year of the Licensee, or of such lesser periods as the Commission may specify, accounting statements setting out costs (including capital costs), revenue and financial position of each of the Businesses and including a reasonable assessment of the assets employed in and liabilities attributable to each of them and showing separately, in the case of yearly accounting statements, the amount of any material item of revenue, cost, asset or liability which has been either:
 - i) Charged from or allocated to any other business of the Licensee together with a description of the basis of the value on which the charge or allocation was made; or
 - ii) Determined by apportionment or attribution from an activity common to the Businesses and if not otherwise disclosed, the basis of the apportionment or attribution.
 - (c) Procure in respect of each of those accounting statements prepared in respect of a complete financial year of the Licensee a report by the Licensee's Auditor stating whether in his opinion that statement is adequate for the purposes of this Condition; and
 - (d) Submit to the Commission within 12 (twelve) months from the date of commencement of operations, the name and registered address of its statutory auditors.
 - (e) Deliver to the Commission a copy of each of the accounting statements and of the reports relating thereto required under sub-paragraphs (a) and (b) above as soon as reasonably practicable and in any event not later than 6 (six) months after the end of the period to which they relate.
- 9.3 Accounting statements prepared under Condition 9.2(b) in respect of each financial year shall so far as reasonably practicable, be prepared in the formats and in accordance with the

accounting principles and rules which apply to the annual accounts of the Licensee and shall state the accounting policies used.

- 9.4 The Licensee shall establish and maintain adequate records to permit the effective supervision and enforcement of the terms of this licence by the Commission. By March 1st of each year, the Licensee shall submit to the Commission a financial statement together with requisite documents showing the Licensee's Net Revenues, including the balance sheet of Licensee as at the end of the Licensee's fiscal year preceding the said March 1st. The Licensee shall in addition submit to the Commission all its related statements of operations, equity and cash flows. The statements and documents shall in each case be accompanied by a report thereon prepared by independent accountants stating that such financial statements fairly represent the financial position of the Licensee at the dates indicated therein and were prepared in accordance with accounting principles generally acceptable internationally.
- 9.5 In addition to the foregoing, the Commission may request the Licensee to submit other periodic reports, financial statements, statistics and other data regarding the Licensee's operations and activities. The Commission may publish such information with the exception of confidential information, privileged information and trade secrets. The Commission shall have the right to inspect or to instruct an auditor or other personnel to (at the expense of the Licensee) review the files, records and other data of the Licensee with a view to monitoring and enforcing the terms of this Licence effectively. In giving such instructions however the Commission shall be mindful of the attendant costs which must be fair and reasonable and must not present an undue burden on the Licensee.

Condition 10

**Code of Practice on the Confidentiality
of Customer Information**

- 10.1 The Licensee shall take all reasonable steps to ensure that its employees observe the provisions of a Code of Practice which:
- (a) Specifies the persons to whom they may not disclose information which has been acquired in the course of the Licensee's Business about a customer of the Licensee or that customers' business without the prior consent of that customer;
 - (b) Regulates the information about any such customer or his business that may be disclosed without his consent.
- 10.2 The Licensee shall within 3 (three) months of the Effective Date submit a draft of the code of practice to the Commission for its approval. In the event of a disagreement between the Licensee and the Commission on the contents of the code of practice or any portion thereof, the Commission's ruling shall prevail.
- 10.3 This condition is without prejudice to the general duties at law of the Licensee towards its customers.

Condition 11

Transfer of Licence

- 11.1 The Licensee shall not transfer or assign its Licence to another party without the prior written approval of the Commission.
- 11.2 For the avoidance of doubt, this licence is personal to the Licensee and shall not, without the prior express written consent of the Commission in the manner specified in Condition 11.1 be operated by any third party organization or person whomsoever, including but not limited to the Licensee's Subsidiary or Associated Companies.
- 11.3 A person to whom a Licence is to be transferred shall apply to the Commission for a Licence to carry on the relevant telecommunications undertakings on the prescribed application form and shall satisfy the conditions set down by the Commission before any transfer of Licence may be considered.
- 11.4 Where the Licensee seeks to transfer its Licence to another person, it shall comply with all terms and conditions of its Licence as at the date of transfer and shall have paid all outstanding fees to the Commission.
- 11.5 The Commission may approve or refuse an application for transfer of Licence and shall in the event of a refusal, provide reasons for such refusal.

Condition 12

Approval of Joint Ventures

- 12.1 The Licensee shall give particulars of any of the agreements or arrangements to which this Condition applies for approval of the Commission before the coming into effect of such agreements or arrangements.
- 12.2 These agreements or arrangements are those between the Licensee and any person:
- (a) For the establishment or control of any body corporate for the purpose of:
 - i. Providing Communications Services in Nigeria which requires a Licence; or
 - ii. The production of telecommunications equipment for supply in Nigeria where that production would lead to a monopoly situation which would not otherwise exist in relation to the supply of telecommunications equipment of any description in Nigeria;
 - (b) For the establishment of a partnership for any of the purposes and in any of the circumstances specified in paragraph (a) above;
 - (c) In the nature of a joint venture for the purpose of providing Communications Services that require a licence.

Condition 13

Members of Licensee's Group and/or Associates

13.1 Where, without prejudice to the Licensee's obligations under these Conditions in respect in particular to anything done on its behalf:

- (a) Any Associate of the Licensee or member of the Licensee's Group does anything which the Licensee is prohibited from doing under these Conditions or fails to do anything which the Licensee is in the circumstances required to do; or
- (b) Any Associate or Member of the Licensee's Group has done something which would, if it had been done by the Licensee, require the Licensee to take or refrain from taking a particular action under this Licence and neither the Licensee nor the Associate or Member has met that further requirement; and
- (c) The Commission is of the opinion:
 - i. That in consequence the Licensee is seeking to or is in a material and substantial way avoiding obligations which would apply under these Conditions if the thing had been done or not done by the Licensee; and
 - ii. That having regard to the duty imposed on it by Section 4 of the Act it ought to make a direction under this Condition,

then the Commission may direct the Licensee to take such steps as the Commission deems appropriate for the purpose of remedying the matter, including but not limited to restraining the Associate or Member of the Licensee's Group from continuing with the act or refraining from carrying on with that member or Associate such commercial activities connected with the Licensee's Businesses as the Commission may determine.

13.2 For the purposes of this Condition a person is an Associate of the Licensee if he is a subsidiary of or another body corporate controlled by it.

Condition 14

Pre-notification of Changes in Shareholding

- 14.1 Except as specified in Condition 14.2 the Licensee shall notify and obtain the prior approval of the Commission in respect of any change in the control of any of the shares in the Licensee to which this Condition applies and any such notification shall be given as soon as practicable prior to the proposed change in structure.
- 14.2 The Licensee shall not be obliged to notify and/or obtain the prior approval of the Commission in respect of any such change where the number of such shares the control of which it is proposed to change when aggregated to the number of such shares the control of which has been changed at any time after the granting of this licence (whether or not the change has previously been notified to the Commission in accordance with this Condition) does not exceed 10% of the total number of shares in the Licensee to which this Condition applies.
- 14.3 In particular, the Licensee shall notify the Commission not later than 30 (thirty) days before the taking effect of any of the arrangements of the description mentioned in Condition 14.4
- 14.4 Those descriptions of arrangements are:
- (a) Any arrangement for obtaining a listing of any shares in the Licensee on any Stock Exchange in any part of the world provided that such listing shall not have the effect of vesting greater than 50% (fifty per centum) of the issued voting share capital of the Licensee in a manufacturer or supplier of telecommunications equipment; and
 - (b) Any arrangement for dealing in any shares in the Licensee on an unlisted market in Nigeria.
- 14.5 This Condition applies to all shares in the Licensee the holder of which for the time being is entitled to vote on any matter at a general meeting of the Licensee.
- 14.6 Not later than March 1st of each year, the Licensee shall deliver to the Commission a report on the current ownership of the Licensee. The report shall contain the following information: i) in the case of an individual owner, the name of that individual; ii) in the case of a partnership as owner, the name of each partner and the interest of each partner; iii) in the case of a company or other organisation as owner, the name, residence, citizenship, and stockholding of every officer, director, trustee, executor, administrator, receiver and member of the organisation, and of any stockholder holding stock amounting to five (5) per cent or more of the votes of the company.
- 14.7 If in the Commission's opinion, any change in the Licensee's shareholding structure, (whether or not notified to the Commission pursuant to this Condition), creates or has the potential of creating a monopoly or cross-ownership situation, the Commission shall, subject to specific prevailing legislation and/or regulations, take such steps as it deems necessary to prevent the situation including but not limited to issuance of directives to the Licensee and application of sanctions and/or fines against the Licensee in the event of default.

Condition 15

Interconnection Arrangements

- 15.1 The Licensee shall have the right of “first refusal to interconnect” with Infracos and a corresponding duty to interconnect its Network with the Network of the Carrier or any other

Licensee. The Licensee shall connect and keep connected its network with the public switched network and the networks of other Licensee. The Licensee shall enter into an agreement with the Carrier or such other Licensee to connect and keep connected their respective systems and to establish and to maintain such one or more points of connection.

- 15.2 All interconnection agreements between the Licensee and other Licensees shall be in writing and shall comply with (i) the Act, the Regulations, and the Interconnection Regulations as set out in Conditions 15.7 and 15.8; and (ii) the principles of neutrality, non-discrimination, fair competition, universal coverage, equality of access and equal terms and conditions.
- 15.3 The Licensee shall file with the Commission all interconnection agreements entered into pursuant to Condition 15.2, not later than 30 (thirty) days from the date of execution of the agreement. The Licensee and other Licensees shall furnish to the Commission any additional information that the Commission requires in respect of each interconnection agreement and on evaluating the terms and conditions and the charges set out in the proposed interconnection agreement the Commission may require the Licensee and the interconnecting party to revise the agreement if interconnection as contemplated therein is inconsistent with the Act, or the Interconnection Regulations made by the Commission or the integrity of the public network.
- 15.4 Subject to the provisions of this Condition, the Carrier or such other Licensee shall (unless, in the opinion of the Commission, it is impracticable to do so) enter into an agreement with the Licensee:
- (a) To connect, and keep connected the Licensee's Connectable System to any of the Carrier's or Licensee's Systems and accordingly to establish and maintain such one or more Points of Connection as are reasonably required and are of sufficient capacity and in sufficient number to enable Messages conveyed or to be conveyed by means of both systems in such a way as conveniently to meet all reasonable demands for the conveyance of messages; and
 - (b) Without prejudice to Condition 15.4(a), to establish and maintain such Points of Connection as will enable persons running telecommunication systems connected to the Carrier's or Licensee's system to exercise freedom of choice as to the extent to which Messages are conveyed by means of their Systems and in routing Messages so conveyed.
- 15.5 The Carrier or Licensee shall not be obliged under Condition 15.4 to enter into an agreement to do anything if:
- (a) In the opinion of such Carrier or Licensee it would be liable to cause the death of or personal injury to, or damage the property of, the Carrier or Licensee or any person engaged in the Carrier's or Licensee's business, or materially to impair the quality of any telecommunication service provided by means of any of the Carrier's or Licensee's

Systems or any telecommunication system (other than the Licensee's system) connected thereto and the Commission has not expressed a contrary opinion; or

- (b) In the opinion of the Carrier or such Licensee it would require an adjustment to, or modification of, any of the Carrier's or Licensee's systems whether by incorporation of equipment or otherwise or the provision by the Carrier or Licensee of services or information which in any particular case would not be reasonably required.

15.6 The Carrier may require that an agreement to be entered into under Condition 15.4 should be subject to terms and conditions, but only such terms and conditions as are in accordance with Conditions 15.7, 15.8 and 15.9.

15.7 Subject to Conditions 15.8 and 15.9 the following terms and conditions shall be agreed upon between the Carrier and Licensee or between the Licensees in regard to the agreement specified under Conditions 15.4 and 15.6:

- (a) The charges to be paid by the Licensee for anything done under an agreement of the kind described in Condition 15.4 or as a result of such agreement;
- (b) The method adopted or to be adopted to make or maintain the connection;
- (c) The Points of Connection in the Carrier's or Licensee's systems at which the connection is or is to be made (including arrangements for determining the point at which Messages will be transferred from one system to another and arrangements for conveying and re-routing Messages in cases of Emergency or difficulty);
- (d) Any restrictions on the telecommunication services to be provided by the Licensee or the Carrier being restrictions needed to satisfy international obligations or recommendations applying to and accepted by the Nigerian Government or to which the Commission consents from time to time;
- (e) The time when and period for which the Licensee or the Carrier is to be obliged to do anything or to permit anything to be done and any arrangements for reviewing the terms and conditions of the agreement;
- (f) The form and manner in which Messages are to be transmitted or received at the Points of Connection including arrangements for numbering and the use of appropriate call progress tones and announcements;
- (g) The means of securing that any Message will be received by means of the connection with a signal quality which is in accordance with any obligations and recommendations of the International Telecommunication Union which apply to the Nigerian Government and are accepted by them or with any other standard to which the Commission consents for the purpose from time to time;

- (h) Arrangements for charging customers and others in respect of Messages conveyed by virtue of the agreement;
- (i) Arrangements for Messages conveyed or to be conveyed outside Nigeria; and
- (j) Any other matter of which the Commission is satisfied that account should be taken in the special circumstances of any particular case or which is agreed between the Licensee and the Carrier or between Licensees.

15.8 If after a period which appears to the Commission to be reasonable for the purpose the Carrier or Licensee has failed to enter into an agreement as required by the Licensee under Condition 15.4, then the Commission shall, on the application of the Licensee or the Carrier, determine the permitted terms and conditions for the purpose of that agreement which have not been agreed between the Carrier and the Licensee being terms and conditions relating to the matters mentioned in Condition 15.7 which appear to the Commission reasonably necessary to secure:

- (a) That the Carrier or such Licensee pays for the cost of anything done pursuant to or in connection with the agreement including fully allocated costs attributable to the services to be provided and taking into account relevant overheads and a reasonable rate of return on attributable assets;
- (b) That the Carrier or such Licensee is properly indemnified against any liabilities to third parties or damage to the Carrier's Systems or such Licensee's systems or loss arising from such damage which may result from the performance of the agreement;
- (c) That the Carrier or Licensee is reasonably able in all the circumstances (including its obligations and reasonably foreseeable obligations to permit other Licensees to provide services by means of Points of Connection under this Condition) to finance the other services which it is required to provide and to recover costs which are incurred for the provision of those other services or are necessarily incidental thereto;
- (d) That the quality of any Communications Services provided by means of the Carrier's Systems and any systems (other than the Licensee's system) connected thereto is maintained.
- (e) That the requirements of fair competition are satisfied;
- (f) That proper account is taken of any other matter reasonably required for the protection of the interests of the Carrier or such Licensee to the extent that no interest of the Licensee is unduly prejudiced, including the need to ensure:
 - I. that arrangements for connection accord with good engineering principles and practice;

- ii. that the commercial development of the Carrier's or such Licensee's Systems is not unduly impeded;
- iii. that Messages which originate from one system and are conveyed by another should pass through a Point of Connection as near as reasonably practicable to the place from which they are initially sent or at which they are ultimately received;
- iv. that the Licensee does not rely unduly upon services provided by the Carrier or such Licensee as a means of satisfying his own obligations under its Licensee;
- v. that the Carrier's or such Licensee's obligations to the Licensee are determined having due regard to its obligations and reasonably foreseeable obligations to establish Points of Connection for others;
- vi. that arrangements made under this Condition are so far as circumstances allow in as similar a form as practicable notwithstanding the different category of Licensees entitled to such arrangements.

15.9 The Carrier or such Licensee shall not be compelled to enter into any agreement under Condition 15.4 if it presents to the Commission in writing its reasons for not wanting to enter into any such agreement and the Commission determines that those reasons are reasonable having regard to the matters mentioned in Condition 15.8.

15.10 Where

- (a) An agreement has been entered into under Condition 15.4 but for any reason (including but not limited to breach of that agreement) any obligation which the Carrier or such Licensee is required to carry out under the agreement is not being done; and
- (b) The Commission is satisfied that the obligation ought to be carried out in order to ensure that a connection made pursuant to that agreement is maintained or that a connection is established pursuant to that agreement and that messages are conveyed by means of the connection in accordance with the agreement; and
- (c) The Commission is satisfied that the Licensee is not able satisfactorily to enforce the agreement so that the obligation is not carried out within such time as the Commission considers necessary

then, if the Commission so directs, the Carrier or such Licensee shall carry out the obligation subject to such conditions as the Commission determines to be reasonable in the circumstances, having regard, in particular, to the permitted terms and conditions which apply and to anything which the Commission may reasonably require the Licensee to do in order to mitigate the effects of the Carrier's failure to carry out the obligations which he is required to perform.

- 15.11 The unilateral disconnection by the Licensee of any other Licensee is prohibited and may lead to the imposition of sanctions as may be determined by the Commission. Sanctions to be imposed may include the payment of a specified sum of money to a disconnected licensee for loss of income during the period of disconnection.
- 15.12 For purposes of clarity disconnection means not only the mere absence of physical connection between previously interconnected licensees, but also the reduction of bandwidth in both direction; parity bit marking to deny access or flow; allowing only uni-directional flow as against bi-directional flow and the general restriction of traffic however called.

Condition 16

Payment of Fees

- 16.1 In consideration for granting the Licensee the right to construct, establish, maintain, and operate and provide the Service, the Licensee shall pay to the Commission in full and without any deductions whatsoever:

- (a) The Licence Fee; and
 - (b) An Annual operating levy which shall represent two and a half per cent (2.5%) of the Licensee's audited net revenue payable within 90 (ninety) days after the end of the first year of the Licence and thereafter quarterly on the Licensee's assessed net revenue within 30 (thirty) days of the end of such quarter to be adjusted immediately on receipt of the audited annual financial statements of the Licensee.
- 16.2 The most recent audited account or where this not available, the management account or any other account or projection of the Licensee's operations will be admitted for the purpose of calculating the net revenue for the year under consideration and may be duly adjusted when the year's audited account becomes available.
- 16.3 The Commission shall determine the Licence Fee payable for and in respect of any renewal of the Licence.
- 16.4 The Licence Fee represents a one-time non-refundable entry fee and is paid on the Effective Date of the Licence at the latest. For avoidance of doubt, License Fee shall be exclusive of any frequency charges, numbering fees and any sales or other taxes.
- 16.5 Where the Licensee fails, refuses or neglects to pay the assessed Annual Operating Levy within a period of 90 (ninety) days after it becomes due, the assessed amount together with interest at the prevailing Minimum Rediscount Rate (MRR) shall become due and payable to the Commission.

Condition 17

Requirement to Furnish Information to the Commission

- 17.1 The Licensee shall permit the Commission to inspect and if required to make copies of records, documents and accounts relating to the Licensee's business for the purpose of enabling the Commission to perform its functions under the Act and the Conditions of this Licence.

- 17.2 Without prejudice to any other provision of this Licence, the Licensee shall furnish or procure to be furnished to the Commission, in such manner and at such times as the Commission may request, such information in the form of documents, accounts, estimates, returns and without prejudice to the generality of the foregoing, such other information as the Commission may reasonably require for the purposes of (i) exercising the functions assigned to it by or under the Act; (ii) verifying that the Licensee is complying with the Licence Conditions; and (iii) keeping statistical records.
- 17.3 In making any such request the Commission shall ensure that no undue burden is imposed on the Licensee in procuring and furnishing such information and, in particular, that the Licensee is not required to procure or furnish a report which would not normally be available to it unless the Commission considers the particular report essential for the purposes specified in Condition 17.2.
- 17.4 Without prejudice to the generality of Condition 17.2 and notwithstanding the provisions of Condition 17.3, the Licensee shall furnish to the Commission within 6 (six) months of its financial year end a "Financial Statement". If the Commission so requests, there will be appended to the Statement a report from the Licensee's Auditor stating whether in his opinion the methods of allocation of costs, assets and liabilities are reasonable and whether the Statement has been properly prepared applying those methods and is adequate for the purposes specified in Condition 17.5.
- 17.5 In this Condition, "Financial Statement" means an accounting statement the purposes of which are to set out and fairly present the costs (including capital costs), revenue and financial position of the Licensee's services including a reasonable assessment of the assets employed in and liabilities attributable to those services. The level of desegregation as between services specified in, and in relation to the financial information contained in the Statement shall be of such level as the Commission may require from time to time, after consultation with the Licensee.
- 17.6 From time to time, the Commission may require specific details to be included in the Licensee's Financial Statement for the purposes specified in Condition 17.2 and the Licensee shall promptly comply with such requirements.
- 17.7 In this Condition "documents" includes, without prejudice to the generality thereof, drawings, designs, plans, or specifications.

Condition 18

Amendment of the Licence

- 18.1 Subject to Conditions 18.2 and 18.3, the Commission may amend this Licence from time to time where objectively justifiable if the Commission determines that such amendment is necessary to achieve the objectives of the Act or any relevant regulations, or is in the public interest, taking into consideration the reasonable interest and contractual rights of the Licensee.

- 18.2 Before amending this Licence, the Commission shall give the Licensee written notice of its intention to do so together with a draft copy of the intended amendment, and the Licensee may make submissions to the Commission by submitting them to the Commission within the time period specified by the Commission but not less than 30 (thirty) days from the date of the written notice.
- 18.3 After expiry of the notice specified in Condition 18.2, the Commission shall decide on the next course of action, taking into consideration any submission made by the Licensee and the principles of fair competition and equality of treatment, amongst others.
- 18.4 Any amendment to this Licence shall be made in accordance with the procedures laid down for such purposes and shall be published by the Commission.

Condition 19

Expiration and Renewal of the Licence

- 19.1 This Licence shall expire and all operating authorizations under it terminate:
- (a) Upon the expiration of the Licence term, unless renewed in accordance with the provisions of this Licence, or

- (b) By mutual agreement between the Commission and the Licensee provided that the Commission shall have full discretion to determine whether the Licence fees paid or any portion thereof shall be refunded.

- 19.2 The Commission may renew the Licence for a further period of 10 (ten) years upon the expiry of the tenure hereof, if deemed expedient and unless the Licensee has given written notice to the Commission, at least 12 (twelve) months before the expiry date hereof, of its intention not to renew the Licence.

- 19.3 The renewal of the Licence in the manner provided in Condition 19.2 shall be subject to the payment, within 6 (six) months before the expiry date of the Licence, of such Licence fees as the Commission shall specify and the fulfilment of all the terms, conditions and provisions of the Act, WTA, relevant Regulations and this Licence

Condition 20

Suspension and Revocation

- 20.1 The Commission may, by declaration suspend or revoke a Licence in any of the following circumstances:
 - (a) the Licensee has failed to pay any amount or fine required by or imposed pursuant to the Act or the Licence;

- (b) the Licensee has failed to comply with the provisions of the Act or its subsidiary legislation or the terms and conditions of the Licence, especially if the Licensee:
 - i. has not commenced full operation to the satisfaction of the Commission within 12 (twelve) months of the Effective Date;
 - ii. fails to ensure that its equipment is type approved by the Commission or a body approved or accredited by the Commission;
 - iii. does not fulfil the Network roll out implementation plan as determined by the Commission;
 - iv. has made false statements, representations or warranties in applying for the Licence;
- (c) the Licensee has contravened the provisions of any written law relevant to the communications industry;
- (d) the Licensee has failed to comply with any instrument issued, made or given by the Commission;
- (e) if the Licensee
 - i. is unable to pay its debts within the meaning of that expression as defined in the Companies and Allied Matters Act,
 - ii. enters into receivership or liquidation,
 - iii. takes any action for its voluntary winding-up or dissolution or enters into any scheme of arrangement (other than in any such case for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Commission) or if any order is made by a competent court or tribunal for its compulsory winding-up or dissolution; or
- (f) the suspension or revocation is in the public interest;
- (g) if the Licensee agrees in writing with the Commission that this Licence be revoked;
- (h) if the Licensee ceases to carry on its Business for which this Licence is granted.

20.3 The Commission may suspend or revoke the Licence under Condition 20.2 (a), (b), (c) and (d) only after it shall by written notice given to the Licensee at its registered office have informed the Licensee of its breach under the said provisions and demanded that the breach be

rectified, if it is capable of rectification, within 60 (sixty) days from the date of the notice and the Licensee has failed to rectify the breach within the said time-frame.

- 20.4 Prior to the suspension or revocation of the Licence under Condition 20.2 (a), (b), (c) and (d), the Commission shall inform the Licensee by written notice, as soon as practicable, of its intention to suspend or revoke the Licence and the reasons therefore.
- 20.5 The Licensee shall be given a reasonable opportunity to make written submissions to the Commission within a time period specified in the notice and such time period shall not be less than 14 (fourteen) days from the date of receipt of the notice.
- 20.6 The Licensee may, within the time period specified in the notice, submit a written submission and the Commission shall consider the submission in making its final determination and declaration on the revocation of the Licence.
- 20.7 The suspension or revocation of the Licence shall take effect on the expiration of 30 (thirty) days from the date on which the notice of the Commission's declaration in respect of the suspension or revocation is served on the Licensee.
- 20.8 The Licence fees paid in respect of a suspended or revoked Licence shall not be refunded in part or whole consequent upon such suspension or revocation except at the absolute discretion of the Commission.

Condition 21

Exceptions and Limitations on Obligations

Unless the context otherwise requires the Licensee's obligations under these Conditions shall have effect subject to the following exceptions and limitations:

- 21.1 The Licensee shall not be held to have failed to comply with an obligation imposed upon it by or under these Conditions if and to the extent that the Licensee is prevented from complying

with that obligation by any physical, topographical or other natural obstacle, or as a result of fire, explosion, accident, emergency, riot, war, civil commotion or insurrection.

- 21.2 In the event that any of the circumstances specified in Condition 21.1 causes damage to the network operated by the Licensee, the Licensee shall be obligated to repair or rebuild the Network pursuant to a timetable and work plan to be established by the Licensee and approved by the Commission, and subject to adequate changes in the provisions of this Licence at the instance and discretion of the Commission.

Condition 22

Limitation of Liabilities

- 22.1 Subject to Condition 22.2 and notwithstanding any contrary provision of this Licence, the Commission shall not be liable in contract, tort or otherwise to the Licensee or any third party for any indirect, contingent or consequential loss or damage or for loss of profit, business, revenue, goodwill, opportunities or anticipated savings, cost of capital, cost of substituted service, facilities or products, or down-time costs, consequent upon the issuance or

actualization of any Condition of this Licence, or any act taken by the Commission in connection with or pursuant to this Licence or any other matter related thereto.

- 22.2 The Commission's total liability under this Licence and in regard to any matter related to the Licence shall at all times be limited to the unexpired amount paid at any given time to the Commission by the Licensee pursuant to this Licence.

SCHEDULE 2:

SPECIFIC CONDITIONS ON TECHNICAL AND SERVICE ISSUES

Condition 23

Scope of Operation

- 23.1 The Licensee is authorised by this Licence to construct, operate, and use a Network consisting of a Mobile Communications System, a Fixed Wireless Access Telecommunications System or a combination of any of these systems comprising Radio or Satellite or their combination in the designated Licensed Area, deployed for the purpose of providing point to point or switched/unswitched point to multipoint Communications for the conveyance of voice, data, video or any kind of Message.
- 23.2 The Licensee shall only render the services authorised under this Licence to licensed operators, including retail service providers.
- The Licensee is authorised by this Licence to lease transmission capacity from any other authorised Licensees for the provision of services under this Condition.
- 23.3 The Licensee is authorised to construct, own, operate, maintain and use an International Gateway for the provision and operation of international access and gateway services.
- 23.4 The Licensee is authorised to provide the Services defined in this Condition, on a non-exclusive basis in the designated Licensed Area and others can also be granted Licence for the provision of similar services in the same Licensed Area.
- 23.5 The Licensee is authorised by this Licence to connect Equipment for the provision of Services under this Condition.
- 23.6 The Licensee is authorised by this Licence to construct, own, operate, lease, maintain and use a Transmission network for the provision of services under this Condition.
- 23.7 The Licensee is authorised by this Licence to lease transmission capacity from any other authorised Licensees for the provision of services under this Condition.
- 23.8 The Licensee is authorised by this Licence to render the licensed Services between points within the Federal Republic of Nigeria and points outside the Federal Republic of Nigeria in conjunction with other Carriers authorised by their respective administrations.

Condition 24

Technical Standards and Specifications

- 24.1 The Licensee's Network shall throughout the term of the Licence conform to the Commission's Technical Specifications. The Licensee shall introduce measures and at all times use its resources to ensure that apparatus in the Network including the Equipment operated by the Licensee shall comply with

- i. The requirements for electro-magnetic compatibility, and
 - ii. The requirement for network interface, both as prescribed in accordance with international specifications and by the Commission's standards.
- 24.2 The Licensee shall not alter any of these specifications except with the prior written approval of the Commission.
- 24.3 Any equipment installed, maintained and used by the Licensee shall throughout the term of the Licence conform to such specifications and standards and ITU recommendations as prescribed by the Commission.
- 24.4 The Radio Equipment installed by the Licensee shall be operated in accordance with the Commission's Co-ordination Guidelines on Prevention of Interference with Other Equipment Deployed on Adjacent Areas or Frequency Bands, a copy of which shall be made available to the Licensee.
- 24.5 The Licensee shall allow a person so authorized by the Commission to have access to and inspect the Licensee's Radio Equipment at all reasonable times to ensure that the equipment is being used in accordance with the terms of the Act, WTA, relevant Regulations and this Licence.
- 24.6 Subject to the Commission's periodic directives, the Licensee shall at all times fully comply with the recommendations of the International Telecommunications Union and its associated organizations as they apply to Nigeria from time to time.

Condition 25

Authorisations, Permits and Licences

- 25.1 The Licensee shall obtain all necessary licences and permits including building permits and other non-telecommunications permits required to build, implement, modify and remove installations and buildings in accordance with relevant applicable Laws and Regulations.

Condition 26

Service Providers

- 26.1 Subject to the approval of the Commission, the rights under this Licence may be exercised partially through agents, contractors or Service Providers. The Licensee shall have full discretion to determine and implement the appropriate means of marketing and distribution of its services inclusive of the appointment and termination thereof of agents and Service

Providers. The Licensee shall be responsible for their acts and omissions in respect thereof in consequence whereof:

- (a) The Licensee shall stipulate adequate provisions in its contracts with its agents, contractors and Service Providers to ensure that their exercise of any of the rights of the Licensee does not contravene any of the conditions of this Licence;
- (b) Should an agent, contractor or service provider of the Licensee commit any act or omission in contravention of a Condition of this Licence, the Licensee shall upon becoming aware thereof act as expeditiously as is reasonably possible to remedy such contravention and the Licensee shall be afforded reasonable time for such purposes; and
- (c) The Commission shall upon becoming aware of any contravention of Licence conditions by agents, contractors or service Providers of the Licensee or any complaints lodged with the Commission in relation thereto forthwith in writing notify the Licensee accordingly.

Condition 27

Special Arrangement for the Disabled

- 27.1 Within one year from the effective date of this Licence, the Licensee shall ensure that there are available for supply in such a way as to meet all reasonable demands for customer premises, equipment of the following descriptions:

- (a) Customer premises equipment capable of being inductively coupled to hearing aids which have been designed to be so coupled in Customer premises equipment; and
- (b) Customer premises equipment incorporating sound amplification facilities

The Condition shall be deemed to have been satisfied if the Licensee ensures that there is available for supply either one type of Customer premises equipment that meets both descriptions or two types of customer premises equipment each of which meets one description.

- 27.2 The Licensee shall ensure that the needs of disabled and elderly persons are taken into consideration in the provision of services and shall inform the Commission from time to time on arrangements for providing these facilities for public use.
- 27.3 The Licensee shall inform the Commission from time to time about the arrangements made, or to be made, by the Licensee for:
- (a) the supply of, and provision of maintenance services for telecommunication equipment designed or adapted to meet the reasonable demands of disabled and elderly persons;
 - (b) the connection to the Licensee's systems of telecommunication equipment referred to in paragraph (a) above; and
 - (c) the Licensee's participation in any advisory Group established to address the needs of persons who are disabled and elderly.

Condition 28

Network Roll Out

- 28.1 The Licensee shall implement a Network Roll Out as determined by the Commission in an Implementation Timetable as detailed in the Spectrum License. The Licensee shall at all times comply with the Timetable.

Condition 29

Type Approval of Equipment

- 29.1 The Licensee shall ensure that its equipment is type approved by the Commission or a body approved or accredited by the Commission before commencing operations and shall obtain all necessary Compliance Certificates in accordance with the relevant Rules and regulations.

- 29.2 The Licensee shall further ensure that it complies with the provisions of Condition 30.1 in respect of all new equipment it acquires after commencement of operations.

Condition 30

Frequency Assignments

- 30.1 A separate Frequency Licence shall be required from the Commission permitting utilisation of appropriate radio frequencies or frequency band for the establishment, possession and operation of wireless element of the Communications Service under this Licence, under

specified terms and conditions pursuant to the Act, WTA, relevant Regulations of the Commission and upon the terms and conditions in this Licence.

- 30.2 The Service operated by the Licensee shall be operated only on the radio frequencies and frequency bands which the Commission may assign to the Licensee.
- 30.3 The Commission shall grant the Frequency License upon request. In case the Commission considers that the grant of frequencies needs to be limited, the Commission shall grant such frequencies on the basis of selection criteria, which must be objective, transparent, non-discriminatory and proportionate.
- 30.4 Subject to the provisions of the Act and save as may be otherwise approved by the Commission, Licensees who already hold spectrum assignment issued by the Commission will continue to operate on that frequency band.

Condition 31

Grade of Service

- 31.1 The Licensee shall ensure that the traffic capacity provided in its system where it accesses a Telecommunications Network Infrastructure shall be dimensioned to guarantee a satisfactory grade of service. The Commission shall determine the grade of service threshold that shall be

met or exceeded by the Licensee and may periodically revise (and keep the Licensee informed of) such grade-of-service thresholds.

- 31.2 The Licensee shall provide a good, efficient and continuous service that meets grade-of-service thresholds periodically specified by the Commission and in a manner satisfactory to the Commission and shall not reduce or cease to provide the service unless with the express written approval of the Commission.
- 31.3 In the event of default by the Licensee in regard to any of the provisions of this Condition, the Commission shall, subject to specific prevailing legislation and/or regulations, take such steps as it deems necessary to remedy the situation including but not limited to issuance of directives to the Licensee and application of sanctions and/or fines against the Licensee.
- 31.4 The Licensee shall within 30 (thirty) days from the Commercial Launch Date install equipment and devices that meet ITU-T standards for measuring the grade of services.
- 31.5 The Licensee shall permit the Commission to inspect the Licensee's equipment and devices for measuring service grade, to inspect the Licensee's files, records and other data relating to the measuring of service grade and to request the Licensee to submit such reports, statistics and other data and to conduct such measurements as the Commission deems necessary in order to determine compliance with the Act, WTA, relevant Regulations and this Licence.
- 31.6 If the Commission has reason to believe that measuring equipment, devices or methods are not installed or do not meet the standards aforesaid, the Commission shall instruct the Licensee to install or upgrade the equipment and devices to the required standards within 30 (thirty) days from the date of such instruction. If the Licensee fails to install or upgrade the equipment and the devices to the required standards within the period specified above, the Licensee shall be liable to pay a fine of N5,000,000.00 (Five Million Naira only) for every calendar month or any part thereof that it so defaults.

Condition 32

Disruption or Suspension of Service

- 32.1 Subject to Conditions 32.2 and 32.3, the Licensee shall not intentionally interrupt operation of the Network or any portion thereof in the normal course of business and shall not suspend

any aspect of the provision of the Service without notifying the Commission in writing and giving reasonable notice to the Customers.

- 32.2 The requirements of Condition 32.1 shall not apply if the interruption or suspension is due to an emergency or to Force Majeure under Condition 21 of this Licence or to other circumstances, in the Commission's opinion, beyond the Licensee's control.
- 32.3 The Licensee may terminate the provision of the Service to any Customer if the Customer fails to comply with the terms and conditions of the Service Agreement between the Licensee and the Customer.
- 32.4 The Licensee shall give reasonable notice to the public of scheduled routine maintenance on the network, which results in disruption of service exceeding 60 (sixty) minutes. All routine maintenance on the network resulting in service disruption shall be performed between the hours of 12 midnight and 5.00 a.m.

Condition 33

Modification, Restriction and Closedown

- 33.1 The Commission may require the Licensee's Radio Equipment or any part thereof to be modified or restricted in use, or temporarily or permanently shut down if:

- (a) the use of the Radio Equipment is or may be causing or contributing to undue interference in the use of other authorized Radio Equipment.
- (b) a State of Emergency has been declared in the country or a part thereof .
- (c) this Licence is revoked.

Condition 34

Numbering Plan

- 34.1 Where applicable, the Licensee shall conform to the numbering plan as may be approved by the Commission and any directions given by the Commission in respect of the numbering plan and any direction the Commission may give to facilitate the portability of telephone numbers.

- 34.2 Not later than 30 (thirty) days from the Effective Date, the Commission shall
- i. Assign the Licensee, where appropriate, a unique code number which shall serve as a routing designator to all calls terminating on its communications system;
 - ii. Subject to paragraphs (i) above, be responsible for administering, amending, revising and coordinating the national numbering plan in accordance with the requirements of international laws and recommendations from the International Telecommunications Union and other international entities and in accordance with the principles of free and fair competition; and
 - iii. Consider recommendations and opinions from the Licensee relating to the National Numbering Plan.
- 34.3 The Licensee shall at all times comply with the Regulations concerning the implementation of the National Numbering Plan.
- 34.4 At the request of the Licensee, assign additional number blocks to the Licensee upon the exhaustion of the numbers specified in Condition 34.2 (i) hereof, subject to the terms and conditions in this Condition contained;

Condition 35

Roaming Agreements

- 35.1 Subject to obtaining prior written approval from the Commission, the Licensee shall enter into agreements to provide National Roaming Services on a reciprocal basis to every other Licensee that requests such service. An agreement to provide National Roaming Services shall require

the Licensee to provide the Service upon request to all Customers of any other Licensee provided that such Customers are located within Nigeria.

- 35.2 If the Licensee fails to agree on fair and equitable conditions for the provision of Roaming Services with such other Licensee that may request the service, the matter may be referred to the Commission for resolution.
- 35.3 In the event that the Licensee and the other Licensee fail to agree on the terms of the Roaming Agreement they shall refer those specific terms to arbitration by the Commission under the Dispute Resolution Guidelines and the decision of the Commission shall be final and binding.

Condition 36

Billing and Metering Arrangements

- 36.1 The Licensee shall on request provide each of its Customers, at no additional cost, with an itemised bill which shall contain, amongst other details, the name, address, service(s) rendered and the applicable charge.

- 36.2 The Licensee shall not render any bill in respect of any description of Communications Services provided by the Licensee unless every amount (other than an indication of unit charge) stated in that bill is no higher than an amount which represents the true extent of any such Service actually provided by the Licensee to the customer in question.
- 36.3 Without prejudice to the generality of Condition 36.2 the Licensee shall at all times maintain in operation such a Billing Process as facilitates compliance by the Licensee with, and is calculated to prevent contravention by it of that paragraph.
- 36.4 The Licensee shall keep such records as may be necessary or as may be determined by the Commission to be necessary for the purpose of satisfying the Commission that the Billing Process has the characteristics required by Condition 36.3.
- 36.5 The Licensee shall install and use metering and billing systems that are reliable and accurately record the extent of the Service provided to its Customers and any other Licensee.
- 36.6 The Licensee shall set out in any account or invoice sent to any such other Licensee or Customer the true extent of the Service actually provided to that Licensee or Customer in the period to which the account or invoice relates.
- 36.7 The Licensee shall:
- i. Upon the written request of the Commission and within 14 (fourteen) days of such request, conduct tests on the metering equipment to assess its accuracy, reliability, and conformity to the technical standards, if any, specified by the Commission. The Licensee shall submit the test results to the Commission within 14 (fourteen) days after the date of the test or such other longer period as the Commission may determine;
 - ii. Permit the Commission to inspect its metering and billing system at any time and to cooperate in facilitating any such inspection; and
 - iii. Alter, adapt, modify or improve such system in accordance with any reasonable requirement which the Commission may specify in writing from time to time, for the purposes indicated in Conditions 36.1, 36.2, 36.3 and 36.5.
- 36.8 Pursuant to Condition 36.7(ii), the Commission shall inspect the metering and billing systems at reasonable times and on giving reasonable notice to the Licensee except in any circumstance where giving such notice would frustrate the purpose of the inspection.
- 36.9 Before specifying any alteration, adaptation, modification or improvement on any metering or billing system, the Commission shall consult the Licensee and take full account of any representation made by the Licensee.

Condition 37

Service Agreement

- 37.1 Within 90 (ninety) days from the Commercial Launch Date, the Licensee shall submit to the Commission for its approval a form of Service Agreement (the "Service Agreement") containing the terms and conditions for the provision of Services to prospective Customers. Within 30 (thirty) days of receipt of the Service Agreement, the Commission shall either (i) approve such Agreement in the event that the Commission determines that such Agreement

adequately protects the interests of the Customers or (ii) notify the Licensee of its disapproval thereof. The Commission shall not unnecessarily withhold its approval of the Service Agreement. In the event that the Commission disapproves of the Service Agreement, such notice shall include specific recommendations for the improvement thereof. Within 15 (fifteen) days of receipt of the Commission's notice of disapproval, the Licensee shall submit a revised Service Agreement incorporating the Commission's specific recommendations.

- 37.2 Promptly upon receipt of the Commission's approval of the Service Agreement, the Licensee shall notify all its Customers of its terms and conditions and shall thereafter provide Service based upon such Service Agreement.
- 37.3 The Licensee may from time to time modify the Service Agreement by giving not less than 30 (thirty) days prior written notice to the Commission and the Customers. If the Commission has not objected to the proposed modification within such 30 (thirty) day period, the modification shall then become effective as set forth in such notice.
- 37.4 The Licensee shall publish the Service Agreements and any amendments thereto in the manner and at the times specified in Conditions 3.6 and 3.7.

Condition 38

Licence Limitations

- 38.1 The Licensee shall employ the frequencies assigned to it solely and entirely for providing on a wholesale basis the wireless access services for which this Licence is granted and shall not employ the said frequencies for any other purpose.

- 38.2 The Licensee shall not reassign the whole or any part of the frequencies assigned to it to any other person or Licensee without the prior written approval of the Commission.
- 38.3 The Licensee shall only render the services authorised under this Licence to licensed operators, including retail service providers, and is expressly prohibited from rendering services directly to end-users, either corporate or individual, and providing any other communications services not expressly included within the scope of this Licence.