

**International Submarine Cable Infrastructure &
Landing Station Services License**

Granted to

XXXXXX LIMITED

By

**Nigerian Communications Commission
Under Section 32 of the Nigerian Communications Act, 2003**

CONTENTS

THE LICENCE

DEFINITIONS AND INTERPRETATIONS

SCHEDULE 1 –GENERAL CONDITIONS

1. Compliance with the Act, WTA and Regulations
2. Notices
3. Emergency Situations
4. Approval of Tariff
5. International Services
6. Arbitration and Dispute Resolution
7. Code of Practice for Consumer Affairs
8. Code of Practice on the Confidentiality of Customer Information
9. Undue Discrimination and Anti-Competitive Practices
10. Requirement to Provide Information to the Commission
11. Prohibition of Cross-Subsidies
12. Separate Accounts for all Activities
13. Members of Licensee's Group and/or Associates
14. Pre-Notification of Change in Shareholding
15. Approval of Joint Ventures
16. Transfers of Rights or Obligations
17. Authorisations, Permits and Licences
18. Interconnection Arrangements with other Operators including Collocation and Facility Sharing

19. Payment of Fees
20. Property Rights
21. Suspension and Revocation
22. Exceptions and Limitations on Obligations

SCHEDULE 2: SPECIFIC CONDITIONS ON TECHNICAL AND SERVICE ISSUES

23. Scope
24. Affiliation with a Foreign Carrier
25. Location of the Licensed Facilities
26. Provision of Access
27. Grade of Service
28. Interoperability and Technical Standards
29. Environmental Impact Assessment
30. Approval of Equipment and Sites
31. Modification
32. Service Agreement
33. Disruption or Suspension of Services
34. Limitation of Liabilities
35. Licence Limitations
36. Penalties

**LICENCE NO. SC/00/00 GRANTED TO
XXXXXXX NIGERIA LIMITED
TO LAND, INSTALL, OPERATE AND MANAGE SUBMARINE CABLE
INFRASTRUCTURE IN NIGERIA
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**COMPANY NIGERIA 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 Operate International Submarine Cable Infrastructure and Cable Landing Station (hereinafter referred to as the **“Licensed Undertaking”**) within Nigeria as determined by the Commission.
2. This Licence shall take effect from the 1st day of August, 2008 and shall have a tenure of Twenty (20) Years thereafter, in the first instance, but subject to Conditions to this Licence, shall be subject to revocation upon the giving of Twelve (12) Months notice in writing by the Commission to the Licensee of such revocation.
3. This Licence shall be automatically renewed and remain valid for a further period of Twenty (20) Years subject to the provisions of Paragraph 4 and unless the Licensee has given a written notice to the Commission, at least Twelve (12) Months before the expiry date shown at Paragraph 2, not to renew the licence.
4. The automatic renewal of the Licence in the manner provided in Paragraph 3 hereof shall be subject to the payment within six (6) 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 Licence, Act, and Regulations.
5. This Licence shall be governed by the provisions of the Nigerian Communications Act, 2003 and the Wireless Telegraphy Act as may be amended from time to time.

**DR EUGENE I. JUWAH
EXECUTIVE VICE-CHAIRMAN/CHIEF EXECUTIVE**

DEFINITIONS AND INTERPRETATIONS

1. Any word or expression set out hereinafter shall have the same meaning as it has in the Nigerian Communications Act, 2003 (The Act) unless the context requires otherwise as given below:

"The Act"	The Nigerian Communications Act 2003 or any other subsequent Act made by the National Assembly.
"Accounting and Settlement Rates"	The amounts and settlements in any currency or method payable or subject to settlement by or to the Licensee under any International Correspondent Agreements, by or to the Licensee for the termination or transit of International Telecommunications Services.
"Cable Landing Station"	The point at which any cable landed in Nigeria connects to a Telecommunications Network within Nigeria, including, but not limited to, buildings, equipment and land necessary to establish and maintain such connection
"Commission"	The Nigerian Communications Commission and agents appointed pursuant to the powers under the Nigerian Communications Act, 2003
"Communications"	The transmission of information from one point to another through a telecommunications System.
"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.
"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: <ol style="list-style-type: none">(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.
"Control"	Direct or indirect power to direct or cause the direction of the management of a natural or juristic person, whether through ownership of shares, voting, securities, partnership or other ownership interest, from whatever source
"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 Licensed Service, irrespective of the payment terms thereof, subject to the Licensee's terms and conditions lodged in accordance with Condition XX.
"Effective Date "	The date on which this Licence enters into force.
"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 Departments such as the National Emergency Management Agency, the Nigeria Police, the Federal Fire Service and hospital and ambulance services.
"Enforcement Regulations"	The Nigerian Communications (Enforcement Processes, etc) Regulations, 2005 or any subsequent regulations made by the Commission.
"Interconnection"	The connection of Licensee's System with Operator's System in order to convey messages to and from their respective systems for the provision of their respective Licensed undertakings.
"International Connection Service"	A telecommunication service consisting in the conveyance of any message which has been conveyed or which is to be

conveyed by means of any Communication System outside Nigeria the connection of which to the System by means of which that service is provided is authorized by a Licence.

“International Correspondence Agreement”

Any written agreement in whatever form, between the Licensee and another International telecommunications Operator for the termination or transit of international calls.

“International Telecommunications Operator”

Any telecommunications operator in another country or territory who is authorised to install and maintain a Telecommunications System for the provision of international telecommunications services;

“ITU-T”

The Standardisation Bureau of the International Telecommunications Union

“Leased Line”

A dedicated point-to-point circuit, complying with ITU-T recommendations leased by an Operator for the sole purpose of conveying its traffic.

“Licence”

A licence granted or having effect as if granted under Section 32 of the Act.

“Licensed Area”

The approved landing point located within the geographical territory known as the Federal Republic of Nigeria.

“Licensed Fee”

The amount specified by the Commission and paid by the Licensee to the Commission in consideration of this Licence.

“Licensed Undertaking”

The owning, operating and managing of International Submarine Cable Infrastructure and Cable Landing Station.

“Licensee Gross Revenues”

All revenues realised by the Licensee during a year resulting from selling, leasing or otherwise providing the Licensed Services including all revenues from the supply of any Licensed Services, or payments receivable by the Licensee from other Licensed Operators or Service Providers (for interconnection or Access Services), all revenues or payments receivable from resellers of the Licensed Services, but excluding selling and leasing of Terminal Equipment.

“Licensee’s Group”

A body corporate in which the Licensee has equity/shareholding interests, or which has equity/shareholding interests in the Licensee.

- “Licensed Services”** The specified Telecommunications Services to be offered by the Licensee pursuant to the grant of this License.
- “Long Distance Traffic”** Traffic carried from one switching exchange to another, which are not located in the same city.
- “Message”** Any information sent, or to be sent, for conveyance by means of a licensee circuit
- “Monopoly situation”** Subject to specific relevant legislation 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 -
- (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 telecommunications services) between Operators interested as Operators by whom or as Operators for whom services are supplied.

“Net Revenues”

For any period, gross revenue less interconnect cost only. In this context, it is understood and agreed that; “Gross Revenue” shall mean total amount of sales earned during a specified period (usually a year), while “Interconnect Cost” shall refer only to costs incurred and payment made (or invoices payable) by an operator towards the settlement of interconnect obligations to other interconnecting partners.

“Nigeria”

The entire geographical area, the territorial waters, air limits known as the Federal Republic of Nigeria.

“Operator”

A Provider of a telecommunications service duly licensed by the Commission, including but not limited to the Licensee.

“Person”

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

“Point of Presence”

A location designated by the Licensee where switching and transmission facilities are provided for the purpose of interfacing with Operators.

“Private Network”

A telecommunications network that is not deployed for the provision of commercial services to the public.

“Regulations”

The Regulations enacted by the Commission or any other competent authority under the Act and/or WTA and such further Regulations relating to the Services as the Commission may adopt from time to time.

“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.
“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.
“Telecommunications Services”	Any service including the transmission and/or routing of signs, signals, texts, images, sounds or data or a combination of these functions, using telecommunication process.
“Telecommunications System”	A combination of telecommunications networks or network infrastructure for the purpose of providing telecommunications services.
“Terminal Equipment”	Any appliance, apparatus, or accessory located on or installed at any Beneficiary's premises and connected to the Public Telecommunications System to enable reception and / or transmission of Telecommunications Services.
“Territory”	Geographical area of the Federal Republic of Nigeria.
“Transmission”	The conveyance of traffic over a long distance.

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 and the Conditions constitute 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 unenforceability of any other provision in or obligation under this Licence provided that if such provision is such that is fundamental to this license, the Commission and the Licensee shall immediately replace the provision with another which is valid, legal and enforceable.

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 and Regulations made thereto and with any direction, determination or order that the Act provides for the Commission to give or make.
- 1.2 Neither the Licensee nor its officers, directors, employees, agents, or 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.
- 1.3 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 any of the registered offices of the Commission.

Notices

- 2.1 All notices required to be given to the Licensee by the Commission shall be satisfied by serving the document by post or by hand on the Licensee at the Licensee's registered office address and the receipt of such notice shall be acknowledged.

Emergency Situations

- 3.1 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 infrastructure failure or in cases of Force Majeure such as flood, lightning, fire, etc;
 - (b) The integrity of its Infrastructure, 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.
- 3.2 The Commission shall instruct the Licensee, in an emergency, to cooperate with the relevant Government entity that is responsible for managing that emergency.
- 3.3 Within nine (9) months from the Effective Date of this Licence, the Licensee shall submit to the Commission its procedural and operational plans that the Licensee would adopt in the event of any emergency.

Approval of Tariffs

- 4.1 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.
- 4.2 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 4.6**, will provide written reasons in the event of non-approval.
- 4.3 Where the Commission refuses to approve the Tariffs or part thereof, the Licensee shall be entitled to make representations to the commission in justification of the Tariff, within fourteen (14) days of receipt of the reason for refusal. The Commission shall consider the representations and provide the Licensee with its decision within forty five (45) days of such representations.
- 4.4 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 4.5, 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 tariff for the same service.
- 4.5 The Licensee shall provide the specified telecommunications 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 such approval not to be unreasonably delayed or withheld. **Provided** that the Licensee shall be at liberty to offer discount schemes to its customers, without the prior approval of the Commission in a fully transparent manner. Such discount schemes and any revisions thereto shall be published in the same manner as is set out in **Conditions 4.7 and 4.8**
- 4.6 The Commission shall communicate to the Licensee its decision on the notice of tariffs or any application for changes thereto within forty five (45) 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.

- 4.7 The Licensee shall publish in a manner and at the times indicated in **Condition 4.8** the charges, terms and conditions, including subsequent revisions thereto, on which it offers to provide the specified telecommunications service in accordance with an obligation imposed by or under this Licence.
- 4.8 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.
- 4.9 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 5

International Services

- 5.1 The Licensee shall take all reasonable steps to provide by means of its Systems to any person to whom it provides telecommunication services by means of those Systems and who so requests International connection services to the extent necessary to satisfy all reasonable demands for such services by such a person.
- 5.2 The Licensee shall not enter into any agreement or arrangement with any person running an Authorized Foreign System on terms or conditions that unfairly preclude or restrict the provision of services by another Operator of international connection or access services.
- 5.3 The Licensee shall not unreasonably exclude any other Operator who is authorized by its Licence to connect its System to another telecommunication System situated outside Nigeria but which may or may not have a Network termination point in Nigeria, so as to convey Messages to that other System from a reasonable opportunity to participate in any international arrangements into which it has entered or proposes to enter after the Effective Date of this Licence.
- 5.4 Where the Commission determines that the Licensee has unfairly and unreasonably excluded or restricted an Operator from the provision of international connection or access services or such arrangements related thereto, as provided under this Condition, the Commission may, after considering representations from the Licensee and the Operator, give such directives in accordance with applicable regulations as may be necessary to ensure that such Operator is afforded the opportunity to provide such International connection services and participate in any arrangements related thereto.
- 5.5 In this Condition, “**Authorised Foreign System**” means any System that is owned and operated outside Nigeria by a Foreign Telecommunications Operator and which provides international connection or access services into and / or out of Nigeria
- 5.6 The Licensee shall notify the Commission of all Agreements with Foreign Telecommunications Operators that are necessary for the provision of international telecommunications service to Operators.
- 5.7 The Licensee shall in entering into such agreements with Telecommunications Operators ensure compliance with all applicable international treaties and bilateral agreements now or hereafter binding upon the Federal Republic of Nigeria.

Arbitration and Dispute Resolution

- 6.1 The Licensee shall include in the standard terms and conditions on which it provides Telecommunication Services, provisions giving persons who have entered into contracts with it for the provision of telecommunication services the opportunity to refer to an 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 subject to consultation with the Commission.
- 6.2 The Commission shall settle;
- (a) Any dispute between the Licensee and a customer relating to the provision of the Services which the Commission is capable of resolving in accordance with the established procedure for redressing grievances of customers, and
 - (b) Any other dispute between the Licensees and its customer(s) within the scope of the powers given to the Commission under the Act.

Code of Practice for Consumer Affairs

- 7.1 The Licensee shall in consultation with the Commission prepare and publish in accordance with Condition 4.7 and 4.8 not later than three (3) months after the Commercial Launch Date a Code of Practice including:
- (a) Guidance to its customers and employees in respect of disputes or complaints relating to its provision of service, 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 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 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 (3) 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 Licensed 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

Code of Practice on the Confidentiality of Customer Information

- 8.1 The Licensee shall take all reasonable steps to ensure that its employees observe the provisions of its 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 customer's 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.
- 8.2 The Licensee shall within 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.
- 8.3 This condition is without prejudice to the general duties at law of the Licensee towards its customers.

Undue Discrimination and Anti-Competitive Practices

- 9.1 The Licensee shall not (whether in respect of the rates or other terms and conditions applied or otherwise) show undue preference to, or exercise undue discrimination against, particular persons or persons of any class or description with respect to the provision of the Licensed Services. The Licensee may be deemed to have shown such undue discrimination if it unfairly favours to a material extent a business carried on by it in relation to the provision of the Licensed Services so as to place at a significant competitive disadvantage persons competing with that business.
- 9.2 The Licensee shall not engage in any other anti-competitive practices and, in particular, shall not:
- (a) abuse any dominant position in any Telecommunications Service market;
 - (b) enter into agreements with any other Licensed Operator or Service Provider which have as their purpose or effect the fixing of prices, allocation of customers or specific service markets or other improper restraint on competition; or
 - (c) Use information provided by other Licensed Operators or Service Providers for anti-competitive purposes.
- 9.3 Any question relating to whether any act done or course of conduct is contrary to this Condition 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 10

Requirement to Provide Information to the Commission

- 10.1 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.
- 10.2 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.
- 10.3 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 10.2.
- 10.4 Without prejudice to the generality of Condition 10.2 and notwithstanding the provisions of Condition 10.3, the Licensee shall, furnish to the Commission within six (6) months of its financial year end a "Financial Statement". 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 10.5.
- 10.5 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.
- 10.6 From time to time, the Commission may require specific details to be included in the Licensee's Financial Statement for the purpose specified in Condition 10.2 and the Licensee shall promptly comply with such requirements.
- 10.7 In this Condition "documents" includes, without prejudice to the generality thereof, drawings, designs, plans, or specifications.

Prohibition of Cross-Subsidies

11.1 The Licensee shall ensure that its 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.

11.2 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.

11.3 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 12

Separate Accounts for all Activities

- 12.1 This Condition applies for the purpose of ensuring that a Licensee establishes as soon as reasonably practicable, not later than twelve (12) months from the Effective Date of this Licence, accounting and reporting arrangements sufficient to enable the Licensee's finances in relation to a Telecommunication Services provided pursuant to this Licence to be assessed and reported separately from its other Telecommunications Services and from the other commercial activities of the Licensee.
- 12.2 The Licensee shall:
- (a) Maintain accounting records in such a form that the activities of one commercial telecommunications 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) Deliver to the Commission a copy of each of the accounting statements and of the reports relating thereto required under paragraphs (a) and (b) above as soon as reasonably practicable and in any event not later than six (6) months after the end of the period to which they relate.

- 12.3 Accounting statements prepared under Condition 12.2 (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.
- 12.4 The Licensee shall establish and maintain adequate records to permit the effective supervision and enforcement of the terms of this licence by the Commission. Within six (6) months of its financial year end, 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 the Licensee as at the end of the Licensee's fiscal year. 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.
- 12.5 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.

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 reasonable 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 regards 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.

Pre-Notification of Change 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 ten percent (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 thirty (30) 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 fifty percent (50%) 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 31st 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, registered address, nationality, and stockholding of every officer, director or other administrator of the organisation, and of any stockholder holding stock amounting to five percent (5%) 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.

Approval of Joint Ventures

- 15.1 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.
- 15.2 These agreements are Agreements or arrangements between the Licensee and any person:
- (a) For the establishment or control of any body corporate for the purpose of:
 - i. Providing telecommunications 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 telecommunications services that require a Licence.

Transfers of Rights or Obligations

- 16.1 The Licensee may not assign or otherwise transfer the Licence to another person without the prior written approval of the Commission.

- 16.2 Any entity that becomes a duly authorised successor or assign to the Licensee through affiliation, assignment, transfer of control, merger, liquidation, reorganisation or otherwise, shall, as a condition to such succession or assignment, be required to execute such documents as the Commission deems appropriate confirming that such successor or assignee fully assumes the rights and obligations set forth in the Licence.

Authorisations, Permits and Licences

- 17.1 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 in the Federal Republic of Nigeria.

Interconnection Arrangements with other Operators including Collocation and Facility Sharing

- 18.1 If the Licensee receives a request for interconnection from another Operator, then the Licensee shall have an obligation, subject to availability to interconnect its Telecommunications System with the other Operator's network in accordance with the principles of neutrality, non-discrimination and equality of access pursuant to terms and conditions negotiated in good faith between them. Technical and commercial arrangements for interconnection are a matter for agreement between the parties involved, subject to the provisions of this Condition.
- 18.2 The Licensee shall be excused from any obligation to negotiate or enter into an interconnection agreement with a requesting Operator if, as determined by Commission in its reasonable discretion:
- (a) such an agreement is prohibited by law; or
 - (b) the Licence issued to the other Operator does not authorize the services for which interconnection is requested; or
 - (c) the requested interconnection is rendered impossible as a result of technical limitations or does not exceed an E-1; or
 - (c) such interconnection would endanger life or safety or result in injury or harm to the Licensee's property or hinder the quality of the services provided by the Licensee.
- 18.3 All interconnection agreements between the Licensee and any other Operator shall be in writing and shall comply with:
- (a) the Act and the Interconnection Regulations made by the Commission; and
 - (b) the principles of neutrality, transparency, non-discrimination, fair competition, equality of access and equal terms and conditions.
- 18.4 The Licensee shall register with the Commission all Interconnection Agreements entered into pursuant to this Condition, not later than thirty (30) days from the date of execution of the Agreement. The Licensee shall furnish to the Commission any additional information that the Commission requires in respect of such Interconnection Agreement and on evaluating the terms and conditions and the charges set out in the proposed Interconnection Agreement, the Commission may, pursuant to applicable Regulations, require the Licensee and the interconnecting party to revise the Agreement if interconnection as contemplated therein is inconsistent with the Act and/or the

Interconnection Regulations made by the Commission, or the integrity of the public network.

- 18.5 The Licensee may at any time request the Commission to issue a direction in order:
- (a) To specify issues which must be covered in an interconnection agreement;
 - (b) To lay down specific conditions to be observed by one or more parties to the agreements; or
 - (c) As the case may be, to set time limits within which negotiations are to be completed.
- 18.6 The Licensee shall publish a Reference Interconnection offer. The publication shall be effected by:
- (a) sending a copy thereof to the Commission;
 - (b) placing as soon as practicable thereafter a copy thereof in a publicly accessible part of every Major Office of the Licensee in such a manner and in such a place that it is readily available for inspection free of charge by members of the public during such hours as the Commission may by order prescribe; and
 - (c) sending a copy thereof at reasonable cost to any person who may request such a copy.
- 18.7 The Licensee's Reference Interconnection offer shall include description of interconnection services to be supplied in segmented components according to market needs and the associated terms and conditions. Charges shall not be required to be specified on the offer for publication. Where justified, the Commission reserves the right to impose changes in the Reference Interconnection offer.
- 18.8 The Licensee shall comply with the requirements of any directions given to the Licensee under the provisions of this Condition and under the regulations and provisions of the Interconnection Guidelines laid down by the Commission.
- 18.9 Where:
- (a) An Operator establishes a prima facie case that the Licensee is unreasonably not performing an obligation which he is required to perform under an Interconnection Agreement; and
 - (b) The Commission considers that:
 - i. the obligation on interconnection ought to be performed; and

- ii. the Operator is not able satisfactorily to enforce the agreement so that the obligation is performed within such time as the Commission considers necessary; the Commission may require the Licensee to perform the obligation subject to such conditions as are reasonable in the circumstances having regard, in particular, to the terms and conditions which apply and to anything which the Operator may reasonably be expected to do in order to mitigate the effects of the Licensee's failure to perform its obligation.

18.10 Before making a requirement under Condition 18.9, the Commission shall notify the Licensee of the *prima facie* case established by the Operator, its conclusions thereon and the direction of the Commission on the matter. The Licensee shall be afforded adequate time in which to make representations.

18.11 Where the Licensee has the right under a legislation to install facilities on, over or within public or private land, or may take advantage of a procedure for the expropriation or use of property, the Commission shall encourage the sharing of such facilities or property or both with other Operators, in particular where essential requirements deprive other Operators of access to viable alternatives. Sharing shall include access to ducts, landing stations and other facilities. The agreements for collocation or facility sharing are a matter for commercial and technical agreements between the parties concerned. The Commission may intervene to resolve disputes concerning collocation or facility sharing at the request of either party; provided that any intervention shall take into account Licensee's capital costs and the Commission's intent to permit recovery of such costs on not less than a proportionate basis.

18.12 Where there is a dispute concerning interconnection between the Licensee and other Operators the Commission shall, at the request of either party, take steps, in accordance with applicable Regulations, to resolve the dispute within six (6) months of the date of the request and shall invite both parties for consultation before taking a decision on the matter. Such decision shall represent what is in the opinion of the Commission, a fair balance between the legitimate interests of both parties. The Directions made pursuant to the decision shall be notified to the parties and published. The parties shall be given a full statement of the reasons on which it is based.

Payment of Fees

- 19.1 In consideration for granting the Licensee the right to land, install, operate and manage its submarine cable, the Licensee shall pay to the Commission in full and without any deductions whatsoever:
- (a) The Licence Fee;
 - (b) An Annual Operating Levy which shall represent two and a half percent (2.5%) of the Licensee's audited net revenue payable within three (3) months after the end of the first year of the Licence and thereafter quarterly on the Licensee's assessed Net Revenue within thirty (30) days of the end of such quarter to be adjusted immediately on receipt of the audited annual Financial Statements of the Licensee.
- 19.2 The most recent audited account or where this is 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 Financial Statement becomes available.
- 19.3 The Commission shall determine the Licence fee payable for and in respect of any renewal of the Licence.
- 19.4 The Licence fee as set out above shall be exclusive of all taxes.

Property Rights

- 20.1 Subject to the provisions of the Act, the Licensee shall have priority rights within the vicinity of its landing station in respect of extending cables and installing the Licensed System on public rights-of-way, in or on buildings and other property, and in respect of similar works necessary for the provision of the Licensed Services.

Suspension and Revocation

- 21.1 Notwithstanding any contrary provision in this Licence contained, the Commission may at any time revoke this Licence by twelve (12) months' notice in writing given to the Licensee at its registered office where the Licensee is in breach of any of the Conditions attached to this Licence and the breach has not been rectified in accordance with provisions of the Act and Conditions to this Licence.
- 21.2 Notwithstanding any contrary provision in this Licence contained, the Commission may at any time revoke this Licence by three (3) months notice in writing given to the Licensee at its registered office in any of the following circumstances:
- (a) If the Licensee agrees in writing with the Commission that this Licence be revoked;
 - (b) If the Licensee ceases to carry on its Business for which this Licence is granted for a continuous period of thirty (30) days;
 - (c) If any amount payable under Condition 19 is unpaid after it became due and remains unpaid for a period of twenty one (21) days after the Commission notified the Licensee in writing that the payment is due;
 - (d) If within twelve (12) months from the Effective Date of this Licence, the Licensee has not commenced full operation to the satisfaction of the Commission provided that the Commission would have given a prior notice to the Licensee specifying the details of the Licensee's default and requiring that remedial steps be taken within sixty (60) days of the notice, or such further period as the Commission may specify;
 - (e) If the Licensee fails to ensure that its equipment is type approved by the Commission or a body approved by or accredited to the Commission;
 - (f) If it is deemed necessary in order to protect the public interests of Nigeria and its people or for security reasons.
 - (g) If the Licensee:
 - i. is unable to pay its debts,
 - ii. enters into receivership or liquidation,
 - iii. takes any action for voluntary winding-up, or dissolution or such action is taken by any other person against it and no reasonable step has been taken to discharge same; or it 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 a receiver or trustee is appointed or if any order is made for its compulsory winding-up or dissolution.

- (h) If the Licensee does not fulfill the Infrastructure roll out implementation plan as set out in this Licence.
- (i) If the Licensee has made false statements, representations or warranties in applying for the Licence.

21.3 The Licence fees paid in respect of a revoked Licence shall not be refunded in part or whole consequent upon such revocation except at the absolute discretion of the Commission.

Exceptions and Limitations on Obligations in Schedule 1

- 22.1 Unless the context otherwise requires the Licensee's obligations under these Conditions shall have effect subject to the following exceptions and limitations:
- (a) The Licensee is not obliged to do anything that the Commission shall determine not to be practicable after due representation has been made thereon to the Commission by the Licensee.
 - (b) The Licensee shall not be held to have failed to comply with an obligation imposed upon it by or under this Licence if and to the extent that the Licensee is prevented from complying with that obligation by any physical, topographical or other natural obstacle, the act of any Federal, State or Local Government or Governmental Agency or as a result of fire, explosion, accident, emergency, riot, war, civil commotion or insurrection or any other cause outside the Licensee's control. ("Force Majeure event").
 - (c) In the event that any of the circumstances specified above causes damage to the Licensee's infrastructure, the Licensee shall be obligated to repair or rebuild the infrastructure 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.

SCHEDULE 2

SPECIFIC CONDITIONS ON TECHNICAL AND SERVICE ISSUES

Condition 23

Scope

- 23.1 The Licensee is authorised on a non-exclusive basis to land, install, operate and manage its international submarine cable in the Licensed Area.
- 23.2 The Licensee shall construct, maintain, and operate an international submarine cable landing in Nigeria, including its associated works or facilities that extends between the authorised landing points in Nigeria and any place outside Nigeria and is connected or is intended to be connected to telecommunications facilities in Nigeria.
- 23.3 The Licence shall be for the provision, via the cable, of point-to-point and point-to-multipoint international communications services for the conveyance of voice, data and video signals.
- 23.4 The Licensee shall establish Points of Presence for interconnecting other Operators to wholesale international transmission services available via its cable landing station.
- 23.5 The licensee shall not accept any concessions directly or indirectly from any foreign carrier, including any entity that owns or controls a foreign cable landing station, where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the Nigeria market, and from agreeing to accept special concessions in the future. The Commission shall determine as to what affect competition.
- 23.6 The licensee shall maintain de jure and de facto control of the Nigerian portion of the cable system, including the landing stations in Nigeria, sufficient to comply with the requirements of the Act and the conditions of the Licence.
- 23.7 Nothing in this Licence removes the need to obtain any other Licence for the purposes of providing such other services as are not covered by this Licence and as may be required under the Act or any other enactment.

Affiliation with a Foreign Carrier

- 24.1 Where the Licensee becomes, or seeks to become, affiliated with a foreign carrier that is authorised to operate in that market, including an entity that owns or controls a cable landing station in that market, the Licensee shall notify the Commission of that affiliation.

Location of the Licensed Facilities

- 25.1 The Licensee shall at all times comply with any requirements of Nigeria regarding the location and concealment of its submarine cable for the purpose of protecting and safeguarding its cable from damage or destruction.
- 25.2 The location of the cable system within territorial waters of Nigeria, its territories and possessions, and upon its shores shall be in conformity with plans approved by the appropriate authorities in the Nigeria.
- 25.3 The location of the cable system within the international territorial waters of Nigeria, its territories and possessions, and upon its shore shall be moved or shifted by the licensee at the licensee's expense upon the request of the Commission, whenever the Commission considers such course necessary in the public interest, for reasons of national defence or for the maintenance and improvement of harbours for navigational purposes or any other reason which the Commission considers justifiable.
- 25.4 The Licensee shall notify the Commission in writing of the precise location at which the cable will land, such notification with respect to any given landing location shall occur no later than sixty (60) days prior to commencing construction at that landing location. The Commission will give public notice of filling of each description, which will be considered final with respect to that landing location unless the Commission issues a notice to the contrary no later than forty five (45) days after receipt of the specific description.
- 25.5 The Licensee shall take reasonable care while constructing its landing station to ensure that no damage is occasioned to cables and other existing telecommunications infrastructure installed by other operators.
- 25.6 The Licensee shall notify the Commission, in writing, within thirty (30) days of the date of the date the cable was placed into service.

Provision of Access

- 26.1 Subject to Section 101 of the Act and provisions of the regulations, the licensee shall provide access to its international telecommunications facilities on request of any licensed operator. Access shall be provided in a manner that is non-discriminatory and with prices that are commercially reasonable and at a point or level within such infrastructure that is determined by the Commission to be technically feasible for efficient delivery of telecommunications services to the ultimate consumer of such services.
- 26.2 The licensee shall provide the access within forty five (45) days from the date of request or such other time as may be determined by the Commission.
- 26.3 The licensee shall not be required to provide access where in the Commission's view it is not reasonable to require the licensee to provide access, including, but not limited to, where it would expose any person engaged in provision of the access services to undue risk to health or safety.
- 26.4 The Commission shall review and approve all tariffs payable for the provision by the licensee of access services in accordance with Condition 4 and applicable regulations. In reviewing such tariffs for approval, the Commission shall consider international benchmark charging and cost levels for a similar service and prevailing conditions within the Licensed Area, including scale, but, in any event, shall ensure that such tariffs are:
- (a) Cost based and sufficiently unbundled so that the acquirer of access services does not pay for components of facilities that it does not require; and
 - (b) In all cases reasonable and, with respect to similarly situated customers, non discriminatory

Grade of Service

- 27.1 The Licensee shall ensure that access to its Telecommunications 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.
- 27.2 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 the grade of service without the prior written approval of the Commission.
- 27.3 The Licensee shall provide to the Commission details pertaining to its network configuration and any proposed upgrade before it embarks on any systems installation/upgrade.
- 27.4 Without prejudice to Conditions 27.1 and 27.2, the Licensee shall ensure that any information it carries over its infrastructure is delivered in its original form at the designated termination point.
- 27.5 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.
- 27.6 The Licensee shall within ninety (90) days from the Effective Date of this Licence install equipment and devices that meet ITU-T standards for measuring the grade of services.
- 27.7 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, the Regulations and this Licence.
- 27.8 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 have the right to conduct inspection to confirm this and where it is confirmed, shall instruct the Licensee to install or upgrade the equipment and devices to the required standards within thirty (30) 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 such fine as is specified in the Enforcement Regulations.

Interoperability and Technical Standards

- 28.1 The Licensee shall comply with relevant regulations, technical specifications and rules issued by the Commission in order to ensure interoperability of its international telecommunications facilities with telecommunications services and telecommunications networks provided by other licensed operators to the extent technically feasible.
- 28.2 The Licensee shall ensure that all the equipments comprised in (and connected to) its international telecommunications facilities and used in the provision of the licensed services are approved in accordance with the provisions of the Act or applicable Regulations, or otherwise complies with technical specifications identified or approved by the Commission.

Environmental Impact Assessment

- 29.1 The Commission reserves the right to require the licensee to file environmental assessment by an independent auditor should it determine that the landing of the cable at the specific locations and construction of necessary cable landing stations may impact the environment within the meaning of regulations issued by concerned government authorities.

Approval of Equipment and Sites

- 30.1 The Licensee shall ensure that all its Equipment and Sites are approved by the Commission or a body approved by or accredited to the Commission within six (6) months from the Effective Date of this Licence and shall obtain all necessary compliance certificates in accordance with the relevant Regulations.
- 30.2 The Licensee shall further ensure that it complies with the provisions of Condition 30.1 in respect of all new Equipment and Sites procured or constructed by it after the Effective Date of this Licence.
- 30.3 With effect from the Effective Date and subject to condition 30.4, the Licensee shall, in respect of all sites for the location or erection of its facilities, ensure that it complies at all times with the Commission's published site specifications and attendant terms and conditions.
- 30.4 Prior to the development of any of its sites howsoever at any time after the Effective Date of this Licence, the Licensee shall ensure that it obtains the prior written approval of the Commission as to the compliance of the site(s) with the Commission's published specifications.

Modification

- 31.1 The Commission may require the Licencee's facilities and infrastructure or any part thereof to be modified or restricted in use, or temporarily or permanently shut down if;
- (a) A State of Emergency has been declared in the country or a part thereof
 - (b) This Licence is revoked

Service Agreement

- 32.1 Within ninety (90) days from the Effective Date of this Licence, 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 thirty (30) 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, it shall make recommendations for the improvement thereof. Within fifteen (15) days of receipt of the Commission’s notice of disapproval, the Licensee shall submit a revised Service Agreement incorporating the Commission’s specific recommendations.
- 32.2 Upon receipt of the approval by the Commission of the Service Agreement, the Licensee shall promptly notify all its Customers of its terms and conditions and shall thereafter provide Service based upon such Service Agreement.
- 32.3 The Licensee may from time to time modify the Service Agreement by giving not less than thirty (30) days prior written notice to the Commission and the Customers. If the Commission has not objected to the proposed modification within such thirty (30) day period, the modification shall then become effective as set forth in such notice.
- 32.4 The Licensee shall publish the Service Agreements and any amendments thereto in the manner and at the times specified in Conditions 4.7 and 4.8.

Disruption or Suspension of Services

- 33.1 The Licensee shall not intentionally interrupt or suspend the operation of its international telecommunications facilities (or any part thereof) in the normal course of business, without having first obtained the prior written approval of the Commission and provided reasonable advance notice to persons to be affected by such interruption or suspension.
- 33.2 Condition 33.1 shall not apply if:
- (a) The interruption or suspension is due to an emergency or an event of Force Majeure under this Licence or to other circumstances, in the Commission's opinion, beyond the Licensee's control; or
 - (b) The interruption or suspension is to a licensed operator whose Telecommunications System is endangering the integrity of the Licensee's facilities and infrastructure.
- 33.3 In the event of any unforeseen or unintentional interruption of the provision of the licensed services, the Licensee shall immediately upon occurrence of the event, notify the Commission in writing stating the cause(s) of the interruption, and outline the remedial steps being taken by the Licensee.

Limitation of Liabilities

- 34.1 Subject to Condition 34.2 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 whomsoever 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 substitute service, facilities or products, or down-time costs, consequent upon the issuance, actualization or 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 howsoever thereto.
- 34.2 The Commission's total liability, cumulative or otherwise, under this Licence and in regard to any matter related to the Licence shall at all times be limited to the actual cumulative amount paid at any given time to the Commission by the Licensee pursuant to this Licence.

Licence Limitations

- 35.1 The Licensee shall not install infrastructure or facilities for the operation or provision of National Long Distance Operator services in Nigeria without a separate authorisation for that service.
- 35.2 The Licensee shall not provide and operate Metropolitan Fibre Cable Network services without a separate authorisation for that service.
- 35.3 The Licensee is expressly prohibited from rendering any other communications services not expressly included within the scope of this Licence.

Penalties

- 36.1 The Commission may impose such penalties as may be specified in the Enforcement Regulations for performance defaults, non-compliance or failure to remedy non-compliance with provisions of the Licence, the Act or applicable laws or Regulations
- 36.2 The Commission shall deliver written notice identifying the specific default to be remedied by the Licensee. The Licensee shall have fifteen (15) working days to propose a specific plan for remedying the identified default within an identified time period. The Commission may approve the plan and notify the Licensee to implement it.
- 36.3 If the plan was not approved by the Commission, or if the Licensee fails to implement the plan within the specified period, a further penalty shall be imposed on the Licensee.