



**INTERNATIONAL GATEWAY LICENCE
(IGL/XXX/07)**

**Granted by
NIGERIAN COMMUNICATIONS COMMISSION**

To

XXXXXXXXX LIMITED

Under Section 32 of the Nigerian Communications Act 2003

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**LICENCE NO. IGL/XXX/07 GRANTED TO
XXXXXXXXXX LIMITED
TO OWN AND OPERATE FACILITIES FOR THE PROVISION AND
OPERATION OF INTERNATIONAL GATEWAY SERVICES 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 and a seal, established by Section 3 of the 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 XXXXXXXXXXXX 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 own and operate facilities for the provision and operation of International Gateway Services (hereinafter referred to as the “Licensed undertaking”) as determined by the Commission.
2. The Licence shall enter into force on DD day of MMMMM, YYYY (hereinafter referred to as the “Effective Date”) and shall be of twenty (20) years duration in the first instance.
3. Subject to Paragraph 4 hereunder, this Licence shall be automatically renewed upon the expiry of the tenure hereof and remain valid for a further period of fifteen (15) years unless the Licensee has given written notice to the Commission, at least twelve months before the expiry date hereof, of its intention not to renew the Licence.
4. The automatic renewal of the Licence in the manner provided in Paragraph 3 shall be subject to the payment, within six months before the expiry date of the Licence, of such Licence fees as the Commission shall specify. The renewal shall also be upon such modified terms and conditions as the Commission may determine and subject to the provisions of the Act, WTA and Regulations.
5. This Licence is valid for the provision and operation of the services specified in Condition 34 to this Licence within Nigeria.

DEFINITIONS AND INTERPRETATION

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

“Act”	The Nigerian Communications Act or, as the context may admit, any succeeding legislation thereto.
“Associate”	A subsidiary of or another body corporate controlled by the Licensee and carrying on business in Nigeria.
“Auditor”	(a) Except where the context otherwise requires, the Licensee’s Auditor for the time being appointed in accordance with the requirements of the Company and Allied Matters Act Cap 59 Laws of the Federation of Nigeria 1990 as may be amended. (b) Auditor(s), other than the Licensee’s Auditor(s), appointed by the Commission under this Licence to carry out specific assignments.
“Businesses”	Comprise the revenues, cost and assets of all the licensed undertakings and “Business” means any of them.
“Carrier Services”	Telecommunications services provided by means of a public or privately owned telecommunications network comprising radio, cable or satellite-based sub-systems or any combination of these media deployed for the purpose of carriage and termination of domestic and international traffic and providing domestic and international point-to-point and switch/unswitched point-to-multipoint telecommunication.
“Charges”	As the context so permits, the charges, paid by a Customer, Operator, Value-Added Service Provider or Reseller to the Licensee for its services or by the Licensee to an Operator for the Operator’s services, including in any of the circumstances, but not limited to tariffs, installation charges, access charges, etc.
“Commission”	The Nigerian Communications Commission and agents appointed pursuant to powers under the Act.
“Connect”	To install, maintain and use any telecommunication line or other equipment use for telecommunications so that messages which are conveyed by one Operator are also conveyed by another Operator, or sent by means of one item of equipment are conveyed or received by means of another item of equipment.

"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.
Customer", "User", user"	As the context admits, a person (including but not Or "End-limited to an Operator, Reseller or Value-Added Service Provider) who has entered into a contract with an Operator for the provision of telecommunication services on the Operator's terms and conditions approved in accordance with relevant conditions of the Operator's Licence.
"Domestic network" or Public network"	The aggregate of all the telecommunication networks operating and providing commercial service in Nigeria, owned by different Operators but interconnected to each other.
"Effective Date"	The date the Licence enters into force as specified hereinbefore in Paragraph 2 of the Licence.
"Financial Year"	Licensee's financial year.
"Foreign Telecommunication Operator(s)"	Telecommunication Operator(s) outside Nigeria.
"Interconnection"	The Connection of Licensee's System with Operators' or value Added Service Provides' Systems in order to convey messages to and from their respective Systems for the provision of their respective licensed undertakings.
"Interested Parties"	Those persons (if any), other than the Licensee, with whom, in any particular case, the commission considers it appropriate to consult.
"International Access"	Access provided to a customer by the Licensee which enables transmission and receipt of message(s) to and/or from international location(s).
"International Circuit"	Connection between international and domestic locations.
"International Connection"	A telecommunication service consisting in the service' conveyance of any message conveyed by means of any telecommunication system from the domestic network to an international network.
"International Gateway"	A switching system that routes international traffic between international networks and the domestic network.

“International Network”	A telecommunication network owned by a Foreign Telecommunication Operator and operating from any location outside Nigeria.
“Licence”	A licence granted or having effect as if granted under Section 32(1) of the Act.
“Licensed Undertaking”	In the context of this Licence, owning and operating facilities for the provision and operation of international gateway and access services.
Licensee’s Group”	Licensee’s associated company(ies).
“Maintenance Service”	<p>In relation to any equipment which has been installed:</p> <ul style="list-style-type: none"> (a) Pre-Maintenance inspection; (b) Carrying out repairs; (c) Verifying or ensuring that <ul style="list-style-type: none"> (i) The equipment performs in accordance with its specification or as may be required by the Operator of the Connectable System in which such equipment is incorporated; (ii) The equipment continues to comply with any condition contained in an approval of that equipment as given by the Commission; (iii) Any terms or conditions regarding the equipment or its connection or use that may be stipulated by the Licensee and which must be observed if the connectable System is or is to remain connected to the Licensee’s System are observe; (d) Any activity involving the removal of the outer cover of the equipment or alteration of the equipment in including alterations of any stored commands capable of affecting the compliance of the equipment with the technical requirements and conditions mentioned in (c) above; (e) Any activity involving the use of any test equipment or other equipment not forming a permanent part of the equipment; <p>but shall not include operations incidental to the installation, bringing into service or routine use of the equipment to convey messages.</p>
“Major Office (s)”	Licensee’s operational office(s) that interfaces with the Licensee’s customers.

“Message”	Any sound, signal sign or image sent, received, or to be sent, by means of a telecommunication service.
“Network” or “Telecommunication Network”	An interconnection of switching nodes, transmission links and other communication equipment and facilities all of which function for the purpose of conveying messages from one point to another
“Node”	A point in a network providing access to or egress from the network
“Nigeria”	The geographical territory known as the Federal Republic of Nigeria
“Operator”	As the context permits, a provider of a telecommunication 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 Entity or other Entity.
“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 publish from time to time.
“Reseller” or “Agent”	Any person who is appointed by the Licensee to resell any description to telecommunication services provided or proposed to be provided by the Licensee and is licensed by the Commission.
“Services” or “Telecommunications	Services whose provision consist wholly or partly in the transmission and/or routing of signs, signals, texts, Services images, sounds or data or a combination of these functions on telecommunications networks, using telecommunication process.
“System(s)”	As the context so admits, Licensee’s or any other Operator’s telecommunication system or both or any number of them.
“Tariffs”	The actual usage or airtime charges payable by a customer to an Operator for its services.
Termination Point” or “Connection Point”	

“Telecommunications”	Any form of transmission, broadcast or reception of signs, signals, texts, images, sounds or data by wire, 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 telecommunication signals and the associated exchange of the control and operational information between network termination points.
“Value Added Service Provider”	An Operation that is licensed by the Commission to use the basic telephony service for the provision of enhanced services to customers.
“Wireless Telegraphy “WTA”	Wireless Telegraphy Act Cap 469 Laws of the Act” or Federation 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 1990 (“Interpretation Act”) shall apply for the purposes of interpreting the Conditions of this Licence.
3. In this Licence, all words and/or expressions shall, unless the context otherwise requires have the meanings assigned to them and in the event of ambiguity howsoever, such words or expressions shall have the meanings ascribed to them in the Act.
4. For the purposes of interpreting the Conditions of this Licence, headings and titles to the Conditions shall be of no relevance.
5. Any reference in any of the Conditions, however expressed, to the Commission notifying the Licensee about 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 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 License 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 The Licensee, its officers, directors, employees, agents, or counsel shall not, 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 willful material omission thereon.
- 1.3 Unless otherwise provided in this Licence, any notifications, service of process, petitions, claims and other communication 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 its address provided for contract purposes and to the Commission at any of its offices.

Condition 2

International Services

- 2.1 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 Gateway Services to the extent necessary to satisfy all reasonable demands for such services by such a person.

**Prohibition of Exclusive
Dealing in International Services**

- 3.1 The Licensee shall not enter into any agreement or arrangement with any person running an Authorised Foreign System on terms or conditions that unfairly preclude or restrict the provision of services by another Operator of International Connection or Access Services.
- 3.2 The Licensee shall not at any time 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 arrangement into which it has entered or proposes to enter provided that where such exclusive arrangement were entered into prior to the Effective Date of this Licence, the Licensees shall take immediate and appropriate steps within 60 (sixty) days from the Effective Date of this Licence to review the arrangement or Agreement in order to allow reasonable opportunity for any other such Operator to participate in the international arrangement upon such reasonable terms and conditions as the Licensee and the Operator shall agree to or which the Commission shall determine failing an agreement between the parties.
- 3.3 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 Conditions 3.1 and 3.2, the Commission may, after considering representations from the Licensee and the Operator, give such directives as may be necessary to ensure that such Operator is afforded the opportunity to provide such International Gateway or Access Services and participate in any arrangements related thereto.
- 3.4 In this Condition, “Authorised Foreign System” means any System that is owned and operated outside Nigeria by a Foreign Telecommunication Operator and which provides International Connection or Access Services into and/or out of Nigeria.

Condition 4

Other Arrangement for International Services

- 4.1 Subject to Condition 4.2, the Licensee shall on a continuous basis, with effect from the Effective Date of this Licence, deposit with the Commission copies of all international correspondent Agreements entered by the Licensee with Foreign Telecommunication Operators for the provision of international telecommunications services within 30 (thirty) days of the execution thereof.
- 4.2 Within 90 (ninety) days from the Effective Date of this Licence, the Licensee shall furnish to the commission copies of all such international correspondent Agreements referred to in Condition 4.1, that were entered into between the Licensee and Foreign Telecommunication Operators prior to the Effective Date of this Licence and are still subsisting as at the said Effective Date.
- 4.3 The Licensee shall in entering into such agreements with Foreign Telecommunication Operators ensure compliance with all applicable international treaties and bilateral agreements now or hereafter binding upon the Federal Republic of Nigeria. In regard to Agreements that were entered into prior to the Effective Date of this Licence and that are still subsisting and binding on the parties, the Licensee shall review the terms thereof and ensure compliance with the aforementioned international treaties and bilateral agreements.

Resellers and Agents

- 5.1 The Licensee's rights under this Licence may be exercised partially through Agents and Resellers, it being understood that the Licensee shall have the discretion to determine and implement the appropriate means of marketing and distribution of its services inclusive of the appointment and termination thereof of its Resellers and Agents.
- 5.2 The Licensee shall, subject to the following terms and conditions, be responsible for the acts and omissions of its Resellers and Agents:
- (a) The liability of the Licensee for any acts or omissions of any of its Agents and Resellers in relation to the exercise of such rights shall be limited to acts or omissions which constitute contraventions of the Conditions of this Licence;
 - (b) The Licensee shall stipulate adequate provisions in its contracts with its Agents and Resellers to ensure that their exercise of any of the rights of the Licensee does not contravene any of the Conditions of this Licence;
 - (c) Should the Licensee's Agent or Reseller 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 by the Commission for such purposes; and
 - (d) The Commission shall upon becoming aware of any contravention of Licence Conditions by the Licensee's Agents or Resellers or any complaints lodged with the Commission in relation thereto forthwith in writing notify the Licensee accordingly.

**Approval and Publication of
Tariffs, Terms and Conditions**

Approval

- 6.1 The Licensee shall not impose any charges, terms and conditions for the provision of any specified telecommunications service until the Commission has approved such terms and conditions.
- 6.2 For the avoidance of doubt, the Licensee shall provide the specified telecommunications service at the charges, terms and conditions so approved by the Commission and shall not depart therefrom without prior approval by the Commission of the proposed charges, terms and conditions.
- 6.3 The tariffs must be in a form approved by the Commission who will provide written reasons in the event of non-approval.
- 6.4 The Licensee shall lodge a notice of tariffs and any variation thereto with the Commission which sets out in relation to each kind of service that it 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 and other terms and conditions on which it offers:
 - (i) To provide each description of telecommunication service by means of any of the Licensee's Systems in accordance with an obligation imposed by or under this Licence;
 - (ii) To maintain, adjust or repair any equipment comprised in any of the Licensee's Systems in accordance with an obligation imposed by or under this Licence;
 - (iii) To connect to any of the Licensee's Systems any equipment or any System which is not and is not to be comprised in any of the Licensee's Systems in accordance with an obligation imposed by or under this Licence;
 - (iv) To grant permission to connect such Systems or equipment to or to provide services by means of any of the Licensee's Systems in accordance with any obligation imposed by or under this Licence;
or

- (v) To bring into service any equipment or System which, in either case, is or is to be connected to but not comprised or to be comprised in any of the Licensee's Systems, where only the Licensee is permitted to provide such service.
- 6.5 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.
- 6.6 The notice must be precise and detailed enough to be used to work out the nature and amount of charges payable for the supply of the particular service.
- 6.7 The notice of tariffs lodged with the Commission must state the period (i.e. the term) for which it is to be in force. The term must not begin until approval for the tariffs is given by the Commission or at a time when a previous tariff of the Licensee on the same service is still in force.

Publication

- 6.8 Subject to Conditions 6.1 and 6.2, the Licensee shall publish for the general public, in the manner and at the times specified in Condition 6.9 the charges, terms and conditions for its customers, and any modifications or amendments thereto, with regard to provision of International Gateway Services and/or Access.
- 6.9 Publication of the notice shall be effected by:
 - (a) Sending a copy thereof to the Commission to arrive not more than 28 days after the date on which the Licensee first provides such services and thereafter not less than 1 day before any proposal to amend any charge, term or condition or the method determining the same is to become effective;
 - (b) Placing as soon as practicable thereafter 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 working hours;
 - (c) Sending a copy thereof or such part(s) thereof as are appropriate to any person who may request such a copy.
- 6.10 Where the Licensee publishes a notice of amendment to a charge in the form of an extract from its price list, the new price shall be clearly identifiable and the operative date specified. The tariff changes shall be implemented only after an appropriate public notice period set by the Commission has been observed.
- 6.11 The Commission may direct the Licensee to implement specific terms and conditions in the provision of services which include charging for peak and off-peak periods or such other terms and conditions as may be necessary in line with international best practices.

- 6.12 The Licensee shall ensure that discount schemes offered by the Licensee to its customers are fully transparent and shall be published in the same manner as set out in Condition 6.9 above.

**Prohibition of Under Preference
And Undue Discrimination**

- 7.1 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.
- 7.2 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 telecommunication associates in relation to any of the matters mentioned in Condition 7.1 so as to place at a significant competitive disadvantage persons competing with that business.
- 7.3 Notwithstanding the provisions of Condition 7.2, the Licensee may provide the service to its customers 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 duly approved by the Commission as required by this Licence.
- 7.4 The sharing of infrastructure and facilities by the Licensee with other Operators who are licensed to provide similar services as hereunder shall be subject to the prior approval of the Commission.
- 7.5 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.

Prohibition of Cross-subsidies

- 8.1 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 or 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
- (a) The cost of equipment necessary for the provision of the service there;
 - (b) The cost of installing, maintaining and operating such equipment for the purpose of providing service there; and
 - (c) The cost of the trained manpower necessary to provide the service there;
- in which case the Licensee shall obtain the Commission’s prior approval therefore.
- 8.2 Where it appears to the Commission that the Licensee is unfairly cross-subsidising its business under this Licence from any other source whatsoever, it shall take such steps as the Commission may direct for the purpose of remedying the situation.
- 8.3 For the purposes of determining cross-subsidy, the Licensee shall record, except where the Commission agrees otherwise, at full cost in its accounting records, any material transfer between any of the Licensee’s business or any of such businesses and any other source whatsoever.
- 8.4 In considering whether any cross-subsidy of any part or parts of the Licensee’s business is unfair, the Commission shall have regard to the extent to which the Licensee cross-subsidised that business for the purpose of satisfying any obligation imposed on it by this or any other Licence granted to the Licensee by the Commission.
- 8.5 For the purposes of this Condition:
- (a) A transfer from one business to another business or a 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.

Prohibition of Anti-Competitive Conduct

- 9.1 The Licensees shall not engage in any conduct which in the opinion of the Commission has the purpose or effect of preventing or substantially limiting, restricting or distorting competition in the operation of the service or in any market for the provision or acquisition of telecommunication installation, service or equipment.
- 9.2 The conduct which the Commission may consider as the relevant purpose or effect referred to in Condition 9.1 includes but is not limited to:
- (a) Collusive agreement to fix the price of any equipment or service;
 - (b) Boycotting the supply of goods or services to competitors;
 - (c) Entering into exclusive arrangement which prevent competitors from having access to supplies or outlets;
 - (d) Agreements between Operators to share available market between them along geographic or customer lines;
 - (e) Agreement limiting production, markets, distribution of equipment or technical development to the prejudice of customers;
 - (f) Applying dissimilar conditions to equivalent transactions with different parties, thereby placing one or some of the parties at a competitive disadvantage.
- 9.3 In particular but without limiting the generality of the conduct referred to in Condition 9.2, the Licensee shall not;
- (a) 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 restricting competition in any market for the provision or acquisition of any telecommunication installation, service or equipment;
 - (b) Give an undue preference to or receive an unfair advantage from a business carried on by the Licensee or by its associate 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 restricted within the meaning of this Licence or any other legislation thereon.

Prohibition of Linked Sales

10.1 The Licensee shall not 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 it:

- (ii) 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
- (iii) Any telecommunication equipment (including in particular but not limited to terminal 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.

10.2 Except where the Commission has agreed otherwise, the Licensee shall not do either or the things described in Conditions 10.1 (a) and 10.1 (b) together with the other thing in a manner or for charges or on terms or conditions more favourable than would be available for doing one thing without that other thing.

10.3 Notwithstanding Condition 10.1 and 10.2 the Licensee may, where it supplies as part of the same transaction or interconnected series of transactions two or more items of telecommunication 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.

Prohibition of Certain Exclusive Dealing Arrangements

- 11.1 The Licensee shall not, except with the prior written consent of the Commission, make the acquisition from any person in Nigeria by the Licensee or any of its wholly-owned subsidiaries or the installation or servicing by any person in Nigeria for the Licensee or any such subsidiary, of any telecommunication equipment of any description conditional upon agreement;
- (a) To supply to the Licensee or to supply or not to supply to any person equipment of a different description;
 - (b) To provide to the Licensee or to provide or not to provide to any other person any telecommunication service of a different description; or
 - (c) To transfer to the Licensee or to any other person any interest in industrial or intellectual property with a view to restricting unreasonably the freedom of the supplier of the equipment or the provider of the service in question to exploit his industrial or intellectual property in order to confer on the Licensee or some other person an unfair competitive advantage.
- 11.2 If the Commission is satisfied that persons in Nigeria who are not genuinely willing to give to the Licensee or to any of its wholly-owned subsidiaries the sole right to supply to customers telecommunication equipment supplied by those persons, are being so required by the Licensee, then the Commission may direct the Licensee to comply with the provision of Condition 11.3.
- 11.3 The condition referred to in Condition 11.2 is that the Licensee shall not, except with the prior written consent of the Commission, make the acquisition of telecommunication equipment, or of telecommunication equipment specified by the commission or of a description so specified by the Licensee or any of its wholly-owned subsidiaries, from any person in Nigeria or any such person specified by the commission, conditional upon the agreement of the supplier not to supply to any other person, equipment of the same description as that to be supplied to the Licensee or to its wholly-owned subsidiary.
- 11.4 Notwithstanding the provisions of Condition 11.1 or any direction made pursuant to Condition 11.2, the Licensee shall be free:
- (a) To agree with any person that that person will supply to the Licensee or one of its wholly owned subsidiary alone, telecommunication equipment of any description which is distinguishable (by any means other than ones which account for a disproportionate share of the cost of that equipment) by its external appearance or by any marking or similar attribute, from other equipment of the same description, and which is or is intended to be thereby associated with the Licensee or to a wholly-owned subsidiary;
 - (b) To require that other telecommunication equipment should be supplied or another telecommunication service should be provided with or in connection with any equipment or service where the supply of that other

equipment or the provision of that other service is reasonably related to that supply or provision;

- (c) To require that transfer to the Licensee or any of its wholly-owned subsidiaries of any interest in industrial or intellectual property which the commission agrees is necessary or desirable to facilitate the running of any of the Licensee's system;
- (d) To dispose of any interest in industrial or intellectual property owned by the Licensee or any of its wholly-owned subsidiaries free from all encumbrances and restrictions of whatsoever nature arising out of or under this Licence;
- (e) To require the transfer to the Licensee or any of its wholly-owned subsidiaries, by any person, of an interest in industrial or intellectual property arising out of any work done in pursuance of any agreement made between the Licensee or any of its wholly-owned subsidiaries and that person for any research or development to be carried out by it, unless the Commission otherwise directs;
- (f) To require the transfer to the Licensee or any of its wholly-owned subsidiaries or any other person of any interest in industrial or intellectual property to the extent that is reasonably necessary for the purpose of enabling the Licensee to secure alternative sources of supply of telecommunication equipment; or
- (g) To require any person who supplies telecommunication equipment or who provides telecommunication services to enter into an agreement of the kind referred to in Conditions 11.1, 11.2 or 11.3 where the Licensee or any of its wholly-owned subsidiaries makes available research, design or development work or where the Licensee or such subsidiary agrees to finance such work on terms that an agreement of that kind will be entered into

Code of Practice for Consumer Affairs

- 12.1 The Licensee shall, in consultation with the Commission, prepare and publish in accordance with Condition 6.9 not later than 3 (three) months from the Effective Date of this Licence, a Code of Practice including:
- (a) Standard contract terms and conditions for its customers;
 - (b) Guidance to its customers ,and employees in respect of disputes or complaints relating to the provision of service by the Licensee and the time frame for handling complaints through this procedure;
 - (c) Further recourse available to a customer who is dissatisfied with the Licensee's complaints handling procedures together with specific details of compensation/refund scheme(s) offered to customers by Licensee;
 - (d) Advice to its customers on charging, billing and enquiries in relation thereto;
 - (e) Description of services offered together with advice on and procedures for the proper use of the services by its customers;
 - (f) Advice on and conditions for connection of equipment by third parties to Licensee's systems;
 - (g) Procedures adopted by the Licensee to check the accuracy of its customers' service accounts;
 - (h) Procedures adopted by the Licensee to assist its customers in emergency situations; and
 - (i) Availability to customers of quality of service information relating to the Licensee's network services;
- 12.2 The Licensee shall review the Code of Practice annually and shall in consultation with the Commission publish the revised version of the Code of Practice, in accordance with Condition 6.9, not later than the third month of every calendar year.
- 12.3 The Licensee must keep and maintain all information on the complaints made to the Licensee by its customers. The Licensee 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 3 (three) months and shall be published together with similar information pertaining to other Operators.

- 12.4 The Licensee shall establish and maintain efficient information and procedures to assist its customers in resolving questions relating to the installation of and all other relevant issues relating to the provided services. In the provision of such services, the Licensee shall not discriminate between the customers.
- 12.5 The Licensee shall have available copies of any forms, which may be issued by the Commission for the filing of formal or informal complaints, and shall make such forms available to its customers promptly upon request. The Licensee will train its personnel responsible for interacting 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.

Arbitration of Disputes with Customers

13.1 The Licensee shall include in the standard terms and conditions on which it provides its services provisions giving persons to whom the services are provided 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 arbitral procedures and the method of appointment of the arbitrators shall be subject to consultation with the Commission.

13.2 The Commission shall settle:

- (a) Any dispute between the Licensee and its customer(s) 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 Licensee, other Operators and customer(s) within the scope of the powers given to the Commission under the Act.

Separate Accounts for all Activities

- 14.1 This Condition applies for the purpose of ensuring that the Licensee establishes accounting and reporting arrangements sufficient to enable the Licensee's finances in relation to separate Licensed Undertakings to be assessed and reported separately from each other to ensure clarity, accuracy and easy retrieval of information with respect to the separate Licensed Undertakings.
- 14.2 The Licensee shall
- (a) Maintain accounting records in such a form that each of those businesses it carries out 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 during which this Licence is in force, or of such lesser periods as the Commission may specify, accounting statements setting out and in the case of annual statements fairly representing the costs (including capital costs), revenue and financial position of each of the Businesses carried on by the Licensee in that period and including a reasonable assessment of the assets employed in and liabilities attributable to each of the businesses and showing separately by way of explanatory notes to the Financial statements, 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 was made; or
 - (ii) Determined by apportionment or attribution from an activity common to the Business and any other business of the Licensee and, if not otherwise disclosed, the basis of the apportionment or attribution.
 - (c) The Licensee shall:
 - (i) Procure in respect of each of those accounting statements prepared in respect of a complete financial year of the Licensee, a report by its Auditor stating whether in the Auditor's opinion that statement is adequate for the purposes of this Condition; and

- (ii) Deliver to the Commission a copy of each of the accounting statements and of the reports relating thereto required under Conditions 14.2(a) and 14.2 (b) 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.
- 14.3 Accounting statements prepared under Condition 14.2 (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.
- 14.4 The Licensee shall establish and maintain adequate records to permit the effective supervision and enforcement of the terms of this Licence. The Licensee shall submit by March 1st of each year, its Balance Sheet including its Income Statement as at the end of each financial year and the related statements of operations, equity and cash flows of the Licensee, in each case, accompanied by a report thereon of the Auditor 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.
- 14.5 In addition to the provision of Condition 14.4, 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 shall publish such information (with the exception of confidential information, privileged information and trade secrets) and 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.
- 14.6 In this Condition, references to the costs of any business do not include profits of that business.

Details of Accounts

- 15.1 The Licensee shall publish accounts for the Licensee's Group and subsidiaries or other business units for each complete financial year.
- 15.2 The purpose of this Condition is to ensure that the Licensee does not unfairly subsidise or unfairly cross-subsidise or show undue preference or exercise undue discrimination.
- 15.3 (a) Subject to Condition 15.19:
- (i) the composition of each business in terms of any or all of the revenues, costs or assets it comprises may be amended; and
 - (ii) each Business may be divided to create one or more additional Businesses or aggregated to create one or more fewer Businesses;
- as the Commission and the Licensee shall agree from time to time in writing.
- (b) Each Business shall be disaggregated in terms of the activities of the Business on the basis agreed between the Licensee and the Commission. Subject to Condition 15.19, that disaggregation may be amended by agreement in writing between the Licensee and the Commission.
- 15.4 The Licensee shall establish sufficient accounting and reporting arrangements to comply with its obligations under this Condition.
- 15.5 (a) The Licensee shall maintain accounting records in a form:
- (i) which enables each Business and, insofar as it has been disaggregated in terms of activities of the Business, each of the activities of that Business, to be separately identified or the costs, revenues and assets of each Business and, insofar as it has been disaggregated in terms of activities, to be separately attributable, on such basis as provided by Accounting Policies from time to time;
 - (ii) which shows and explains the transactions of each Business and, insofar as it has been disaggregated in terms of activities of the Business, the transactions of each of the activities of that Business.
- (b) The accounting records referred to in Condition 15.5(a) shall be kept in a form:
- (i) which enables Licensee to prepare the Financial Statements (both as defined in Condition 15.6) and the Interim Financial Statements (as defined in Condition 15.10) in respect of each business on such basis as provided by Accounting Policies from time to time; and

- (ii) sufficient to provide an adequate explanation of each Financial Statement.
 - (c) Each Interim Financial Statement shall be preserved by the Licensee for a period of 5 (five) years from the date on which they were made.
 - (d) Where there is a significant change in Accounting Policies in the course of a financial year during the term of this Licence, the Licensee shall prepare a Restated Financial Statement for such year in line with the new Accounting Policies.
- 15.6 (a) The Licensee shall prepare in accordance with Condition 15.7, in respect of each of its financial year, a financial statement on such basis as provided by Accounting Policies from time to time.
- (b) Each Financial Statement prepared for the purposes of Condition 15.6(a) shall comprise:
- (i) Balance Sheet;
 - (ii) A Profit and Loss Account;
 - (iii) Cash-flow Statement;
 - (iv) Value Added Statement.
- (c) Following the recalculation and re-determination of the charge (or the means of calculating that charge) for or in respect of each service payable in a financial year after the end of that financial year, the Licensee shall prepare a restatement of each Financial Statement for that financial year to take account of that recalculation and re-determination (each a "Restated Financial Statement" and together the "Restated Financial Statements").
- 15.7 (a) The Licensee shall ensure that each Financial Statement and Restated Financial Statements shall:
- (i) be prepared as to the form and content of:
 - (aa) Balance Sheet;
 - (bb) Profit and Loss Account;
 - (cc) Cash-Flow Statement; and
 - (dd) Value Added Statement
 together with such additional information to be provided by way of notes as may be considered material for these purposes.
 - (ii) be prepared in accordance with Accounting Policies prevailing from time to time.
- (b) Subject to Condition 15.19, the form and content referred to in sub-condition (a) (i) may be amended as the Commission and the Licensee shall agree from time to time in writing.
- 15.8 The Licensee shall procure in respect of each Financial Statement and Restated Financial Statement for each Business an Audit Report by the Auditor that shall

conform to Auditing Standards in which he shall state whether in his opinion the Financial Statement or the Restated Financial Statement, as the case may be, complies with the requirements of Condition 15.7.

- 15.9 (a) The Licensee shall, except in so far as the Commission may consent, publish the Financial Statements for each complete year within 4 (four) months of the end of each Financial Year.
- (b) For the purpose of sub-condition (a), publication shall be effected by making the relevant Financial Statements and Restated Financial Statements together with the relevant Auditor's Reports publicly available and by sending copies to the Commission.
- (c) The Licensee shall send a copy of the Financial Statements and Restated Financial Statements together with the relevant Auditor's Report to any person who may (after they have been published pursuant to sub-condition (a)) request them, on the basis of that person paying a reasonable charge for them. The Licensee shall send the copies within 7 (seven) working days after receiving payment of that charge.
- (d) The Licensee shall make available and continue to make available in a publicly accessible part of every Major Office of the Licensee, a notice of the address and telephone number of the person to whom any request for a copy of any or all of the Financial Statements and Restated Financial Statements together with the relevant Auditor's reports or any part of them may be made.
- 15.10 In addition to the requirements of Condition 15.6, the Licensee shall, in respect of each of its Financial Years, prepare a Financial Statement for each 6 (six) months period ending 30 June in respect of each Business (each an "Interim Financial Statement" and together the "Interim Financial Statements"). Each Interim Financial Statement shall comprise Balance Sheet, Profit and Loss Account, Cash-Flow Statement, Value Added Statement and additional information to be provided by way of notes for the relevant period.
- 15.11 The Licensee shall ensure that the Interim Financial Statement shall be reconciled with the interim results of the Licensee for the same period and that reconciliation shall be demonstrated and explained.
- 15.12 The Licensee shall procure in respect of each Interim Financial Statement for each Business an interim report by the Auditor in which he shall:
- (a) have regard to guidelines issued by the relevant Professional Body on Auditing practice; and.
- (b) state whether in his opinion on the basis of his review he is aware of any material modifications which should be made to that Interim Statement presented.

- 15.13 (a) The Licensee shall publish the Interim Financial Statements within 4 (four) months after the end of the period to which they relate together with the relevant Auditor's Report required under Condition 15.12.
- (b) For the purposes of sub-condition (a), the provisions of Condition 15.9(b) to (d) inclusive shall apply to Interim Financial Statements as they apply to Financial Statements and Restated Financial Statements with the substitution for references to Financial Statements and Restated Financial Statements of references to Interim Financial Statements.
- 15.14 The Licensee shall not make any change to the way in which it attributes costs, revenues, assets and liabilities if that change would cause a change in the total costs attributed to one or more services of 5% (five percent) or more without the prior written consent of the Commission such consent not to be unreasonably withheld.
- 15.15 The Licensee shall use its best endeavours to obtain from the Auditor any further explanation and clarification of the Reports required under Conditions 15.8 and 15.12 and any other information in respect of the matters which are the subject of the Reports as the Commission shall require.
- 15.16 (a) The Licensee shall publish details of the definitions of the Businesses as soon as practicable and in any event not later than 90 (ninety) days after the coming into force of this Condition and shall publish details of any amendment to the composition or any division or aggregation of or to a Business as soon as practicable and in any event within 28 (twenty eight) days after the making of the amendment.
- (b) The Licensee shall publish details as the Commission may direct within 28 (twenty eight) days after that direction, of any further description of the costs, revenues, assets and liabilities attribution systems used by the Licensee to prepare the Financial Statements, the Restated Financial Statements and the Interim Financial Statements the level of detail of which shall be agreed in writing between the Commission and the Licensee from time to time provided that the Licensee shall be entitled to exclude any details, further descriptions or amendments, as the case may be, which it is obliged to publish in accordance with this Condition but which the Commission shall have consented in writing that they be excluded following representations to it on the matter by the Licensee on the basis that if the matter were made available in accordance with this Condition it would or might, in the opinion of the Commission, seriously and prejudicially affect the interests of the Licensee.
- (c) The Licensee shall publish details of any amendment published in accordance with Condition 15.16 (b) as soon as practicable and in any event within 28 (twenty eight) days after the making of the amendment.
- (d) For the purposes of sub-conditions (a) to (c) publication shall be effected by making the required details, further descriptions or amendments, as the case may be, publicly available and by sending copies to the Commission.

- (e) The Licensee shall send a copy of each of the required details, further descriptions or amendments, as the case may be, or any of them to any person who may after the expiry of the period specified in each of sub-conditions (a) to (c) request them, on the basis of that person paying a reasonable charge for them. The Licensee shall send the copies within 7 (seven) working days after receiving payment of that charge.
- (f) The Licensee shall make and continue to make available in a publicly accessible part of its Major Offices, a notice of the address and telephone number of the person(s) to whom any request for a copy of any or all of the required details or amendments may be made.

15.17 The Licensee shall, with the consent of the Commission, make such amendments as are from time to time required to:

- (a) the definition of each Business in terms of the revenues, costs and assets comprised in it;
- (b) the number of Businesses for the purposes of this Condition;
- (c) the manner in which each Business may be disaggregated;
- (d) the form and content of:
 - (i) the Balance Sheet;
 - (ii) the Profit and Loss Account;
 - (iii) the Cash-Flow Statement;
 - (iv) the Value Added Statement; and
 - (v) the additional information to be provided by way of Notes; comprised in each Financial Statement to ensure that they are consistent with and give effect fully to:
 - (aa) modifications of any of the Conditions of this Licence or Orders of the Commission;
 - (bb) formal undertakings given by the Licensee to the Commission following investigations by it into possible contraventions by the Licensee of any of the Conditions to this Licence; and
 - (cc) directions, consents and determinations given or made by the Commission from time to time under any of the Conditions in this Licence;

made or given in or after the date on which this Condition comes into force together with, in each case, any published explanations and reasons given by the Commission in connection with any of the matters specified in sub-conditions (aa) to (cc) provided that the requirements of this Condition shall be suspended pending the final disposal of any judicial proceedings seeking to have any such

final orders, directions, consents, or determinations, quashed, set aside, modified or varied.

- 15.18 (a) Before giving a direction or consent under this Condition, the Commission shall consult with the Licensee and, except in the case of a consent or refusal to consent for the purposes of Condition 15.16, if it concludes that a direction or consent is appropriate, or that a consent is not appropriate, it shall notify the Licensee and (except in an excluded case) Interested Parties of the proposed direction or consent or refusal of consent as the case may be and its reasons for proposing to give it or refuse consent and give each of them a reasonable opportunity to make representations. On giving a direction or consent or refusal to give consent, it shall notify the Licensee and (except in an excluded case) Interested Parties of the direction or consent or refusal as the case may be and its reasons for giving it or refusing consent.
- (b) Each notification of reasons shall, as appropriate, set out the Commission's reasons:
- (i) for proposing to give the direction or give or refuse consent, as the case maybe; or
 - (ii) for giving the direction or giving or refusing consent, as the case may be;

those reasons being sufficient to give the Licensee and Interested Parties a reasonable understanding of the proposed decision, as the case may be.

- 15.19 (a) Where the Commission has reasonable grounds to believe that:
- (i) the Licensee is in breach of this Condition; or
 - (ii) any or all of the Financial Statements, the Restated Financial Statements and the Interim Financial Statements are deficient;

the Licensee shall extend its prompt cooperation to the Commission, its representatives and members of the Commission's staff and in particular on the Commission's request shall:

- (A) furnish the Commission in accordance with its requirements with any information, documents, accounts, estimates, returns, reports or other information (including without limitation, any facility enabling the Commission to read data not held in readable form);
- (B) allow at all reasonable times, the Commission, its representatives and any member of its staff, on production of special authority from the Commission, access to any relevant premises of the Licensee to investigate, assess, examine, review or verify any of its accounting records or accounting and reporting arrangements, systems or processes; and

- (C) for the purpose of sub-condition (B), allow the Commission, its representatives and any member of its staff to be accompanied by any person whom the Commission may specify and whose assistance the Commission might reasonably require. Provided that the Commission has given the Licensee notice (which save in exceptional circumstances shall be of at least 5 (five) working days) of the identity of that person.
- (b) If, as a result of any investigation, assessment, examination or review referred to in sub-condition (a), the Commission is satisfied that:
- (i) the Licensee has done or is doing any of the things referred to in sub-conditions (a) (i) and (ii); or
 - (ii) it has insufficient information to conclude whether or not the Licensee has done or is doing any of the things referred to in sub-conditions (a) (i) and (ii);

it may direct with effect from the date specified in the direction, without prejudice to its other powers under this Licence, that:

- (A) the Licensee shall restructure or modify any or all of:
 - (aa) the composition of any or all of the Businesses in terms of any or all of the revenues, costs and assets they respectively comprise;
 - (bb) the manner in which any or all of the Businesses are disaggregated in terms of activities of the relevant Business; and
 - (cc) the form and content of any or all of the Balance Sheet, Profit and Loss Account, the Cash-flow Statement, the Value Added Statement and the additional information to be provided by way of Notes comprised in the Financial Statements, the Restated Financial Statements or the Interim Financial Statements of any or all of the Businesses; or
- (B) the Licensee shall divide any or all of the Businesses to create additional Businesses, or aggregate them to create fewer Businesses; or
- (C) effect any necessary amendments in compliance with the provisions of this Condition.

Provided that any direction given pursuant to this sub-condition shall relate to the results of the relevant investigation, assessment, examination or

review referred to in sub- condition (a) in respect of which the direction is given.

15.20 In this Condition:

"Accounting Policies" means the manner in which the requirements of the Companies and Allied Matters Act 1990, the Accounting Standards and the accounting policies applied by the Licensee in the preparation of its annual statutory financial statements, where relevant and appropriate, are applied in each of the Financial Statements, the Restated Financial Statements and the Interim Financial Statements;

"Accounting Standards" has the meaning given to it by the relevant Professional Accounting Body;

"Attributable" includes allocate-able and apportion-able; "attribute" includes allocate and apportion and "attribution" includes allocation and apportionment;

"Attribution Methods" means the practices used to attribute revenue (including appropriate transfer charges), costs (including appropriate transfer charges), assets and liabilities to a Business or, insofar as that Business has been disaggregated in terms of activities of that Business, to each activity of that Business as agreed in writing between the Commission and the Licensee.

"Auditing Standards" means Nigerian auditing standards and guidelines issued from time to time by the relevant Professional body.

"Publication" in respect of any document, detail or data whatsoever, except where it has been otherwise specified, shall be effected by (a) sending copies thereof to the Commission; and (b) making it available to members of the public who may request for copies thereof at the Licensee's major offices; and (c) publishing it at the Licensee's website.

"Transfer Charging System" means the system, which enables a Business to use a service or goods from another Business and to account for it as though it had purchased that service or goods.

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

- 16.1 Except where the Commission agrees otherwise, the Licensee shall take all reasonable steps to ensure that its employees observe the provisions of the Code of Practice agreed with and notified to the Commission as amended from time to time 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 a customer of a Reseller without the prior consent of that customer; and
 - (b) Regulates the information about any such customer or the customer's business, which may be disclosed without the customer's consent.
- 16.2 The Licensee shall within 3 (three) months of the Effective Date of this Licence, submit a draft of the Code of Practice to the Commission for its approval and if the Licensee and the Commission fail to agree on the provisions of the Code, the Commission's determination in that regard shall be conclusive and final.
- 16.3 The Licensee shall consult the Commission regularly, but not less than every 2 (two) years from the Effective Date of this Licence about the operation of the Code of Practice and shall only make such changes to the Code of Practice as the Commission may direct following such consultation.
- 16.4 This Condition is without prejudice to the general duties of law of the Licensee towards its customers.

Transfer of Licence

- 17.1 The Licensee shall not transfer or assign in any manner the rights, interests or obligations under this Licence to another party without the prior express and written consent of the Commission.
- 17.2 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 17.1, be operated by any third party organisation or person whomsoever, including but not limited to the Licensee's subsidiary and/or associated companies.
- 17.3 A person to whom a Licence is to be transferred shall apply to the Commission for a Licence to carry on the relevant telecommunication undertaking on the prescribed application form and shall satisfy the conditions set down by the Commission before any transfer of Licence may be considered.
- 17.4 Where the Licensee seeks to transfer its Licence to another person in accordance with the provisions of this Condition and the Commission is disposed to granting such application, the Licensee shall ensure that it complies with all terms and conditions of the Licence as at the date of transfer and that all outstanding fees as at the date thereof are paid to the Commission prior to the said transfer date.
- 17.5 The Commission may consider any application for transfer of Licence and may either grant it or refuse to grant same without the obligation to state reasons therefor.

Approval of Joint Ventures

- 18.1 The Licensee shall give particulars of any of the agreements or arrangements to which this Condition applies for approval by the Commission before the taking into effect of such agreements or arrangements.
- 18.2 These agreements and arrangements are:
- (a) An agreement with any person for the establishment or control of any body corporate for the purpose of
 - (i) Providing telecommunication services in Nigeria which requires a Licence; or
 - (ii) The production of telecommunication 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 telecommunication equipment of any description in Nigeria;
 - (b) An agreement for the establishment of a partnership for any of these purposes and in those circumstances;
 - (c) Any other agreement or arrangement in the nature of a joint venture for the purpose of providing telecommunication services which requires a Licence.

Associates

19.1 Without prejudice to the Licensee's obligations under these Conditions in respect, in particular, of anything done on its behalf, where:

- (a) any Associate of the Licensee 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; and
- (b) 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 Licensee shall take such reasonable steps to ensure that the Associate ceases to do that thing or otherwise to remedy the matter or situation in such way or manner as the Commission may direct.

**Pre -notification of Changes
In Shareholding**

- 20.1 Except as specified in Condition 20.2 the Licensee shall notify the Commission of any change in the control of any of the shares in excess of 5% of the paid up share capital of the Licensee to which this Condition applies and any such notification shall be given immediately after the change in question is proposed.
- 20.2 Where the cumulative equity interest of a shareholder (either held directly or through a nominee, associate or trustee) exceeds 10% of the authorised or paid up share capital of the Licensee, the Licensee shall notify the Commission of any further change in that shareholder's equity interest in the Licensee.
- 20.3 The Licensee shall notify the Commission not later than 30 days before the taking effect of any of the arrangements of the description mentioned in Condition 20.4
- 20.4 The descriptions of arrangements referred to in Condition 20.3 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 up to or more than 10% (ten percent) of the issued voting share capital of the Licensee in a manufacturer in or supplier of telecommunication equipment; and
 - (b) Any arrangement for dealings in any shares in the Licensee on an unlisted market in Nigeria.
- 20.5 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.
- 20.6 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:
- (a) In the case of an individual owner, the name of that individual;
 - (b) In the case of a partnership as owner, the name of each partner and the interest of each partner;
 - (c) 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 5% (five percent) or more of the votes of the company.

20.7 Notwithstanding any contrary provision in this Licence contained, 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 take such steps as it is empowered by this Licence and the Act and Regulations and as it deems necessary, to prevent the situation.

Interconnection Arrangements with other Operators including Access provisioning, Co-location and Facility Sharing

- 21.1 If the Licensee receives a request for interconnection from another Operator, then the Licensee shall have an obligation to interconnect its telecommunication 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.
- 21.2 The Licensee shall be excused from any obligation to negotiate or enter into an interconnection agreement with a requesting Operator if, as determined by the Commission in its reasonable discretion:
- (a) Such an agreement is prohibited by law; or
 - (b) The Licence issued to the other Operator does not authorise the services for which interconnection is requested; or
 - (c) The requested interconnection is rendered impossible as a result of technical limitations; or
 - (d) Such interconnection would endanger life or safety or result in injury or harm to Licensee's property or hinder the quality of the services provided by Licensee.
- 21.3 All interconnection agreements between the Licensee and any other Operator shall be in writing and shall comply with:
- (a) The Act, the Regulations and/or the Interconnection Guidelines laid down by the Commission; and
 - (b) The principles of neutrality, transparency, non-discrimination, fair competition, universal coverage, access to information, equality of access and equal terms and conditions.
- 21.4 The Licensee shall register with the Commission all Interconnection Agreements entered into pursuant to Condition 21.1, not later than 30 (thirty) days from the date of execution of the Agreement. The Licensee shall furnish to the Commission any additional information that the Commission may require 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 require the Licensee and the interconnecting party to revise the Agreement if interconnection as contemplated therein is inconsistent with the Act, the Regulations and/or the Interconnection Guidelines laid down by the Commission or the integrity of the public network.

- 21.5 The Licensee may at any time request the Commission to make 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.
- 21.6 The Licensee shall prepare and present a Reference Interconnection Offer to the Commission for approval prior to publication. Upon receipt of the Commission's prior approval, the Licensee shall publish the Reference Interconnection Offer by:
- (a) Sending a copy thereof to the Commission; and
 - (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 working hours; and
 - (c) Sending a copy thereof at reasonable cost to any person who may request such a copy.
- 21.7 The Licensee's Reference Interconnection Offer shall include a description of interconnection services to be supplied in segmented components according to market needs and the associated terms and conditions, including charges. Where justified, the Commission reserves the right to impose changes in the Reference Interconnection Offer.
- 21.8 The Licensee shall comply with the requirements of any directions given to the Licensee by the Commission under the provisions of this Condition and under the provisions of the Regulations and/or Interconnection Guidelines laid down by the Commission.
- 21.9 Where:
- (a) An Operator establishes a prima facie case that the Licensee is not performing an obligation which it 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.

- 21.10 Before making a requirement under Condition 21.9, 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 reasonable time within which to make representations.
- 21.11 Where the Licensee has the right under the national 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. The agreements for collocation or facility sharing are a matter for commercial and technical negotiations between the parties concerned. The Commission may intervene to resolve disputes concerning collocation or facility sharing at the request of either party.
- 21.12 Where there is a dispute concerning interconnection between the Licensee and other Operators, the Commission shall, at the request of either party, take steps to resolve the dispute within 6 (six) months of the date of the request and shall invite both parties for consultation before taking a decision on the matter. Such decision shall be final and conclusive and 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.
- 21.13 The provisions of this Conditions and Conditions 22, 23 and 25 shall apply in all material particulars to all forms of applications made by any Operator or Value Added Service Provider to the Licensee for the provision of access to the parties' respective Networks and/or Systems in order to facilitate the provision of the licensed undertakings of the Operator or Value Added Service Provider.

Charges, Cost Accounting System and Accounting Separation relating to Interconnection

Requirements relating to Interconnection Charges

- 22.1 Charges made by the Licensee for interconnection shall be set on the basis of objective criteria and follow the principles of transparency and cost orientation.
- 22.2 The Licensee shall secure and shall be able to demonstrate to the satisfaction of the Commission, at its request, that the interconnection charges are derived from the actual costs of providing the service.
- 22.3 The Licensee shall ensure that the amount applied and incorporated in the Transfer Charge (in the context of Transfer Charging System as defined in Condition 15.20) and other terms and conditions for any service which the Licensee provides to itself or any member of Licensee's Group are the same as those applied to another Operator for such service.
- 22.4 The Licensee may set different tariffs, terms and conditions for interconnection for different categories of Operators who are authorised to run telecommunication systems or to provide telecommunication services where such differences can be objectively justified on the basis of the type of interconnection provided.
- 22.5 The Licensee shall in any case ensure that the interconnection charges are sufficiently unbundled in terms of network and service elements offered so that the Operator requesting interconnection is not required to pay for anything not strictly related to the services requested.
- 22.6 The Licensee shall give notice in writing of any proposal to change any charge(s) for a standard interconnection service or to introduce a charge for a new or additional interconnection service, which identifies:
- (a) (i) The standard interconnection service provided, the current charge for, and the location in the Licensee's current standard Interconnection Agreement of the terms and conditions associated with the provision of the service and the proposed charge; or
 - (ii) The proposed charge and associated terms and conditions for the proposed new or additional interconnection service;
 - (b) The date on which the proposed new charge will take effect ("the effective date of the charge").

The notice above shall be referred to in this Condition as a "**Network Charge Change Notice**".

22.7 The Licensee shall send the Network Charge Change Notice to the Commission and to all Operators with which it has entered into an Interconnection Agreement:

- (a) In the case of a new or additional service, not less than 28 (twenty eight) days before the proposed change is to take effect; and
- (b) In the case of all other standard services, not less than 90 (ninety) days before the proposed change is to take effect;

and the Licensee shall not apply any proposed new charge before the effective date of the charge.

22.8 If in the opinion of the Commission, the information provided in the Network Charge Change Notice does not contain all the information specified in Condition 22.6 or is inaccurate, then the Licensee shall provide to the Commission, in the manner and at the time as the Commission may request, but not later than 14 (fourteen) days after receipt of the Notice, such information or such further information as the Commission may reasonably require to address the deficiency(ies) in the Notice. If the Commission makes such a request, it may direct the Licensee to:

- (a) Change the effective date of the charge specified in accordance with Condition 22.6(b) from which the proposed change will take effect, to a date specified in the Direction; or
- (b) Withdraw the Network Charge Change Notice and that, except to the extent that enforcement action is taken against the proposal, the proposal may not take effect except in accordance with a further Notice under Condition 22.6 sent after a date specified in the direction.

22.9 If, before it comes into effect, the Licensee withdraws a Network Charge Change Notice, or changes the effective date of the charge, the Licensee shall send to the Commission, to all Operators with which it has entered into an Interconnection Agreement or amendment thereto, and to every person who on or before that date requested for a copy of the Network Charge Change Notice which has been withdrawn or changed, written notice of the withdrawal or change forthwith.

22.10 Except to the extent that the Commission may otherwise consent, within 10 (ten) working days from the date on which a proposal to change a charge or to offer a new or additional interconnection service comes into effect, the Licensee shall amend the Interconnection Service List to take account of the change and shall publish the amendment by sending it to the Commission and to all Operators with which it has entered into Interconnection Agreements.

22.11 Except to the extent that the Commission may consent to an alternative location or to an alternative method of publication, the Licensee shall make available in a publicly accessible part of every Major Office, in such manner and in such place that it is readily available for inspection free of charge by the public, a notice of the address and telephone number of the person to whom any request may be made for any of the following:

- (a) A copy of the current Standard Interconnection Services List, any amendments thereto or the standard Interconnection Agreement;
- (b) Copies of the Network Charge Change Notice;
- (c) Written notice of any withdrawal or change of a Network Charge Change Notice.

Requirement to have Cost Accounting System and Accounting Separation for Interconnection purposes

22.12 The Licensee shall maintain a cost accounting system which:

- (a) In the opinion of the Commission is suitable to demonstrate that its charges for interconnection have been fairly and properly calculated; and
- (b) Provides the information for the time being required to be provided by virtue of the Regulations and Interconnection Guidelines laid down by the Commission.

22.13 The Licensee shall make available to any person on request a description of its cost accounting system showing the main categories under which costs are grouped and the rules used for the allocation of costs to interconnection.

22.14 The Licensee shall comply with the requirements of any direction given to it under the provisions of the Regulations and Interconnection Guidelines laid down by the Commission in relation to keeping accounting separation and provision of financial reports for interconnection purposes.

Value -Added Service Providers'

- 23.1 The Licensee shall, following a request by any Value Added Service Provider to do so, provide to that Service Provider any description of service which the Licensee at the time the request is made offers to its customers generally and which is specified in the request, on terms that are reasonable and which would enable the Value Added Service Provider to provide its own services to its customers.
- 23.2 The Licensee shall be excused from any obligation to negotiate or enter into a connection agreement with a requesting Value Added Service Provider if, as determined by the Commission in its reasonable discretion:
- (a) Such an agreement is prohibited by law; or
 - (b) The Licence issued to the Value Added Service Provider does not authorise the services for which connection is requested; or
 - (c) The requested connection is rendered impossible as a result of technical limitations; or
 - (d) Such connection 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.
- 23.3 (a) If on an application by a Value Added Service Provider the Commission is satisfied that the Value Added Service Provider has established a prima facie case that any charge, term or condition proposed by the Licensee is unreasonable and that the Licensee has acted unreasonably in relation to negotiations on it, the Commission may, if it considers it necessary to do so, determine that the Licensee shall modify that provision in such a way as to make it reasonable, in the agreement with the Value Added Service Provider.
- (b) Before making a determination under Condition 23.3(a), the Commission shall notify the Licensee and the Value Added Service Provider the grounds of the Value Added Service Provider's application and its conclusions thereon and the modifications it proposes to make or require the Licensee to make, and shall afford both parties adequate time, being not less than 28 days from the delivery date of such notification, in which to make representations.
 - (c) In applying this Condition 23.3:

- (i) No determination made shall affect any exclusion or restriction equivalent to one which is, at the relevant time, included in the Licensee's current usual terms and conditions upon which the Licensee provides the same description of service to the generality of the Licensee's customers in a way which would or might have the effect of rendering the position of the Licensee in relation to the provision of the service the subject of the determination worse than the position of the Licensee in relation to the provision of the same description of service to the generality of its customers;
 - (ii) Any such modified provision shall be confined to the subject matter of the term or condition proposed by the Licensee except that, where the Commission considers that a term or condition is essential in relation to subject matter not covered by any term or condition proposed by the Licensee, it may determine a term or condition to cover that subject matter; and
 - (iii) The Licensee shall not be deemed to have acted unreasonably merely by virtue of having proposed the term or condition.
- 23.4 (a) Subject to the further provisions of this Condition 23.4, any charge determined under Condition 23.3 by the Commission shall be determined by reference to the Licensee's usual charge ("the usual charge") for the provision to its customers generally of the service of the description in question ("the service ").
- (b) Any charge determined under Condition 23.3 by the Commission shall not be:
- (i) Less than the usual charge for the service by an amount which exceeds any cost savings of the Licensee which are shown to be likely; or
 - (ii) Less than the usual charge for the service plus any additional costs of the Licensee which are shown to be likely.
- (c) Where the cost to the Licensee of the provision of a service to a Value Added Service Provider exceeds the usual charge, no charge determined under Condition 23.3 shall be less than the usual charge.

Connection of Other Systems and Equipment

- 24.1 Subject to the further provisions of this Licence, the Licensee
- (a) Shall connect and keep connected, at a Network Termination Point on any served premises, its Systems to any item of telecommunication equipment which is approved for the time being for such connection at the written request of the owner or person to whom it is supplied, where such connection is or is to be made by means requiring the use of a tool;
 - (b) Shall not discontinue such connection of any such equipment or system lawfully made; and
 - (c) Shall permit any person to connect, or to keep connected at a Network Termination Point any such equipment or other such system, where such connection is or is to be made by means that do not require the use of a tool.
- 24.2 Equipment shall not be regarded as approved for connection to any such system for the purposes of Condition 24.1 unless that equipment has been so approved by the Commission having been satisfied that connection of the equipment to the System would not be liable:
- (a) To cause death of, or personal injury to, or damage to the property of the Licensee or any person engaged in the running of that system; or
 - (b) To materially impair the quality of any telecommunication service provided by means of that system or any system connected to it (other than the system being connected).
- 24.3 No equipment or system is required under Condition 24.1 to be, or permitted to be, kept connected to any of the Licensee's systems if that equipment or any equipment comprised in that system, as the case may be:
- (a) Conformed to the relevant standard or standards at the time when the connection to the Licensee's system was made but no longer does so and does not conform to the relevant standard for the time being approved by the Commission; or
 - (b) While continuing to conform to the relevant standard is in the opinion of the Licensee liable to cause the death of, or personal injury to, or damage to the property of, the Licensee, or any person engaged in the running of any of the systems or materially to impair the quality of any telecommunication service provided by means of the Licensee's system and the Commission has not expressed a contrary opinion.

- 24.4 For the purposes of this Condition equipment shall not be regarded as constituting a system if it would not, but for its connection to any of the Licensee's systems, constitute such a system.
- 24.5 Subject to Condition 24.6, this Condition shall not apply in the case of a person who has not met or has breached the conditions in the Agreement between the parties for connection of his equipment.
- 24.6 For the avoidance of doubt, the Licensee shall at all times obtain the prior written approval of the Commission before it disconnects, or discontinues interconnection services howsoever and in any circumstance, to any Operator's System that is interconnected with the Licensee's System pursuant to and during the tenure of this Licence.

Equal Access

- 25.1 This Condition applies in respect of any Long Distance Operator with whom the Licensee has entered into an interconnection agreement for which the Commission has made a direction.
- 25.2 (a) The Commission may, subject to the provisions of Condition 25.4, make a direction following the request of an Operator, that the Licensee shall make equal access available in respect of that Operator.
- (b) The direction shall contain a functional specification of exchange software for the provision of equal access. The specification shall be submitted to the Commission by the Licensee (following a request from the Commission) or, if the Commission, having carried out such consultation as appears to it appropriate, considers that specification to be unsatisfactory, in a form determined by the Commission. Before making such a determination, the Commission shall notify the Licensee as to why the Licensee's specification is unsatisfactory and give the Licensee the opportunity to make representations thereon.
- 25.3 The Commission shall not make a direction under Condition 25.2 unless:
- (a) It has carried out a cost-benefit analysis comparing the likely benefits to telecommunication customers to be gained from the introduction of equal access with all costs likely to be incurred, including opportunity costs, which analysis indicates that the gains outweigh the likely costs; and
- (b) In its opinion sufficient arrangements in relation to the pricing of telecommunication services provided by the Licensee have been made in order to achieve fair competition.
- 25.4 When carrying out the cost-benefit analysis referred to in Condition 25.3(a), the Commission shall consult the Licensee and such other persons as appear to be appropriate, affording them a reasonable period, being not less than 28 days, in which to make representations, and it shall take their representations into account when reaching its conclusions. On conclusion of the analysis it shall make it available to the Licensee and such other persons.
- 25.5 (a) In this Condition "equal access" means a facility provided to an Operator whereby it can arrange with a customer of the Licensee that, following a request by that customer to the Licensee, the customer may choose over which public telecommunication system, being a system run by a Long Distance Operator, to route National and International calls made by means of an exchange line provided to him by the Licensee. The choice shall be exercisable in either of the following ways, at the option of the customer:

- (i) By pre-selection, that is to say, that the customer may, by registering a preference with the Licensee, name a particular such Operator for the conveyance of all such calls. The Licensee may offer to provide a facility to override the preference in the case of any particular call; or
 - (ii) On a call-by-call basis, that is to say that the customer must, for each call, exercise his choice by dialling a short initial code designated for the particular such Operator (or the Licensee) chosen by the customer for the call in question. The respective initial codes for the Licensee and the Operators shall be of equal length.
- (b) The Licensee shall not require the customer to acquire any special equipment or to pay any fee as a prerequisite to his being able to obtain the equal access facility. For the avoidance of doubt, the Licensee may impose a charge if a customer who has registered a preference changes that preference in any way.

25.6 Where a Long Distance Operator requires the Licensee to provide equal access and specifies exchanges forming part of the Licensee's Systems at which it is to be provided and the Licensee has not, after a reasonable period as may be determined by the Commission but not exceeding 90 (ninety) days from the date of the formal requirement by the Long Distance Operator, entered into an agreement with that Operator for the provision of equal access, the Commission may, on the application of either the Licensee or the Operator, determine the terms and conditions of the agreement, being terms and conditions necessary for the provision of equal access, or such terms and conditions which the Licensee and the Operator have failed to agree.

25.7 Before making a determination under Condition 25.6, the Commission shall notify the Licensee and the Operator in respect of which terms and conditions it proposes to make the determination and why and shall afford the Licensee and that Operator adequate time, being not less than 28 days, in which to make representations thereon.

25.8 (a) Where the Commission makes a determination under Condition 25.6, it shall secure that any development of the Licensee's Systems made necessary thereby is consistent with the Licensee's then planned programme of network modernisation and development and in particular that the Licensee is not required to introduce equal access at any exchange if to do so would involve either:

- (i) Modernising the exchange in a case where but for the proposed introduction of equal access, the exchange would not have been modernised at that time; or
- (ii) A significant risk of impairment to the quality of telecommunication services provided by means of the Licensee's Systems.

- (b) Subject to Condition 25.8(a), where the Commission makes a determination under Condition 25.6, the following shall apply in relation to the preparation of exchanges for equal access:
 - (i) The determination may require the Licensee to introduce equal access within a reasonable period. At a digital exchange to which the determination relates which does not require conversion for the introduction of equal access, a reasonable period for adapting the exchange to provide equal access shall be 6 (six) months. In relation to such an exchange which requires conversion, or any other exchange of an exchange type which is capable of conversion to provide equal access, a reasonable period for conversion and adaptation shall, subject to Condition 25.8(a), be 18 (eighteen) months. Different periods may be specified for different exchanges;
 - (ii) Where at the date of the determination an exchange to which it relates is not digital, and is of an exchange type which is not capable of conversion to provide equal access, the Licensee shall ensure, subject to Condition 25.8(a), that, when modernisation is planned, the specification therefor, provides for equal access.
- 25.9 (a) Any determination under Condition 25.6 shall secure that the Licensee's under-mentioned costs of introducing equal access are apportioned according to the provisions of Condition 25.9 (b):
 - (i) Costs incurred by the Licensee which are not related to any particular locality consisting of initial development and set-up costs including without limitation, the costs of hardware design and production, the costs of software development and the costs of planning and training;
 - (ii) Costs incurred by the Licensee in relation to a particular locality where an Operator has requested the introduction of equal access, consisting of initial development and set-up costs in relation to that locality including, without limitation, the costs of installation of hardware and software and the costs of distribution of necessary documentation and instructions and of training;
 - (iii) The incremental costs of providing at any particular locality equal access to any further Operator after the first Operator at that locality;
 - (iv) The costs per customer of registering preferences and of implementing arrangements for the initial code referred to in Condition 25.5 (a) (ii); and
 - (v) The costs per customer of changing registered preferences or removing, in relation to any particular exchange line, arrangements for the initial code.

- (b) Subject to Conditions 25.9 (c) and (d):
- (i) The costs referred to in Condition 25.9(a)(i) shall be apportioned between the Licensee and Operators who make requirements under Condition 25.6. The costs shall initially be apportioned between the Licensee and the first such Operator. Procedures will be established for subsequent Operators to make a proportionate contribution to the costs in such manner as the Commission shall determine from time to time;
 - (ii) The costs referred to in Condition 25.9(a)(ii) shall be apportioned between the Licensee and Operators who make requirements under Condition 25.6 in relation to the particular locality. The apportionment rules set out in Condition 25.9(b) (i) shall apply here;
 - (iii) Where the addition of an Operator at a locality reduces the contribution to the costs of equal access at that locality of the Licensee and the other Operators, the procedures in Condition 25.9(b)(i) shall apply to the costs referred to in Condition 25.9(a)(iii). In any other case, that Operator shall pay such costs;
 - (iv) The costs referred to in Condition 25.9(a) (iv) and (v) above shall be met by the Long Distance Operator, whether the Licensee or an Operator, to whom the customer chooses to route calls by registering a preference or, where the customer exercises choice on a call-by-call basis, apportioned equitably among the Long Distance Operators (including, where appropriate, the Licensee) to whom the customer has the option of routing calls from time to time.
- (c) The apportionment of the costs referred to in Condition 25.9(a) (i), (ii) and (iii) shall reflect equitably the benefit to the Operator and its customers, actual and potential, of the implementation of equal access in relation to that Operator.
- (d) Before determining the apportionment of any costs referred to in Condition 25.9(a), the Commission shall inform the Licensee and the Operator of its proposed determination, together with a full explanation of how it is calculated, and shall allow the Licensee and the Operator a reasonable period, being not less than 28 (twenty eight) days, in which to make representations.

25.10 In this Condition:

"Long Distance Operator" means an Operator who has been licensed by the Commission under the Act to provide national and/or international and long distance services.

"Potential Customers" include those customers of the Licensee who it is reasonable to expect will apply for the equal access facility.

Payment of Fees

- 26.1 In consideration for granting the Licensee the right to construct, establish, maintain, operate and provide the service, the Licensee shall pay the following amounts to the Commission at the times stated:
- (a) The Licence Fee that shall be prescribed by the Commission; and
 - (b) An Annual Fee which shall represent 2.5% (two and a half percent) of the Licensee's audited net revenue payable within 3 (three) months after the end of the first year of the Licence and thereafter quarterly on the Licensee's assessed net revenue within 30 days of the end of such quarter to be adjusted immediately on receipt of the audited annual financial statements of the Licensee.
- 26.2 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 account becomes available.
- 26.3 The Commission shall determine the Licence Fee payable for and in respect of any renewal of the Licence.
- 26.4 All fees and charges payable to the Commission by the Licensee under and pursuant to this Licence shall be made in full and without any deduction whatsoever it being understood that all taxes howsoever called, payable on such amounts, shall be borne and paid separately by the Licensee.

Requirement to Furnish Information to the Commission

- 27.1 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.
- 27.2 Without prejudice to any other provision in this Licence to the provision of information, the Licensee shall furnish to the Commission, in such manner and at such times as the Commission may request from time to time, such documents, accounts, estimates, returns or other information and procure and furnish to it such reports as it may reasonably require
- (a) For the purpose of verifying that the Licensee is complying with the Conditions of this Licence;
 - (b) For record, data-gathering and/or statistical purposes; or
 - (c) To assist the Commission to perform any duty or function assigned to it by or under the Act.
- 27.3 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 information or report essential to enable it exercise its functions.
- 27.4 Without derogating from the generality of the provisions in Condition 27.2 and without the need for any other express provision thereon, the Licensee shall ensure that it promptly furnishes to the Commission all copies of any document that it is obliged pursuant to this Licence to publish for the benefit of its customers and/or the general public.
- 27.5 In this Condition, "documents" includes inter alia, drawings, designs, plans or specifications.

Amendment of the Licence

- 28.1 Subject to Conditions 28.2 and 28.3, the Commission may amend this Licence from time to time if the Commission determines that such modification or 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.
- 28.2 Before modifying or 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 modification or 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.
- 28.3 After expiry of the notice specified in Condition 28.2, 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.
- 28.4 Any modification or amendment to this Licence shall be made in accordance with the procedures laid down for such purposes and shall be notified to the Licensee and published by the Commission on its website.

Expiration of the Licence

- 29.1 This Licence shall expire and all operating authorisations under it shall terminate upon the expiration of the Licence term, unless renewed in accordance with the provisions of this Licence.

Revocation

- 30.1 Notwithstanding any contrary provision of this Licence, the Commission may at any time revoke this Licence by 12 (twelve) months notice in writing given to the Licensee at its registered office where the Licensee is in breach of any or some of the Conditions attached to this Licence and the breaches or any of them has not been rectified within 21 (twenty one) days after the Commission had notified the Licensee of the breach.
- 30.2 Notwithstanding any contrary provision of this Licence, the Commission may at any time revoke this Licence by 3 (three) 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 30 (thirty) days;
 - (c) If any amount payable under Condition 26 remains unpaid after it became due and remains unpaid for a period of 21 (twenty one) days after the Commission notifies the Licensee in writing that the payment is due;
 - (d) If the Licensee fails to ensure that its equipment is type approved by the Commission or by a body approved by or accredited to 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 Cap 59 Laws of the Federation of Nigeria 1990;
 - (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 competent court or tribunal makes an order for its compulsory winding-up or dissolution;
- 30.3 The Licence Fees paid in respect of a revoked Licence pursuant to any of the provisions of this Condition 30 shall not be refunded whether in part or whole consequent upon such revocation.
- 30.4 In the event of the expiration and non-renewal or revocation of this Licence at any time and in any circumstance whatsoever and howsoever, pursuant to Conditions 29 and/or 30, the Licensee shall within 7 (seven) days thereafter meet with the

Commission and agree on an extended period for winding up its affairs and services and transferring its customers to other Operators.

- 30.5 The Licensee shall continue to provide services to its customers after the revocation or expiration and non-renewal of this Licence, for the extended period that shall be agreed upon between the Licensee and the Commission pursuant to Condition 30.4 upon the terms and subject to the conditions of this Licence.
- 30.6 The Licensee shall, in collaboration with the Commission, ensure the reasonably seamless relocation and/or transfer of its customers to such other Operator(s) as the Commission may direct, during the extended period specified under Condition 30.4, subject to such terms and conditions as the Commission may further stipulate.

Exceptions and Limitations on Obligations

- 31.1 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 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, the malfunction or failure of any telecommunication equipment owing to circumstances beyond the control of the Licensee, by the act of any Federal, State or Local Government or as a result of fire, flood, explosion, accident, emergency, riot, war, civil commotion or insurrection.
 - (c) In the event that any of these circumstances causes damage to the Licensee's System, the Licensee shall be obligated to repair or rebuild the system pursuant to a timetable and work-plan to be established by the Licensee and approved by the Commission, and subject to such adequate changes in the provisions of this Licence as shall be agreed upon between the Licensee and the Commission.

Limitation of Liabilities

- 32.1 Subject to Condition 32.2 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 direct or indirect, contingent or consequential loss or damage or for loss of profit, business, revenue, goodwill, opportunities or anticipated savings, costs of capital, cost of substitute service, facilities or products, or down-time costs, consequent upon the issuance, actualisation 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 howsoever thereto.
- 32.2 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 Licence Fee paid under Condition 26.1 (a) and shall only be payable on the basis of the Final Judgement of a duly constituted court of law or arbitral process.

Penalties for Non-Compliance Generally

- 33.1 Subject to Condition 33.2 but without prejudice to any other provision of this Condition and except where specific penalties have been prescribed hereunder, the Commission shall have the discretion to impose such suitable penalties as the Act or Regulations permit on the Licensee consequent upon the Licensee's breach of or failure to comply with any of the provisions of this Licence.
- 33.2 Before imposing the penalties that are stipulated by Condition 33.1, the Commission shall
- (a) Notify the Licensee of its specific breach of the Licence terms and demand that the breach or non-compliance be rectified within a specified period failing which the penalty shall be imposed on it; and
 - (b) Take into consideration any written submissions that the Licensee may make to the Commission on the circumstances of its breach or non-compliance with the specific Licence terms.

■ **SCHEDULE 2**

**SPECIFIC CONDITIONS ON TECHNICAL
AND SERVICE ISSUES**

Condition 34

Scope of Operation

- 34.1 This Licence authorises the Licensee to construct, own, operate, maintain and use an International Gateway for the provision and operation of international access and gateway services.
- 34.2 This Licence shall be for the provision and operation of international access and gateway services using radio, cable or satellite or a combination of any of these systems deployed for the purpose of providing point-to-point or point-to-multipoint communication for the conveyance of voice, data and video.
- 34.3 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.

Connection Authorisation and Service Authorisation

35.1 Subject to the limitation in Condition 34.3, this Licence authorises the connection to the Licensee's Systems of:

- (a) Any satellite equipment, provided that:
 - (i) The relevant requirements, if any, for consultation and compliance with specified operating parameters under relevant international agreements and conventions have been and continue to be satisfied; and
 - (ii) The relevant Rules and Standards, if any, issued under the relevant international agreements and conventions have been satisfied and continue to be satisfied;
- (b) Any private leased circuit, offshore private circuit or international private leased circuit;
- (c) Any telecommunication system, the Licence for which authorises it to provide switched telephony services;
- (d) Any telecommunication system in Nigeria, the Licence for which authorises it to be connected to the Licensee's System.

35.2 Subject to the limitations in Condition 34.3, this Licence authorises the

- (a) Provision by means of the Licensee's Systems of any telecommunication service consisting in the transmission of messages to or the reception of messages from any equipment;
- (b) Provision of leased circuit to other Licensed Operators.

Condition 36

Gateway Locations and Routing Arrangements

- 36.1 Not later than 90 (ninety) days from the Effective Date of this Licence, the Licensee shall furnish the Commission with details of the locations of its Gateways and Connection Points as well as its routing arrangements as at the said Effective Date.
- 36.2 The Licensee shall at all times notify the Commission, in advance, of any planned additions and/or changes in the location(s) of its Gateways and/or Connection Points and/or routing arrangements.

Condition 37

Authorisations, Permits and Licences

- 37.1 The Licensee shall be obligated to obtain all authorisations, permits and licences which are necessary under the Act and the Laws and Regulations in Nigeria for the provision of telecommunication services in accordance with this Licence.
- 37.2 The Licensee shall obtain all necessary licences and permits including building permits and other non-telecommunication permits required to build, implement, modify and remove installations and buildings in accordance with the applicable Laws and Regulations in Nigeria.

Approval of Equipment

- 38.1 The Licensee shall ensure that its network equipment is type-approved by the Commission or a body approved by or accredited to the Commission within 6 (six) months from the Effective Date of this Licence and shall obtain any necessary compliance certificates or licences in accordance with the respective Regulations.
- 38.2 The Licensee shall further ensure that it complies with the provisions of Condition 38.1 in respect of all new network equipment procured by it after the Effective Date of this Licence.
- 38.3 With effect from the Effective Date and subject to Condition 38.4, 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 thereto.
- 38.4 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 site specifications.

Frequency Assignments

- 39.1 Not later than 30 (thirty) days from the Effective Date of this Licence, the Licensee shall provide the Commission, in writing, the records and details of all frequencies and frequency bands to which the Licensee lays claims howsoever as at the date of such written submission, whether or not in use and/or properly and duly assigned to the Licensee by the relevant statutory body.
- 39.2 Subject to Conditions 39.7 and 39.8, the Licensee shall accompany the written submission specified in Condition 39.1 with a written application to the Commission for the regularisation and due assignment to the Licensee of the frequencies and frequency bands that the Licensee needs for the provision of its licensed undertaking.
- 39.3 Upon the receipt of the written submission and application specified in Conditions 39.1 and 39.2, the Commission shall, subject to Conditions 39.5, 39.7 and 39.8, consider and regularise the assignment to the Licensee of such frequencies and frequency bands which the Commission determines that the Licensee requires for the provision of the licensed undertaking, pursuant to this Licence and the WTA.
- 39.4 In the event of non-compliance by the Licensee with the provisions of Conditions 39.1 and 39.2 within the specified deadline or such extensions as the Commission may grant, the Commission shall so soon thereafter, subject to Conditions 39.5, 39.7 and 39.8, use its discretion to assign to the Licensee, frequencies and frequency bands which the Commission determines that the Licensee requires for the provision of the licensed undertaking.
- 39.5 Consequent upon the assignment of the frequencies and frequency bands by the Commission to the Licensee pursuant to Conditions 39.3 and/or 39.4, the Licensee shall forfeit and relinquish to the Commission all such other frequencies and frequency bands that it may have laid claims to howsoever, as at the date of the written submission specified in Condition 39.1 (or in the event of default of Condition 39.1 by the Licensee, as at the Effective Date of this Licence), and which were not included in the list of assigned frequencies and frequency bands specified by the Commission pursuant to the assignment under the said Conditions 39.3 and/or 39.4.
- 39.6 Without prejudice to the provisions of Conditions 39.1, 39.2, 39.3, 39.4 and 39.5 but subject at all times to Conditions 39.7 and 39.8, the Licensee may at any time after the Effective Date of this Licence, apply and pay quite separately, on such terms as the Commission may from time to time determine, for additional frequency spectrum that it may require for carrying out its licensed undertaking pursuant to this Licence.
- 39.7 The Licensee shall utilise the frequencies that may be assigned to it pursuant to Conditions 39.3, 39.4 and 39.6 solely and entirely for the provision of the licensed undertaking hereof and upon such terms and subject to such conditions as the

Commission may determine and specify from time to time. The Licensee further covenants that it shall, in the use of such frequency spectrum, abide by and conform to

- (a) the general allocation of frequencies in the ITU Regulations and Assignments by the Commission
- (b) the terms and conditions of this Licence and such other frequency-specific Licence(s) as the Commission may issue to the Licensee;
- (c) the Act, WTA, Regulations and such other directions as the Commission may give from time to time pursuant thereto.

39.8 The service operated by the Licensee shall be operated only on such radio frequencies and frequency bands which the Commission may assign to the Licensee and the Commission may refuse to assign further frequencies or direct the Licensee by notice in writing to cease to provide the service on any frequency to which the Licensee lays claim howsoever or which was previously assigned to the Licensee, if in the opinion of the Commission

- (a) It is in accordance with national frequency allocation policies, as may be specified by the Commission from time to time, to so direct; or
- (b) The Licensee is not making efficient use of that frequency.

39.9 The Commission may also, by notice in writing to the Licensee, direct the Licensee upon such reasonable date as may be specified in the notice to cease to operate using any frequency that was previously assigned to the Licensee or to which the Licensee lays claims howsoever, and to use such new frequency as the Commission may designate.

Condition 40

Grade of Service

- 40.1 The Licensee shall ensure that the traffic capacity provided in its system is dimensioned to guarantee a satisfactory grade-of-service. The Commission shall determine and notify the Licensee from time to time of the grade-of-service threshold that shall be met or exceeded by the Licensee. The Licensee shall provide such information on performance standards or comply with such directives by the Commission in line with this provision.
- 40.2 The Licensee shall provide a good, efficient and continuous service in a manner satisfactory to the Commission and shall not reduce or cease to provide the service unless in the circumstances specified in this Licence or with the express prior written approval of the Commission.
- 40.3 The Licensee shall install equipment and devices generally that meet international standards or recommendations for measuring the quality of the licensed services within 12 (twelve) months from the Effective Date of this Licence.
- 40.4 The Licensee shall permit the Commission to inspect the Licensee's equipment and devices for measuring service quality, to inspect the Licensee's files, records and other data relating to the measuring of service quality 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.
- 40.5 Subject to Condition 40.3, if the Commission has reason to believe that measuring equipment, devices or methods do not meet the standards, the Commission shall instruct the Licensee to install the equipment and devices within 6 (six) months from the date of any such instruction. If the Licensee fails to install the equipment and the devices within the period specified above, the Licensee shall be subject to a fine in an amount to be determined by the Commission.

Quality of Service and Quality Schedule

- 41.1 Where the Commission has set Quality of Service standards or performance targets or both in respect of the licensed undertaking, the Licensee shall meet such standards and or targets, and shall, if requested by the Commission, publish data on its performance in accordance with the provisions of this Condition at regular intervals, being at least once in each financial year.
- 41.2 The Licensee shall publish the results of the measurements of actual performance against the target performance specified in the Quality Schedule which it has achieved in providing the standard services and private circuits specified in the Quality Schedule to the Operators specified in that Schedule.
- 41.3 The Licensee shall:
- (a) Promptly send a copy of such data to the Commission as soon as the results are obtained and prior to its publication; and
 - (b) Place a copy of such data in a publicly accessible part of every Major Office of the Licensee in such manner and in such place that it is freely available for inspection by members of the general public during normal office hours; and
 - (c) Send a copy of such information or such part(s) thereof as are appropriate to any customer who may request such a copy.
- 41.4 Following publication pursuant to Condition 41.3:
- (a) The Licensee shall make available and continue to make available in a publicly accessible part of every Major Office of the Licensee a notice of the address and telephone number of the person to whom any request for a copy of the most recent Quality of Service Report may be made; and
 - (b) The Licensee shall:
 - (i) Be entitled to exclude from any Quality of Service Report which it is obliged to send to any person who may request one copy pursuant to sub-condition (a) any matter the exclusion of which the Commission shall have consented following representations to it on the matter by the Licensee on the basis that if the matter were made available in accordance with sub-condition (a) it would or might, in the opinion of the Commission, seriously and prejudicially affect the interests of the Licensee; and
 - (ii) Shall extract from that Quality of Service Report any matter which the Commission directs should be excluded.

41.5 The Licensee shall offer to include, as a minimum, in each agreement between the Licensee and an Operator for the provision of any standard service or any private circuit, or both, which is or are included in the Quality Schedule, whether subsisting before the date on which this Condition comes into force or otherwise:

- (a) A description of the target performance specified from time to time in the Quality Schedule in relation to each such standard service and private circuit; and
- (c) An obligation on the Licensee to that Operator to use reasonable endeavours to achieve that target performance in relation to each such standard service or private circuit provided to that Operator pursuant to the relevant agreement;

Provided that such offer shall not be conditional on the acceptance by that Operator of the inclusion in that agreement of any terms and conditions whether relating to that target performance or otherwise, except for terms and conditions which are necessarily incidental to the attaining of the target performance.

41.6 Subject to Condition 41.7, the Quality Schedule may be amended as the Commission and the Licensee agree from time to time. In addition, the Licensee shall ensure that the Quality Schedule is kept under review and shall prepare and submit to the Commission any amendments which it proposes from time to time to make to the Schedule to take account of technological progress or other relevant considerations provided that the Licensee shall not be obliged to review the Schedule more than once in each financial year. The Commission shall then, if it considers it appropriate to do so, consult with Interested Parties as to the proposed amendments and give them a reasonable opportunity to make representations. If the Commission, following any period of consultation, consents to the Licensee's proposed amendments, the Licensee shall adopt them, but if the Commission does not consent to the proposed amendments, the Licensee shall, subject to its obligations contained in this Condition, withdraw them.

41.7 (a) Before giving a direction or consent under this Condition, the Commission shall consult with the Licensee and Interested Parties. If it concludes that a direction or consent is appropriate, it shall notify the Licensee and Interested Parties of the proposed direction or consent, as the case may be, and the reasons for proposing to give it and give each of them a reasonable opportunity to make representations. On giving a direction or consent, it shall notify the Licensee and Interested Parties of the direction or consent, as the case may be, and his reasons for giving it.

(b) Each notification of reasons shall, as appropriate, set out the Commission's reasons:

- (i) For proposing to give the direction or consent as the case may be;
or
- (ii) For giving the direction or consent as the case may be;

those reasons being sufficient to give the Licensee and Interested Parties a reasonable understanding of the proposed decision or decisions, as the case may be.

41.8 In this Condition:

"Quality Schedule" means the Schedule specifying quality measures and target performance in relation to standard services and private circuits for Operators or groups of Operators in each case as agreed between the Commission and the Licensee on the coming into force of this Condition or as may be amended from time to time.

"Target performance" means the minimum level of performance that the Licensee has to provide.

Condition 42

Disruption or Suspension of Service

- 42.1 Subject to Conditions 42.2 and 42.3, the Licensee shall not intentionally interrupt or terminate operation of its telecommunication system or any part thereof in the normal course of business, nor may it in the normal course of business reduce or suspend the provision of any service without having notified in advance the Commission in writing and having provided reasonable advance notice to the affected customers.
- 42.2 The requirements of Condition 42.1 shall not apply if the interruption, termination, reduction or suspension is due to an emergency or to Force Majeure under Condition 31 of this Licence or to other circumstances which are adjudged by the Commission to be beyond the Licensee's control, based on written representation thereon made by the Licensee to the Commission.
- 42.3 Subject to the further provisions of this Licence, the Licensee may terminate the provision of the service to any customer if such customer fails to comply with the terms and conditions of its Service Agreement in accordance with the applicable Laws and Regulations of Nigeria.
- 42.4 The Licensee shall give reasonable notice to the affected public of scheduled routine maintenance on the Network, which results in disruption of service exceeding 60 minutes. All routine maintenance on the Network resulting in service disruption shall be performed between the hours of 12.00 midnight and 5.00 a.m.

Technical Specifications

- 43.1 The Network, maintained and operated by the Licensee shall throughout the term of the Licence conform to such specification and international standards as exist at the time. The Licensee shall introduce measures and at all times use its resources to ensure that equipment in its system comply with:
- (a) The requirements for electro-magnetic compatibility; and
 - (b) The requirements for network interface, both as prescribed in accordance with international specifications and by the Commission's standards.
- 44.1 The Licensee shall comply with the technical standards as specified by the Commission and shall not alter any of these specifications except with the prior written approval of the Commission.

Maintenance and Safety of Equipment

- 44.1 The Licensee shall from time to time inspect its telecommunication equipment which is not inside a building and which is on or above the surface of the ground with a view to ensuring that it will not cause harm to other persons or property. The Licensee shall notify the Commission of its arrangements for ensuring compliance with this Condition.
- 44.2 In addition to carrying out inspections of its own equipment on or above the surface of the ground, the Licensee shall take such steps as are appropriate in the circumstances to investigate any report of any of its equipment (wherever situated) being in a dangerous state and to remove any danger. The Commission may upon such investigations or its own independent investigations give directives, as may be necessary, to ensure the removal of such danger.

Alterations to the Licensee's Systems

45.1 The Licensee shall:

- (a) From time to time inform the Commission and provide it with such additional information as it may reasonably require about any proposals for changes to the Licensee's Systems or to any equipment comprised therein or to any stored commands or protocol; and
- (b) Inform the Commission of any proposals for changes to the means of access to a service provided by the Licensee, which service was previously capable of being accessed by means of such relevant standard or by any other means, not less than 3 (three) months before the coming into effect of such proposals;

being in either case changes of which the Commission has not already been informed under this Condition and which the Licensee might reasonably anticipate from the facts known to it would or might when made have the effect of requiring any person:

- (i) Running any Connectable System which is or is to be connected to the Licensee's Systems;
- (ii) Connecting telecommunication equipment to the Licensee's Systems; or
- (iii) Producing or supplying telecommunication equipment or telecommunication system for connection to the Licensee's Systems without becoming comprised in them;

materially to modify, or, as the case may be, to replace or cease to produce or supply, any item of telecommunication equipment connected or to be connected to any of the Licensee's Systems or where the change is of a kind described in sub-condition (b), to cease to provide or obtain any service by means of the Licensee's System.

45.2 The Licensee shall prepare and publish in consultation with the Commission a statement of its procedures for consulting and giving advance notice to those persons likely to be affected by such changes including in particular in the case of changes of a kind described in Condition 45.1 (a) and shall adhere to those procedures, in the case of changes of a kind described in Condition 45.1 (b).

45.3 For the purposes of changes of a kind described in Condition 45.1 (b), any telecommunication system, and any equipment comprised in a telecommunication system, which is not connected to the Licensee's System shall be treated as being so connected if it is connected to or comprised in a telecommunication system which is so connected or treated as so connected.

45.4 In this Condition:

"to modify" in relation to any other equipment or System means to make any alteration to that equipment or System which may be necessary to ensure that any Message which has been or is to be conveyed by means of any of the Licensee's Systems connected or to be connected to that other equipment or System is capable of being properly conveyed by that other equipment or System or by the Licensee's System as the case may be;

"other equipment" or **"other System"** means any telecommunication equipment or telecommunication system together with any protocol, message format or stored command in such equipment or system connected or to be connected to but not comprised in any of the Licensee's Systems.

Metering and Billing

Metering Arrangements

- 46.1 The Licensee shall obtain approval from the Commission for the description and operation of the respective metering and billing systems used in relation to any of the Licensee's systems in use.
- 46.2 The Licensee shall not keep in or bring into use in connection with any of the Licensee's Systems, any metering and billing system which is not approved by the Commission or for which the Licensee has not made an application for approval with the Commission.

Billing Arrangements

- 46.3 The Licensee shall not render any bill in respect of any description of telecommunication service provided by means of any of the Licensee's Systems 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.
- 46.4 The Licensee shall not render any bill in respect of any description of telecommunication service provided by means of any of the Licensee's Systems to any Operator with a connectable system to whom services are provided under Condition 21 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 Operator in question and such charge is as provided in the interconnection agreement between the Licensee and the Operator in question.
- 46.5 Without prejudice to the generality of Conditions 46.3 and 46.4, 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, the said Conditions.
- 46.6 The Licensee shall not be regarded as being in contravention of its obligations under Conditions 46.3 and 46.4 except where the failure is in relation to the billing process and the Licensee has failed to take all reasonable steps to prevent a contravention of that obligation.
- 46.7 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 ensuring that the billing process has the characteristics specified in relation to it by Condition 46.3 and 46.4 provided that nothing in this Condition shall require the Licensee to retain any records for more than 2 (two) years from the date on which they came into being.

46.8 For the purpose of giving the Commission an independent quality assurance from time to time that the billing process has the characteristics specified in relation to it by Condition 46.5, the Licensee shall, where the Commission has prima facie grounds to believe the billing process does not have those characteristics and has so notified the Licensee, extend its prompt co-operation to the Commission and, in particular, on request by the Commission shall:

- (a) Furnish the Commission in accordance with its reasonable requirements with any information, document (including any facility enabling it to read data not held in readable form) or other thing;
- (b) Carry out (or cause to be carried out by such person having such special expertise as the Commission may specify and to whom the Commission has raised no reasonable objection) in such manner as the Commission may specify, an examination of the whole or any part of the billing process and as soon as practicable after the conclusion of such examination, furnish the Commission with a written report by the Licensee or such specified person, as the case may be, of the results of such examination;
- (c) On reasonable notice by it allow at all reasonable times the Commission and, in the case of any member of the Commission's staff, on production of his special authority in that behalf, access to any relevant premises, plant or equipment of the Licensee;
- (d) On reasonable notice by it allow at all reasonable times the Commission and, in the case of any member of the Commission's staff and any other relevant person whose assistance the Commission may require, on production of his special authority in that behalf, to examine or test the whole or any part of the metering or billing process including any plant or equipment whether or not forming part of any of the Licensee's Systems; and
- (e) Install and keep installed any equipment (whether or not supplied by the Commission) for the purpose of verifying:
 - (i) The accuracy and reliability of any equipment (including any meter) of the Licensee; and
 - (ii) In the case of any meter which is or is required to be approved in accordance with the provision of this Condition and is in use in connection with any of the Licensee's Systems, compliance with any conditions or other matters which may be required as regards such use of that meter.

46.9 In this Condition:

"billing process" means metering systems and billing systems taken together where **"billing system"** means the totality of all equipment, data, procedures and activities which the Licensee employs to determine the charges to be sought for

service usage recorded by a metering system based on published or previously negotiated pricing structure and to present these charges on customers' bills;

"metering system" means the totality of all equipment, data, procedures and activities which the Licensee employs to determine the extent of any telecommunication services provided by means of any of the Licensee's Systems;

"information" includes accounts, estimates and returns;

"meter" means any system or equipment installed or maintained, or to be installed or to be maintained, at the Licensee's premises, constructed or adapted for use in ascertaining the extent of telecommunication services provided by means of a telecommunication system and cognate expression shall be construed accordingly; and

"service" includes any service provided by any person to whom the Licensee is bound to account for any part of the amount charged by the Licensee.

Requirement to Provide Itemised Information

47.1 If the Licensee provides to any person by means of any part of the Licensee's Systems any telecommunication service as part of a transaction involving:

- (a) The supply to that person of any telecommunication equipment; or
- (b) The provision to that person of any other telecommunication service (including the bringing into service of any equipment or system) provided otherwise than by means of any of the Licensee's Systems

then it shall specify in any quotation or any invoice relating to that transaction the charge or charges for each such service separately from the charge or charges for equipment.

47.2 The Licensee shall in respect of its services, provide a basic level of itemised billing for its customers. In particular, the itemised bill made available to the customers shall contain the name, address, telephone number, account number, number called, date and time of call, call duration and call charge.

47.3 The Licensee shall provide itemised bills to its customers to whom it provides services other than basic telephony with details similar or equivalent to those specified in Condition 47.2.

47.4 Where appropriate, the Licensee may offer additional levels of details to its customers at reasonable tariffs or at no charge.

47.5 The Licensee shall, subject to technical feasibility and economic viability, ensure that each itemised bill shows a sufficient level of detail to allow verification and control of the charges incurred in using its services.

47.6 The Licensee shall ensure that calls that are free of charge to its customers are identified as such in its customers' itemised bills.

Non-payment of Bills

- 48.1 Where a Licensee's customer has not paid the Licensee all or part of a bill for use of the services provided by the Licensee, any measures taken by the Licensee shall:
- (a) Be proportionate and non-discriminatory
 - (b) Be published in an appropriate manner by the Licensee in accordance with the provisions of this Licence;
 - (c) Give due warning in advance of any consequent service interruption or disconnection to the customer;
 - (d) Except in cases of fraud, persistent late payment or non-payment, ensure, as far as technically possible, that any service interruption is confined to the service concerned.
- 48.2 The Licensee shall not take any measures as stated in Condition 48.1 that will result in interruption or disconnection of service with respect to Operators whose systems are interconnected to the Licensee's network in terms of interconnection agreements reached between such Operators and the Licensee without the consent of the Commission first sought and obtained.

Condition 49

Provision of Special Facilities and Services

- 49.1 The Licensee shall comply with any direction made under this Condition that requires the Licensee to make available such facilities and services as are specified in the direction.
- 49.2 A direction under Condition 49.1 shall be made by the Commission after consultation with the Licensee and shall specify only facilities and services that the Commission considers technically and economically practicable for the Licensee to provide.
- 49.3 A direction under Condition 49.1 shall specify the date by which each facility and service is to be provided and the class or description of customer (whether described by reference to area or otherwise) to whom it is to be provided and shall be subject to such conditions as the Commission thinks fit.
- 49.4 The services referred to in Condition 49.1 shall include services that may be provided by the Licensee in line with international best practices and as may be stipulated by the Commission from time to time.

International Circuits

- 50.1 The Licensee shall publish information on offerings, technical characteristics, tariffs and supply and usage conditions in respect of international circuits.
- 50.2 Following an application by any customer for international circuits, the Licensee shall provide international circuits to that customer, unless the Commission is satisfied, if the customer is an Operator and based on a representation by the Licensee that the Operator in question would be unduly reliant upon services provided by the Licensee as a means of satisfying its obligations under its Licence. Condition 21 shall not apply in respect of any such application as is mentioned in this Condition.
- 50.3 Where, pursuant to Condition 6 the Licensee has published standard charges for international circuits of certain descriptions and proposes to provide international circuits of different or similar descriptions to an Operator under this Condition and has published charges ("the specific charges") for such international circuits, the following provisions shall apply:
- (a) If on an application by an Operator, the Commission is satisfied that the Operator has established a prima facie case that any specific charge is unreasonable the Commission may if it considers it necessary to do so, determine that the Licensee shall modify that charge in such a way as to make it reasonable; provided that the Licensee shall not be deemed to have acted unreasonably merely by virtue of having proposed the charge in question.
 - (b) Before making a determination under Condition 50.3(a) the Commission shall notify the Licensee of the grounds of the Operator's application and its conclusions thereon and the modification it proposes to make or require the Licensee to make, and shall afford the Licensee adequate time, being not less than 28 days, in which to make representations.
- 50.4 (a) Subject to the further terms of this Condition 50.4 any charge determined under Condition 50.3(a) by the Commission shall be determined by reference to the Licensee's usual charge ("the usual charge") for the provision to its customers generally of the usual service.
- (b) Any charge determined under Condition 50.3(a) by the Commission shall not be:
- (i) Less than the usual charge for the usual service by an amount which exceeds any cost savings of the Licensee which are shown to be likely; or
 - (ii) Less than the usual charge for the usual service plus any additional costs of the Licensee which are shown to be likely.

- 50.5 Any published specific charge is not to be determined under Condition 50.3 as being unreasonable merely because it:
- (a) Varies, as compared with the nearest applicable usual charge, with the cost to the Licensee of the provision of the international circuits concerned; or
 - (b) Exceeds the Licensee's charges for international circuits of the same or a similar description provided to the generality of its customers; or
 - (c) Provides the Licensee with a rate of return that is no lower than that obtained by the Licensee in connection with the provision of international circuits of the same or a similar description to the generality of its customers.
- 50.6 (a) The Licensee shall not terminate existing international circuits provided to Operators unless the Licensee has consulted with the users affected, or the Operator is in breach of any terms of the agreement which warrant such termination.
- (b) Without prejudice to any other remedy or right of appeal which the user may have in law or pursuant to contract or these Conditions, where the Operator or user does not agree with the termination undertaken by the Licensee, it may bring the case before the Commission for adjudication and both parties shall abide by the decision of the Commission on the matter.
- 50.7 Where a user's terminal equipment no longer complies with the approval conditions laid down for its connection to the Network Termination Point of the type of international circuit concerned, the Licensee may, notwithstanding any other obligation under this Licence to provide to users access to and usage of international circuits, interrupt the provision of the international circuit concerned until the terminal equipment is disconnected from the Network Termination Point provided that the Licensee:
- (a) Immediately informs the user about the interruption giving the reasons for it; and
 - (b) Restores the provision of the international circuit concerned as soon as the user has ensured that the terminal equipment is disconnected from the Network Termination Point.
- 50.8 In relation to international circuits, the Licensee shall not be held to have failed to comply with this Condition if the Licensee takes the following measures in order to safeguard the security of System operations during the period when an emergency situation prevails:
- (a) The interruption of the service;
 - (b) The limitation of service features;

- (c) The denial of access to the service provided that the Licensee:
 - (i) Makes every reasonable endeavour to ensure that service is maintained to all users; and
 - (ii) Takes as soon as reasonably possible all reasonable steps to notify the users and the Commission of the beginning and the end of the emergency as well as the nature and extent of temporary service restrictions;

and in this Condition an "emergency situation" means an exceptional case of Force Majeure as may from time to time be defined or acknowledged by the Commission, based on representation by the Licensee.

50.9 The Licensee shall not take, for reasons of the alleged failure of the user of an international circuit to comply with the usage conditions, any measure (including, without prejudice to the generality of the foregoing, the refusal to provide an international circuit, the interruption of the provision of international circuit, or reduction of the availability of international circuit features) unless the measure is a specified measure authorised by the Commission after due representation to it by the Licensee in the case of a defined infringement of usage conditions.

50.10 The Licensee shall ensure that tariffs for international circuits follow the basic principles of cost orientation and transparency in accordance with the following rules:

- (a) Tariffs for international circuits shall be independent of the type of application which the users of the international circuits implement;
- (b) Tariffs for international circuits shall normally contain the following elements:
 - (i) An initial connection charge; and
 - (ii) A periodic rental charge, that is to say a flat-rate element, and when other tariff elements are applied, these must be transparent and based on objective criteria;
 - (iii) Tariffs for international circuits apply to the facilities provided between Network Termination Points and which the user has access to the international circuits;
- (c) For international circuits provided by more than one telecommunication organisation, half-circuit tariffs, that is to say, from one Network Termination point to a hypothetical mid-circuit point, can be applied.

Condition 51

Publication of Interfaces

- 51.1 The Licensee shall, with effect from the Effective Date, in relation to all commonly provided Customer Interfaces and Network Interconnection Interfaces in use by the Licensee, notify such interfaces to the Commission and publish Interface Specifications relating to such Interfaces or amendments thereto
- (a) In the case of the original Interface Specifications, within 90 (ninety) days of the Effective Date; and
 - (b) In the case of any amendment to the Interface Specifications, within such period as the Commission shall specify pursuant to Condition 51.2 (b).
- 51.2 If, following any representation made to it, the Commission concludes that any Interface Specification contains insufficient information for its purpose, it may direct the Licensee to:
- (a) Amend the Interface Specification in order to remedy the defect; and
 - (b) Publish the amended Interface Specification in accordance with the provision of this Licence and in relation to any period specified by the Commission which takes into account the need to ensure that a sufficient period has elapsed after publication of the amended Interface Specification to enable any relevant party have a reasonable period in which to make any appropriate modifications to equipment connected to its Systems.
- 51.3 Nothing in this Condition shall require the Licensee to publish or send to the Commission information which it has already published or sent to the Commission.
- 51.4 The Licensee shall comply with all directions of the Commission and applicable regulations in relation to interfaces.