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**No. 30-174-2/2014-BB-USOF**  
**Government of India**  
**Department of Telecommunications**  
**Office of the Administrator USO Fund**  
**20, Ashoka Road, Sanchar Bhawan, New Delhi-110 001**

**MEMORANDUM OF UNDERSTANDING**

The MOU is made and entered into on the ~~28<sup>th</sup>~~ <sup>29<sup>th</sup></sup> day of ~~September~~ <sup>December</sup>, 2015.

(R.S.)

**Between**

The President of India, acting through the Administrator, Universal Service Obligation Fund, Department of Telecommunications under Government of India and having its office at 2<sup>nd</sup> Floor, Sanchar Bhawan, 20, Ashoka Road, New Delhi - 110 001, (hereinafter referred to as "Administrator"), which expression, unless repugnant to the context or meaning thereof, shall include its successors, administrators or permitted assignees.

**AND**

The Bharat Sanchar Nigam Limited; a Company registered under the Companies Act 1956 and having its registered and corporate office at "Bharat Sanchar Bhawan", Harish Chandra Mathur Lane, Janpath, New Delhi-110 001, (hereinafter referred to as "BSNL"), which expression, unless repugnant to the context or meaning thereof, shall include its successors, administrators or permitted assignees; and at present represented by their chairman & Managing Director or his representative, of the second part.

**Whereas,** TRAI has recommended to the Government vide its recommendations dated 22.07.2014 for making investment in A&N Islands for improving telecom services. On the basis of the Recommendations of TRAI, Telecom Commission has approved a Detailed Project Report (DPR) for enhancement of satellite bandwidth in A&N Islands.

**Whereas,** DOT, vide letter no. 1-4/2015-TCO dated 24.04.2015 has given approval to provide financial support of Rs. 80.98 Crore To BSNL for enhancement of satellite bandwidth in Andaman & Nicobar Islands as per Approved DPR.

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The BSNL and the Administrator individually hereinafter be referred to as "party" or collectively as "parties".

**NOW THIS INDENTURE WITNESSTH AS FOLLOWS:**

In consideration of the mutual covenants set out in this MOU, the parties hereby agree as follows:

**2. Nature of Memorandum**

Through this MOU, Administrator shall provide funds to BSNL as subsidy for augmentation of satellite capacity from main land to Port Blair and other Islands and inter-Islands for improving telecom services in A&N Islands.

**3. Responsibilities of BSNL**

3.1.1 BSNL shall upgrade satellite bandwidth from 260 Mbps to 1 Gbps as per details given in the **Annexure-A**.

3.2 BSNL shall procure required equipment for augmentation of satellite bandwidth as per approved DPR. The subsidy shall be utilized by BSNL for procurement of equipment and installation, testing commissioning etc. as per provision made in the DPR.

3.2 BSNL shall hire satellite bandwidth from ISRO for augmentation of the bandwidth, for which financial support has been envisaged separately by DoT.

3.4 BSNL shall install, test and commission the satellite equipment as per standard followed in BSNL.

3.5 BSNL shall submit monthly report to Administrator about the progress of the work.

**4. Subsidy from USO Fund**

4.1 An amount of Rs. 8.098 Crore will be paid as mobilization advance, adjusted against total CAPEX subsidy payable, for preparatory activities and would be released within 4 weeks of signing of the MoU. Further subsidy payments shall be released on the basis of the total CAPEX subsidy payable, ascertained via competitive tendering and

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duly approved, for augmentation of satellite connectivity) in Andaman & Nicobar to 1 Gbps, as per the timeline enclosed at **Annexure-A**.

4.2 The subsidy support from USO Fund shall be as a onetime support to BSNL during FY 2015-16. However, any pending liability of BSNL against this project shall be claimable in subsequent years also.

## 5. Disbursement of subsidy

- 5.1 The approved cost i.e. total CAPEX related subsidy support to BSNL after adjusting the mobilization charges of Rs. 8.098 Crore shall be disbursed in one or more instalments within 30 days of the receipt of subsidy claim from the BSNL and utilization certificate (**Annexure-III**).
- 5.2 BSNL shall submit their requirement for subsidy from time to time as per requirement of the project.
- 5.3 The subsidy claim should be submitted as prescribed in hard copy in the format of **Annexure-I**, which should be duly signed by the Authorized signatory of the Company.
- 5.4 The claim shall be duly certified with an Affidavit as per **Annexure-I** by a representative of BSNL duly authorized by a Board Resolution of the Company.
- 5.5 The claim for subsidy shall be accompanied by a pre-receipted bill with revenue stamp. Disbursement of subsidy shall be by cheque, through the Office of the Administrator or any other designated Authority. The Administrator shall pay the subsidy after making adjustments, if any.
- 5.6 The aforesaid Statements shall be required to be audited by the Auditors of BSNL appointed under Section 224 of the Companies' Act, 1956. The report of the Auditors should be in the prescribed form given in **Annexure-II** to be filed with the Administrator or designated authority along with the claims.
- 5.7 Final adjustment, if any, in respect of excess or shortage in the Subsidy disbursed shall be made in the following year based on the Statements duly certified by the Auditors of BSNL.

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5.8 The records and the facilities/commissioned sites, of BSNL shall be subject to such scrutiny and inspection, as may be prescribed and directed by the Administrator, so as to facilitate the verification of the subsidy claimed and paid to BSNL under the MoU.

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

## **6. Set off clause**

6.1 In the event any sum of money or claim becomes recoverable from or payable by BSNL to the Administrator against the MOU, such money or claim can be (without restricting any right of set off for counter claim given or employed by law) deducted or adjusted against any amount or sum of money then due or which at any time thereafter may become due to BSNL under this MOU or any other MOU or Contract between the Administrator/Department of Telecommunications and BSNL.

6.2 The aforesaid sum of money payable to BSNL shall include any valuable security, which can be converted into money. After exercising the right of set off, a notice shall always be given immediately within seven days by the Administrator to BSNL.

## **7. Arbitration**

7.1 In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in charge of the Department of Public Enterprises. The Arbitration & Conciliation Act, 1996 shall not be applicable to the arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award of Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The parties to the

dispute will share equally the cost of arbitration as intimated by the Arbitrator.

## **8. Suspension, Revocation or Termination of MOU**

- 8.1 The Administrator reserves the right to suspend the operation of the MOU in whole or in part, at any time, if in the opinion of the Administrator it is necessary or expedient to do so in public interest or in the interest of the security of the State. However, the Administrator shall not be responsible for any damage, claim or loss caused or arising out of such action. The suspension of the MOU will not be a cause or ground for extension of the period of the MOU and suspension period will be counted towards period spent under the validity of the MOU.
- 8.2 The administrator may, without prejudice to any other remedy available for the breach of any conditions of the MOU, by a written notice of 60 calendar days issued to BSNL at its registered office, terminate the MOU under any of the following circumstances:
- (a) Failure to perform any obligation(s) under the MOU;
  - (b) Failing to rectify, within the time prescribed, any defect as may be pointed out by the Administrator.
  - (c) Going into liquidation or is ordered to be wound up.
- 8.3 Provided that if the respective Basic/Unified Access Services/CMTS/NLD license of BSNL, as applicable, is terminated, then this MOU shall also be deemed to be terminated forth-with.
- 8.4 The Administrator reserves the right to revoke the MOU at any time in public interest by giving a notice of 60 days counted from the date of receipt of such notice.
- 8.5 Wherever considered appropriate, Administrator may conduct an inquiry to determine whether there has been any breach in compliance of the terms and conditions of the MOU by BSNL and upon such inquiry BSNL shall extend all reasonable facilities and shall endeavour to remove the hindrance of every type.

## **9. Force Majeure**

- 9.1 If at any time, during the continuance of the MOU, the performance in whole or in part, by either party, of any obligation is prevented or

delayed, by reason of war or hostility, acts of the public enemy, civic commotion, sabotage, Act of State or direction from Statutory Authority, explosion, epidemic, quarantine restriction, strikes and lockouts (not limited to the establishments or facilities of the IP), fire, floods, natural calamities or any act of GOD (hereinafter referred to as EVENT); provided notice of happenings of any such EVENT is given by the affected party to the other, within 10 Calendar days from the date of occurrence thereof, neither party shall, by reason of such event, be entitled to terminate the MOU, nor shall either party have any claims for damages against the other, in respect of such non-performance or delay in performance; provided further that services under the MOU shall be resumed as soon as practicable, after such EVENT comes to an end or ceases to exist.

9.2 The decision of the Administrator as to whether the service may be so resumed (and the time frame within which the service may be resumed) or not, shall be final, binding and conclusive.

9.3 It is understood and declared that any strike, lock out or labour dispute or unrest only in the undertaking of BSNL or the reasonable harshness of the nature due to the terrain or difficulties arising from remoteness of the area or insufficiency of funds will not be treated as an EVENT.

#### **10. Duration of the MOU**

This MOU will be valid for a period of ONE year from the date of signing.

#### **11. Modifications in the Terms and Conditions of the MOU**

The Administrator reserves the rights to modify at any time the terms and conditions of the MOU, if in the opinion of the Administrator it is necessary or expedient to do so in the interest of the security of the state or for proper conduct of the service. The decision of the Administrator shall be final in this regard.

#### **12. General conditions:**

a) This MoU supersedes all prior correspondence and understandings between the Parties and constitutes the entire agreement between the Parties relating to the subject matter hereof. No addition to or modification of any provision of this MoU shall be binding upon the

Parties unless made by a written instrument signed by a duly authorised representative of each of the Parties.

- b) This MoU shall be subject to exclusive jurisdiction of courts at Delhi.
- c) Notice: Unless otherwise provided herein, all notices or other communications under or in connection with this MoU shall be given in writing and may be sent by personal delivery or post or courier or facsimile. Any such notice or other communication will be deemed to be effective if sent by personal delivery or post or courier or facsimile. Any such notice or other communication will be deemed to be effective if sent by personal delivery, when delivered, if sent by post, two days after being deposited in the post and if sent by courier, one day after being deposited with the courier, and if sent by facsimile, when sent (on receipt of a confirmation to the correct facsimile number).

The addresses referred to hereinabove are :

<p>If to Administrator Kind Attn.: <u>KAMAL BHAGAT</u> <u>DIRECTOR (BB-I), USOF, DoT</u> <u>1121, SANCHAR BHAWAN,</u> <u>20, ASHOK ROAD,</u> <u>NEW DELHI - 110 117</u> Facsimile Number : <u>011-23371751</u> <u>23372378</u></p>	<p>If to BSNL : Kind Attn.: <u>P. K. PANDEY, PGM(R)</u> Bharat Sanchar Bhawan Harish Chandra Mathur Lane Janpath New Delhi - 110 001 Facsimile Number: <u>011-23359767</u></p>
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In witness whereof, the parties hereto set their hand on the MOU through their duly authorized representative on the day, month & year first above written.

P. K. Pandey

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(P. K. Pandey)  
PGM (Radio), BSNL

(Kamal Bhagat)  
Director (BB-I), USOF, DoT

Principal General Manager (Radio)  
with BSNL, New Delhi  
B.S.N.L. Corporate

Witness: (Signature)  
( J. K. BATRA )  
AGM (R-I)  
BSNL

(Signature) 29/12  
Dy. Administrator (F), USOF, DoT

Annexure-A

Timelines for satellite bandwidth augmentation in  
Andaman & Nicobar Islands in accordance with the decision taken by  
Telecom Commission in the meeting held on 22.04.2015

Sl. No.	Cumulative Bandwidth	Time Lines
1	310 Mbps	January, 2015
2	386 Mbps	April, 2015
3	500 Mbps	August, 2015
4	1Gbps	December, 2015

P.K. Pandey

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**AFFIDAVIT AND FORMAT OF STATEMENT FOR SUBSIDY CLAIM FOR  
AFFIDAVIT (ON STAMP PAPER)**

1. I, \_\_\_\_\_ aged about \_\_\_\_\_ years son of  
Shri \_\_\_\_\_ resident of  
\_\_\_\_\_ do  
solemnly affirm and state as under:
2. That I am \_\_\_\_\_ of \_\_\_\_\_ (Name of the  
Company) and I am duly authorized by the resolution dated  
\_\_\_\_\_ passed by Board of Directors of the Company to furnish  
affidavit on behalf of \_\_\_\_\_ (Name  
of the Company).
3. That a claim of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) is being  
made for the period \_\_\_\_\_ to \_\_\_\_\_ for  
expenditure incurred/ to be incurred by BSNL for the purpose of  
augmentation of satellite bandwidth in Andaman & Nicobar Islands in  
accordance with the responsibilities detailed under clause 3 of the  
MOU.
4. That the claim pertains to the augmentation of satellite bandwidth in  
Andaman & Nicobar Islands.
5. That excess payment or shortage, if any, in the subsidy received shall  
be adjusted/recovered based on the statements duly certified by the  
Auditors of the Company and scrutiny as prescribed by the  
Administrator.
6. That the subsidy for augmentation of satellite bandwidth in Andaman  
& Nicobar Islands has not been claimed under any other MOU entered  
into with the Administrator for the same Service Area.
7. That the cumulative release of funds as CAPEX related USO subsidy  
support, made so far including this claim is within the overall  
approved project cost.

**Deponent**

**VERIFICATION**

Verified at \_\_\_\_\_ on \_\_\_\_\_, that the contents of para 1 to 6 above  
of the affidavit are true and correct to the best of my knowledge, no part of it  
is false and nothing has been concealed there from.

**Deponent**

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*(Signature)*

Format at Auditor's Report on Statement of Claim for Subsidy from USOF

To

The Board of Directors

We have examined the attached Statements(s) of claims of BSNL for subsidy support from USO Fund for the period ending \_\_\_\_\_. We understand that the aforesaid statement(s) is/are to be furnished to the Central Government for assessment of the subsidy payable to BSNL by the Government, as per the **MOU issued vide letter number** \_\_\_\_\_ dated \_\_\_\_\_ for Subsidy Disbursement for augmentation of satellite bandwidth in Andaman & Nicobar Islands.

We report that:

1. We have obtained all the information and explanations, which to the best of our knowledge and belief were necessary for the purposes of our audit.
2. In our opinion and to the best of our knowledge and belief and according to the explanations given to us, the Statements have been prepared in accordance with the conditions contained in the said MOU and clarification thereon in this behalf and gives a true and fair view of the subsidy claimed for the period computed on the basis of the aforesaid conditions.

(NAME AND SIGNATURE WITH COMPANY'S SEAL)

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(Signature)

**Form of Utilization Certificate**

MoU No. 30-174-2/2014-BB-USOF dated .....

Name of Circle: Andaman & Nicobar Telecom Circle

Sl. No.	USOF Subsidy installments	Sanction letter no.	Amount
1	10% mobilization advance		
2	Installment no. 1		
3	Installment no. 2		
4	Installment No. 3		

1. I certify that a sum of Rs. .... for CAPEX related subsidy was received for the Andaman & Nicobar Telecom Circle, as per details given above.
2. It is also certified that out of the above mentioned total funds of Rs. ....a sum of Rs. ....only has been utilized for the purpose for which it was sanctioned. It is further certified that the unspent balance of Rs. ....only was remaining as on.....
3. Certified that I have satisfied myself that the terms & conditions of the MoU no. 30-174-2/2014-BB-USOF dated .....have been duly fulfilled/are being fulfilled for which USOF subsidy was sanctioned and I have exercised the following checks to see that the money has been actually utilized for the purpose for which it was sanctioned.
  - i) BSNL's statement of accounts w.e.f. ....to.... have been duly audited and are enclosed/would be forwarded by .....(specify the date) in accordance to provision 5.6 of the agreement.
  - ii) It has been ensured that the deliverables and contractual obligations has been according to the requirements as per the MoU.
4. The utilization of the aforesaid funds has resulted in following outputs:-
  - i) Additional cumulative bandwidth achieved during.....and .....
5. Certificate that the responsibilities assigned under the project as per clause 3 of MoU has been satisfactorily completed. *This clause certifying the project completion to be inserted in the UC form, while claiming last installment of subsidy.*

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*KG*

Name  
Authority Signatory,  
(As approved by BSNL Board,  
(Stamp to be affixed)