

Customer Agreement

THIS AGREEMENT IS MADE AND ENTERED INTO AS OF THE _____ BETWEEN:

M/s City Online Services Ltd. having their Registered Office at #701 , Aditya Trade Centre , Ameerpet Hyderabad –500 038 (hereinafter referred to as "COL"), which term shall unless repugnant to the subject or context mean and include its representative and successors of the ONE PART.

AND

_____(herein after referred as BUYER/PARTY), which terms shall unless repugnant to the subject or contest mean and include its representative and successors of the other part.

WHEREAS

- A. COL is interalia engaged in the business of Internet Services.
- B. The Ministry of Communications in conjunction with the Department of Telecommunications and the Telecom Commission, Government of India has issued guidelines and general information (No. 845-51/97-VAS) FOR internet Services Provider (ISP) and COL, had obtained the said Licence No 820-233/99-LR for providing internet Service on a non-exclusive basis for the Service area "Andhra Pradesh and Karnataka Circle" within the category "B" of the aforementioned guidelines.
- C. BUYER/PARTY desire to enter into this Agreement with COL for obtaining a subscription.
- D. COL is the owner of the equipments ("Equipments") a detailed list of which is enclosed along with this Agreement as Schedule 1 (provided at the time of delivery of the Equipments) and Internet Services ("Services") a detailed list of which is enclosed along with this Agreement as Scheduled I.

NOW THEREFORE, in consideration of the mutual covenants and undertakings herein contained, the parties hereto hereby agree as follows.

CLAUSE 1 DEFINITIONS AND INTERPRETATIONS

1.1 When used in this Agreement the terms defined hereinafter shall have the following meaning.

- a) "Affiliate" shall mean with respect to any Party to this Agreement any entity, which controls, is controlled by, or is under common control with such Party. An entity controls another entity when it owns or controls directly or indirectly, fifty-one percent (51%) or more of the equity share capital issued and outstanding of said other entity or when it controls the composition of the Board of Directors of said other entity.
- b) "Agreement" or "this Agreement" shall mean this Customer Agreement and shall include any subsequent written modifications and alternations thereto.
- c) "Approval(s)" shall mean Government of India permissions, consents, validations, confirmations, Licenses and other authorizations required to be obtained in order to implement the provisions of this Agreement including all permissions from the Reserve Bank of India.
- d) "Board" of "Board of Directors" shall mean the Board of Directors of COL or BUYER/PARTY as the case maybe.
- e) "Effective Date" means the date on which all the conditions precedent have been fulfilled under Clause 9.
- f) "Equipments" means the detailed list of equipments, which is enclosed along with this Agreement as Schedule I.
- g) "Initial Term" shall mean duration of one year from the Commencement Date.
- h) "Services" means the detailed list of Internet Services, which is enclosed along with this Agreement as Schedule I.
- i) "Territory" means the service area of "Andhra Pradesh and Karnataka Circle" under the jurisdiction of the Ministry of Communications, the Department of Telecommunications and the Telecom Commission, Government of India as per the issued guidelines (No. 845-51/97-VAS) for Internet Service Provider (ISP) or as modified by COL from time to time.
- j) Internet Telephony means an Application Service, which the customers of ISPs can avail from their Personal Computers (PC) capable of processing voice signals or other IP based Customer Premises Equipment (CPE) as mentioned below
 - a) PC to PC (Both within as well as outside India)
 - b) PC to Telephone (PC in India to Telephone outside India)
 - c) IP based H.323/SIP Terminals in India to similar Terminals both in India and abroad, employing IP addressing scheme of 'IANA'
 - d) Access to the ISP node through the authorized facilities of authorized Cable Operators shall be permitted subject to the provisions of Cable Television Networks (Regulation) Act, 1995 as modified amended or replaced from time to time.
 - e) Internet Telephony Service offered by ISPs is different in nature, scope and kind from the real time voice, offered as telecommunication service by operators such as BSO, CMSO, NLDO, PMRTS etc, under their existing license

- 1.2 It is the understanding between the Parties that their rights and obligations in regard to their business relationship in the Customer Agreement shall be interpreted, acted upon and governed in accordance with the terms and conditions of this Agreement.

CLAUSE 2: COMMENCEMENTS AND TERM OF AGREEMENT

This starts on the Commencement Date and shall remain in force for one year until it is terminated by either party in accordance with Clause 11

CLAUSE 3: CONNECTION SERVICE AND RENEWAL

- 3.1 On request of BUYER/PARTY, COL has agreed to provide the Equipments described in Schedule I and the Services as enumerated in the Service Contract for the price and the terms as set forth in the Service Contract, a copy of which is enclosed along with this Agreement as Schedule I.
- 3.2 COL shall allocate BUYER/PARTY 8 IP addresses in accordance with RFC 2050 as per COL policy and on a case-to-case basis.
- 3.3 The Services shall automatically be renewed for successive periods equal to the initial Term unless terminated by either party in accordance with Clause 10 and 11. COL reserves the right to change its rates for any renewal term by notifying BUYER/PARTY at least 30 days in advance of the effective date of such rate change.
- 3.4 At the end of the initial Term hereof. BUYER/PARTY shall return all Equipments as per Schedule I to COL, at their own expense, in good and working condition.

CLAUSE 4: CONSIDERATION

- 4.1 BUYER/PARTY shall pay upfront installation Fees as per Schedule I on the day of the signing of this Agreement BUYER/PARTY is required to pay during the continuance of this Agreement to COL a monthly consideration amount for the Service Connection. The Monthly consideration is provided in Schedule I
- 4.2 COL shall be responsible for support. Any cost arising after the determination of the demarcation point after installation of the Equipment as provided in Schedule would be borne by BUYER/PARTY according to rates as mutually agreed upon both the parties.

CLAUSE 5: BILLING

5.1 The Installation Fees shall be due upon the execution of this Agreement and the Service Contract as per Schedule I. Billing for the Connection shall commence on the date the Connection is activated. BUYER/PARTY would be invoiced 15 days prior to the start of every month. All payments would be due within 15 days after the date of such invoice.

CLAUSE 6: INSTALLATION AND MAINTENANCE

- 6.1 COL may deliver the Equipments to BUYER/PARTY at the Address specified in Schedule I and install it in working order in a position selected by BUYER/PARTY as deemed technically necessary.
- 6.2 BUYER/PARTY shall not interfere with or adjust the Equipments in any way but on any fault occurring shall immediately inform COL who shall without delay repair or replace it. BUYER/PARTY shall compensate COL in full on demand for all loss and damage to the Equipments caused by willful misuse of it.
- 6.3 COL will apply for format operating WPC/DOT clearances as required. In the meantime the customer will be commissioned on the basis of a provisional permission arranged from the same authorities.

ARTICLE 7 INDEMNITIES

- 7.1 BUYER/PARTY hereby agree to indemnify, defend and hold COL harmless from and against all losses expenses, costs, deficiencies, liabilities and damages (including related counsel fees and expenses), resulting from, arising out of or connected with any inaccuracy of any representation or warranty made by BUYER/PARTY pursuant to this Customer Agreement, or any default in performance of any of the covenants made by BUYER/PARTY in this Customer Agreement.

CLAUSE 8: CONFIDENTIALITY

For so long as this Agreement remains in effect, BUYER/PARTY and/or its Affiliate(s) shall receive and maintain all Confidential Information (however disclosed) in the strictest confidence and trust and shall limit disclosure of any Confidential Information to those of its employees, agents and representatives on a need-to-know basis.

For purposes of this Clause 8, "Confidential Information" shall mean

- a) with respect to COL, all information relating to the business or operations of COL, the Service Connection and the equipments sold by COL; and
- b) with respect to COL, all information relating to business or operations of COL or any of its Affiliates which is specifically identified in writing by COL at the time of the disclosure as being confidential or proprietary or information with respect to COL which BUYER/PARTY would have reason to believe is confidential.

CLAUSE 9: CONDITION PRECEDENT

This Agreement shall take effect only after the following Condition Precedent has been fully satisfied.

- a. This Agreement has been executed by the parties by their respective authorized signatories and all requisite approvals and formalities have been obtained by BUYER/PARTY

CLAUSE 10: REPRESENTATIONS AND WARRANTIES

10.1 Capacity of BUYER/PARTY

- a) BUYER/PARTY has full power and capacity to enter into and perform this Agreement and this Agreement constitutes valid and binding obligations on BUYER/PARTY, in accordance with its terms.
- b) BUYER/PARTY warrants that it has or will arrange to have all Municipal and/or Building Society approvals for installation of the Mast at the proposed site.
- c) The execution and delivery of, and the performance by BUYER/PARTY of his obligations under this Agreement will not result in a breach of any order, judgment or decree of any court, government agency or regulatory body to which BUYER/PARTY is a party or by which BUYER/PARTY is a party or by which BUYER/PARTY is bound.

10.2 Agency Agreements

BUYER/PARTY is not a party to any agency, distributorship, marketing, licensing agreement with any party in relation to the Connection and the Equipments.

10.3 GOI policy for Internet

- i). BUYER/PARTY shall not use any hardware/software, which are identified as unlawful and/or render network security vulnerable. BUYER/PARTY shall make available, on demand, to the agencies authorized by the Government of India, full access to the equipment provided by COL for technical security and detailed inspection.
- ii). BUYER/PARTY shall provide necessary facilities to the Government of India to counteract espionage, subversive acts, sabotage or any other unlawful activity. The said facilities to be provided by BUYER/PARTY will depend upon the specific situation at the relevant time. The type and the extent of the facilities required shall be at the sole discretion of the Government of India.

10.4 Obscene material and applicability of Cyber laws

- i). BUYER/PARTY shall ensure that objectionable, obscene, unauthorized or any other content, messages or communications infringing copyright, intellectual property right and international and domestic cyber laws, in any form or inconsistent with law of India, are not carried in his network and BUYER/PARTY should take all necessary measures to prevent, it in this regard, COL is obliged to provide, without delay, all the tracing facilities of the nuisance or malicious messages or communications transported through his equipment and network, to authorized officers of GOI/State Government, when such information is required for investigations of crimes or in the national interest of national security Cyber laws as and when framed shall be applicable. The BUYER/PARTY shall be governed by the provisions of Information Technology (IT) Act 2000, as modified from time to time. Any damages arising out of default on the part of BUYER/PARTY in this respect shall be the sole responsibility of BUYER/PARTY.
- ii). The use of the Connection for anti-national activities would be construed as an offence punishable under the India Penal Code or other applicable law. The Connection cannot be used in such a manner as to endanger or make vulnerable a networked infrastructure. Acts such as break-ins or attempted break-ins of Indian networks shall be regarded as an anti-national act and shall be dealt with in accordance with the Indian Penal Code. The Buyer/Party must ensure that their services are not used for such purposes
- iii). In case any confidential information is divulged to the Buyer/party for proper implementation of the Agreement, it shall be binding on the Buyer/party, its agents and servants to maintain its secrecy and confidentiality.

10.5 Application of Indian Telegraph Act

- i). The Buyer/party shall furnish all necessary means and facilities as required for the application of provisions of Section 5 (2) of the Indian Telegraph Act, 1885, whenever occasion so demands.

At present Section 5(2) of Indian Telegraph Act reads as follows:

"on the occurrence of any public emergency or in the interest of public safety, the Central Government or a State Government or any officer specially authorized in their behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient to do so in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign states or public order or for preventing incitement to the commission of an offence for reasons to be recorded by order, direct that any message or class of messages to or from any person or class of persons or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted or shall be intercepted or detained or shall be disclosed to the Government making the order or an officer thereof mentioned in the order:

Provided that press messages intended to be published in India, or correspondents accredited to the Central Government or a State Government shall not be intercepted or detained, unless their transmission has been prohibited under this sub-section."

- ii). Nothing provided and contained anywhere in this Licence Agreement shall be deemed to affect adversely anything provided or laid under the provisions of Indian Telegraphs Act, 1885 or any other law in force, as enacted/amended from time to time

CLAUSE 11: TERMINATIONS

11.1 BUYER/PARTY shall be entitled to terminate this Agreement after the initial Term is completed and thereafter termination is possible after BUYER/PARTY issuing a Termination Notice in accordance with Clause 14, 30 days before the contemplated Termination date. However, COL shall be entitled to terminate this Agreement on the happening of either of the following events by a written notice.

- a) of thirty days in the circumstances referred to in Clause 12.
- b) Forthwith, in the event of material breach of the provision of this Agreement by BUYER/PARTY and fails to remedy such breach or default to the satisfaction of the COL issuing notice within thirty (30) days after receiving written notice.
- c) Of thirty days, if as a result of a merger, amalgamation, reconstruction or consolidation by BUYER/PARTY with or into another company or corporation where BUYER/PARTY is not the surviving of the resulting organization, without the prior consent of COL as the case may be.
- d) Of thirty days, in the event of any Government expropriation or condemnation of all or a substantial portion of the assets or capital stock of BUYER/PARTY or COL;

11.2 This Agreement may be terminated by COL as follows:

- a) In the event, BUYER/PARTY claims that there has been a theft of the Equipments from BUYER/PARTY'S premises and unless BUYER/PARTY compensates COL with the cost of the said Equipments at a normal depreciated value.
- b) In the event, BUYER/PARTY fails to pay COL the monthly payments as mentioned in Clause 5 or regularly defaults in making such payments.
- c) In the event, BUYER/PARTY causes international and malafide damage to the Equipments and fails to rectify the said damage or does not inform COL of any such damage and fails to pay the requisite compensation.
- d) In the event of the enactment of any law or regulation in India, or the adoption by the Government of India or any political subdivision thereof of any policy, guideline or other similar direction which would have the effect of requiring any change in the terms of this Agreement adverse to COL.

11.3 Notwithstanding anything, it is agreed that should the Agreement not be operational within a period of 30 days from the signing of this Agreement, this Agreement will stand terminated unless the two parties mutually agree to extend such date.

CLAUSE 12 FORCE MAJEURE

12.1 If either Party's performance of any of its obligations hereunder is prevented, restricted or interfered with by reason of fire, or other causality or accident, strike or Labour disputes; war or other violence; any law or regulation of any government, or any act or condition whatsoever beyond its reasonable control (each occurrence being hereinafter referred to as a "Force Majeure"), then such Party shall be excused from such performances the extent of such prevention, restriction or interference; provided, however, that such Party shall give prompt notice within a period of 15 days from the date of Force Majeure occurrence and providing a description to the other Party of such Force Majeure in such notice, including a description in reasonable specificity of the cause of the Force Majeure, and provided

further that such Party shall use reasonable efforts to avoid or remove such cause of non-performance and shall continue performance hereunder whenever such causes are removed.

12.2 If either Party is unable to perform any material obligation under this Agreement for a continuous period of thirty (30) days from the date of receipt of the notice of Force Majeure occurrence because of any Force Majeure, then the other Party shall have the right to terminate this Agreement (without prejudice to any rights such Party may have against the Party who has been unable to perform) effective thirty (30) days after the expiration of such thirty (30) days period.

CLAUSE 13 ASSIGNMENTS

This Agreement and the rights and obligations hereunder are personal to the Parties and shall not be assigned by either Party, voluntarily or by operation of law, to any third Party, without the express prior written consent of the other Party.

CLAUSE 14 NOTICES

Any notice or other communication required or permitted to be given between the Parties shall:

- a) Be in writing duly addressed to the address of the recipient shown below or to such other address, as it may have notified the sender, signed by an authorized representative of the sender.

From
City Online Services Limited
#701, Aditya Trade Centre,
Ameerpet
Hyderabad

To

CLAUSE 15 ENTIRE AGREEMENTS

The Parties hereto acknowledge that this Agreement along with the Attachments attached thereto constitute the entire agreement between the Parties and shall supersede all previous communications, either oral or written, between the Parties hereto with respect to the subject matter hereof, and no agreement or understanding varying or extending the same shall be binding upon any Party hereto unless in writing signed by a duly authorized officer or representative thereof.

CLAUSE 16 MODIFICATION OF AGREEMENT

No amendment or change hereof or addition hereto shall be effective of binding on either of the Parties hereto unless set forth in writing and executed by the respective and duly authorized representatives of each of COL and BUYER/PARTY and subject to obtaining any requisite Approvals.

CLAUSE 17 GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of India.

Clause 18: Terms and Conditions for VOIP Services

The following activities should not be carried by the user of Voice over Internet Telephony Services

- a) Voice communication from anywhere to anywhere by means of dialing a telephone number (PSTN/ISDN/PLMN) as defined in National Numbering Plan;
- b) Originating the voice communication service from a Telephone in India;
- c) Terminating the voice communication to Telephone within India;
- d) Establishing connection to any Public Switched Network in India;
- e) Dial up lines with outward dialing facility from nodes.
- f) Interconnectivity between ISPs who are permitted to offer Internet Telephony Services and the ISPs who are not permitted to offer Internet Telephony Services

CLAUSE 19: ARBITRATION

All disputes, controversies or differences which may arise between the Parties hereto in relation to this Agreement or for breach thereof which cannot be settled amicably by the Parties shall be submitted for arbitration and finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators approved in accordance with the said Rules. The arbitration proceedings shall be held in Hyderabad Judgment upon the award rendered maybe entered in any court in Hyderabad

Schedule I

Charges:

PARTICULARS	
Date of Commencement	

Notes:

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by and through their duly authorized representatives as of the date written herein.

Back up Server will be provided by us.

City Online Services Limited

Authorized Signatory

Authorized Signatory