

**AGREEMENT
OF
REVENUE SHARING**

This Agreement (the “**Agreement**”) is made at Islamabad on this ____day of _____ 2009.

BY & BETWEEN

Pakistan Telecommunication Company Limited a company incorporated under the Companies Ordinance 1984, with its registered offices at PTCL Headquarters, G-8/4, Islamabad (hereinafter referred to as “PTCL” which expression shall, where the context so permits, be deemed to mean and include its successors-in-interest and permitted assigns), through its duly authorized representative, **OF THE ONE PART.**

And

_____, incorporated under the Companies Ordinance 1984, with its registered office at _____, (hereinafter referred to as the “ISP” which expression shall, where the context so permits, be deemed to mean and include its successors-in- interest and permitted assigns), through its duly authorized representative, **OF THE SECOND PART.**

WHEREAS, PTCL is duly licensed, *inter alia*, to operate and maintain basic telephony and public switched telephone network (“PSTN Network”) in Pakistan;

ANDWHEREAS, ISP is licensed Internet Services Provider and authorized to operate and maintain dial up internet services in Pakistan;

AND WHEREAS, the Parties have agreed to enter into a commercial arrangement on revenue sharing basis as set out in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set out and for good and valuable consideration, the adequacy which is hereby acknowledge, the Parties have been agreed as under:

1. DEFINITIONS

1.1 Unless the context otherwise requires, the following terms, wherever used in this Agreement, shall have the following meanings:

(a) “**Act**” means the Pakistan Telecommunication (Re-organization) Act, 1996 (Act No. XVII of 1996) and any subsequent amendments;

(b) “**Agreement**” means the agreement between PTCL and ISP along with the other documents forming integral part of this Agreement as described in Clause 2 hereof;

- (c) **“Applicable Law”** means the Law of Pakistan including any instruments having the force of law in Pakistan;
- (d) **“Basic Telephony Service”** means “Basic Telephone Service” as defined in Act;
- (e) **“Customer”** means the end user of the Internet Service including residential, commercial, corporate, intuitional and business customers;
- (f) **“Day”** means a day on which banks are open for business in Pakistan. This definition relates only to payment obligations under this Agreement;
- (g) **“Designated Account”** means the bank account to be notified by ISP to PTCL on or before the Service Commencement Date into which the PTCL shall make payments;
- (h) **“Effective Date”** means the date on which this Agreement is signed by the Parties;
- (i) **“FED”** means Federal Excise Duty payable under applicable law;
- (j) **“Internet Services”** means provision of not always on connectivity to IP-cloud through PSTN network where customer requires dialing of a predefined number to get the access.
- (k) **“ISP”** means Internet Service Provider under license issued by PTA
- (l) **“License”** means the license issued by PTA to ISP and any amendments thereto;
- (m) **“Party”** means PTCL or the ISP, as the case may be, and “Parties” means both of them;
- (n) **“PoP”** means Point of Presence in the city(ies), whereat ISP has installed its dialup access hardware.
- (o) **“POTS”** means Plain Old Telephone Service, that is, the basic telephone service for voice communication;
- (p) **“PTA”** means Pakistan Telecommunication Authority established under the Act;
- (q) **“Service”** means the work to be performed by and the services to be undertaken by the ISP pursuant to this Agreement.

2. EFFECTIVE DATE

- 2.1 This Agreement shall come into effect on date of signing by the Parties and shall be sent to PTA for approval.

3. VALIDITY OF THE AGREEMENT

- 3.1 This Agreement shall be initially valid for three (3) years and may be extendable on such terms and conditions as may be mutually agreed between the Parties.

4. SCOPE OF INTERNET SERVICES

- 4.1 The scope of the Internet Services contemplated in this Agreement shall be consistent with the geographical boundaries defined in the ISP License.
- 4.2 ISP will offer the Services in its name, expense and cost through its own equipment(s), hardware & software, media, PRIs, IP Bandwidth and using PSTN Network of PTCL within the scope and limitations stipulated in this Agreement.
- 4.3 PTCL shall be obliged to provide ISP with requisite facilities including PRIs, co-location, backhaul, etc. to ISP within thirty (30) days on filing of the prescribed application by ISP, at the charges approved by PTA.
- 4.4 ISP shall solely be responsible for the contents of the Services provided pursuant to this Agreement and shall comply with the applicable laws of Pakistan at all times.

5. INTERNET SERVICES ACCESS NUMBER

- 5.1 The Services shall be provided through a set of 131 access numbers specifically allocated to the ISPs (“**Universal Internet Number or UIN**”). These Service Access Numbers shall be allocated in the format 131XXXXX.

6. HANDOVER AND CALL ROUTING

- 6.1 PTCL subscribers will be provided access to the ISP’s Services platform through allocated UIN. PTCL will also provide sufficient capacity on its long distance media for allowing ISP customers unrestricted access to the nearest PoP of the ISP at PTCL’s own cost

7. TARIFFS AND COLLECTION

- 7.1 PTCL will invoice its customers for using the UIN as per tariff approved by PTA for such Services, including FED/taxes as applicable thereto.
- 7.2 The tariffs chargeable to PTCL subscribers for using UIN shall be as follows:

Service	Access Number	Service Tariff
Dialup internet	131XXXXX	Rs. 2.01/- per 20 minutes

- 7.3 The collected revenue of UIN calls (excluding applicable taxes/duties) shall be shared between PTCL and the ISP. The details of collected revenue shall be shared by PTCL and the ISP as per Clause 8 below.
- 7.4 ISP and PTCL shall prepare monthly accounts of billing statements from their own systems for settlement and mutual reconciliation. The settlement and reconciliation of accounts shall be made on monthly basis. and shall also be reconciled quarterly. After the end of each reconciliation authorized representatives of PTCL and the ISP will sign the agreed reconciliation statement in two copies, one copy to be retained by PTCL and other to be given to the ISP.
- 7.5 PTCL reserves the right to revise the Tariff and Call Charges from time to time with prior approval of PTA and such revisions, if any, shall be duly advertised/notified by PTCL. The revised Tariff & Call Charges will not be applied to the Customer before 30 days from the date so advertised and/or notified.
- 7.6 For the purposes of maintaining transparency of revenue share, PTCL will provide the summary of revenue billed and revenue actually collected to the ISP on monthly basis. In case collected revenue falls below 85% of the reconciled revenue as per clause 7.3 in any month during the period of this Agreement, PTCL will provide detailed CDRs and revenue collection record of all customers of ISP, if demanded by the ISP.
- 7.7 The revenue sharing model with regard to revenue collected versus revenue billed will be reviewed by the ISP and PTCL after four (4) months of signing of this Agreement.

8. REVENUE SHARING

- 8.1 The revenue sharing between PTCL and ISP will be based as per **Schedule 1**. PTCL will retain 30% and ISP will have 70% of the revenue actually recovered from the customer(s) if the customer(s) number(s) and ISP PoP both are within the same local call charging area already designated by PTCL for its PSTN voice services. Furthermore, PTCL will retain 65% and ISP will have 35% of the revenue actually recovered from the customer(s) if the customer(s) number(s) and ISP PoP are not within the same local call charging area. In case, if any customer makes complaint against bill for Internet services, the decision taken at any forum or vigilance committees of PTCL or by PTA for grant of compensation/waiver to such customer(s) shall be adjusted/shared accordingly, and shall be binding on the parties. Provided that PTCL shall provide full documentary details of such deliberations to ISP.

9. PAYMENT TO ISP

- 9.1 Payment(s) to ISP will be made within fifteen (15) working Days after the collection of revenue from the customer(s).

- 9.2 The sales tax or any other applicable tax collected by PTCL shall be directly paid to tax authorities under the applicable laws.
- 9.3 ISP shall be responsible to make payments of its license or any other amount if due directly to PTA or third parties from its own income. PTCL shall not in any way be responsible for any action taken by PTA against the ISP for non-performance of license obligations.

10. FORCE MAJEURE

- 10.1 Neither party shall have any claim against the other for damages for delay caused by Force Majeure. The term "Force Majeure" as caused herein shall mean Acts of God, strikes, lockouts or other industrial disturbance, act of public enemy, war, blockages, insurrections, riots, epidemics, land slides, earthquakes, fires, storms, lightning, flood, washouts, civil disturbances, explosion, non availability of governmental export permits as well as, other required decisions, approvals licenses etc., from the relevant governmental authorities, and any other cause, beyond the reasonable control of either party and which by the exercise of due care and diligence either party is unable to overcome or restriction imposed by Government of Pakistan action or regulation in case of Emergency and Security.
- 10.2 The Party affected by any occurrence of force majeure event shall make its best endeavors to resume or commence the performance of its obligations prevented by force majeure. Any delay caused by force majeure shall not be regarded as a breach of obligations set forth in this Agreement.
- 10.3 In the event, the Force Majeure continues for a period of one (1) month, the Parties shall meet in good faith to agree upon some viable alternative to the performance of any obligation prevented by force majeure with the objective of maintaining this Agreement in effect. If, however, the force majeure continues for more than a period of three (3) months the Party affected by the force majeure shall have the right to terminate this Agreement upon giving a prior written notice of at least thirty (30) days to the other Party.

11. PLANNED OUTAGES BY PTCL

- 11.1 PTCL shall give prior written notice of seven (7) days to ISP of any planned outages and may provide possible alternatives to ISP, if available.

12. CONFIDENTIALITY

- 12.1 Unless otherwise agreed, the Parties shall ensure that they, their respective associated or affiliated companies, officers, employees, servants, agents and/or consultants keep confidential all terms and conditions hereof and all actions taken pursuant to this Agreement. The provisions of this Agreement shall be subject to the prior approval of the PTA.

13. GOVERNING LAW AND DISPUTE RESOLUTION

- 13.1 This Agreement shall be governed by and construed in accordance with the laws of Pakistan.
- 13.2 In case of any dispute arises between the Parties, the Parties shall use their best efforts to settle amicably any claim of controversy, disputes arising out of or in connection with this Agreement. In an effort to reach a mutual Agreement, the authorized representative of the Parties shall discuss the dispute in order to attempt to reach mutual agreement within reasonable time of thirty (30) days.
- 13.3 All unsettled disputes arising between the Parties shall be referred to arbitration. The arbitration proceedings shall be conducted in accordance with the Arbitration Act, 1940 or any amendment or re-enactment thereof and the rules made there under by sole arbitrator. The decision of the sole arbitrator shall be final and binding. The venue of arbitration shall be Islamabad. The cost of arbitration shall be equally borne by the Parties. Arbitration as aforesaid shall be a condition precedent to any other action under law. The provisions contained in this Clause shall survive upon termination and/or expiration of this Agreement.

14. TERMINATION

- 14.1 Either party may terminate this Agreement immediately on written notice of fifteen (15) days if the other:
- (a) commits a material breach of this Agreement, which is capable of remedy, and the party in breach fails to remedy the breach within a reasonable time communicated through a written notice; or
 - (b) commits a material breach of this Agreement which cannot be remedied; or
 - (c) is repeatedly in breach of this Agreement; or
 - (d) is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of its creditors, or if it goes into either voluntary (other than for reconstruction or amalgamation) or compulsory liquidation, or a receiver or administrator is appointed over its assets or if the equivalent of any such events under the laws of any of the relevant jurisdictions occurs;
 - (e) if the license of ISP is cancelled by PTA for whatsoever reason.
- 14.2 Notwithstanding the above, either party may terminate this Agreement by giving three (3) months prior notice to ISP without any reason whatsoever.

15. OBLIGATIONS AT TERMINATION

- 15.1 On termination of this Agreement in accordance with its terms, or upon expiration of this Agreement as the case may be all the rights and obligation of the parties shall cease, except:
- a. rights and obligation that have accrued as of the date of termination or expiration;
 - b. the obligation of confidentiality set forth in this Agreement;

- c. any right which a Party may have under the Applicable Law;
- d. the indemnification obligations set forth in this Agreement.

15.2 Upon termination of this Agreement, the parties shall pay to the other party any verified outstanding amounts, which it is liable to pay under this Agreement.

16. INDEMNIFICATION

16.1 Each Party shall indemnify the other from and against all losses and all claims, demands, payments, suits, actions, recoveries and judgment of every nature and description made and related cost and expenses brought or recovered against the other related to the Services under this Agreement, by reasons of any negligent act, omission to act or status of liability of that party or its agents or employees. Each party agrees to give the other party prompt notice of any possible liability.

17. LIABILITIES

17.1 PTCL shall not be liable or responsible for any delay in effecting repair or replacement of the Equipment or for any failure or delay in maintaining the Services or Service Levels or for any failure or delay while the customer(s) is availing the Services, whether such failure or delay arises by accident, defects in Customers Equipment or from any other cause. Further, PTCL shall not be liable to the Customer for any loss, expense or damage of any kind in connection with its performance under this Agreement or arising from any delay in Connection/ installation of Customer Equipment, or any disruption, interruption, suspension, eavesdropping of any conversation/ data or malfunction of the Services.

18. NOTICES

18.1 All notices under this Agreement or pursuant to any arbitration or legal proceedings shall be given at the respective registered offices of the Parties. All other communications required or permitted by this Agreement shall be given in writing by registered mail, acknowledgement due, or by fax or telex or telegram confirmed simultaneously with registered mail, acknowledgement due, or by fax or telex or telegram, and shall be addressed:

If to **PTCL**:

Attention: Senior Manager (PSP-III)
Address: PTCL Headquarters
Room No.423, 4th Floor, Rizwan Centre,
F-Block, Blue Area, Islamabad.
Tel. No: 051-2802435
Fax No: 051-2802436

If to **ISP**:

Attention:
Address:

Tel. No:

Fax No:

or such other addresses and numbers as the Parties may, from time to time, designate.

19. ENTIRE AGREEMENT & AMENDMENTS

19.1 This Agreement constitutes the entire Agreement with respect to the subject matter hereof and hereby cancels and supersedes any and all prior oral or written agreements, including any interim verbal or written agreements or understandings between the Parties. This Agreement may be varied or amended only by prior mutual consent of the Parties in writing.

19.2 The preamble, recitals, headings and the annexure of this Agreement shall have the same force and effect as if expressly set out in the body of this Agreement. In this Agreement, where the context so requires, the singular shall include the plural and vice versa.

20. ASSIGNMENT

20.1 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. This Agreement shall not be assigned by either of the Parties to any third party without the prior written consent of the other Party.

20.2 Notwithstanding anything contained herein, any attempt to make an assignment in violation of this provision shall be null and void. ISP shall provided written notice to the other party of any material change in its ownership.

21. SEVERABILITY

21.1 If for any reason any provision hereof becomes inoperative the validity and effect of all other provisions of this Agreement shall not be affected thereby. In case it is not possible under law to implement any of the provisions of this Agreement, the Parties undertake to abide by the spirit of this Agreement and to endeavor to agree to perform obligations as closely resembling those created by this Agreement as shall be permissible by law.

22. COUNTERPARTS

22.1 This Agreement shall be executed in three counterparts. One copy shall be kept by each of the Parties and one copy shall be forwarded to PTA by PTCL.

In Witness Whereof the Parties hereto have executed this Agreement on the day, month and year first mentioned above.

For and on behalf of PTCL

For and on behalf of ISP

Witnesses:

Name: _____

Address: _____

Name: _____

Address: _____

Network Diagrams for Revenue Sharing Basis

- (i) If the PoP of ISP is located within the local charging area of customer the revenue share will be 30% to PTCL and 70% to ISP (Fig 1)

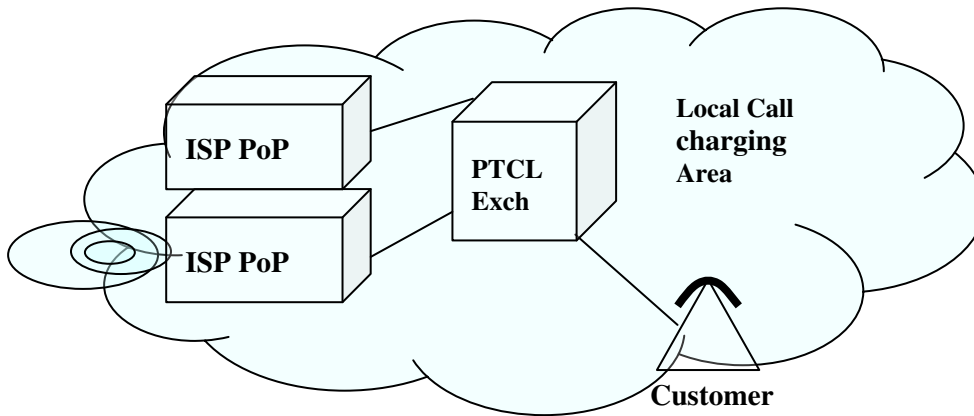


Fig. 1

- (ii) If the PoP of ISP is located outside the local charging area of customer and PTCL requires to carry the call on its long distance media the revenue sharing will be reversed as 65% for PTCL and 35% for ISP (Fig 2).

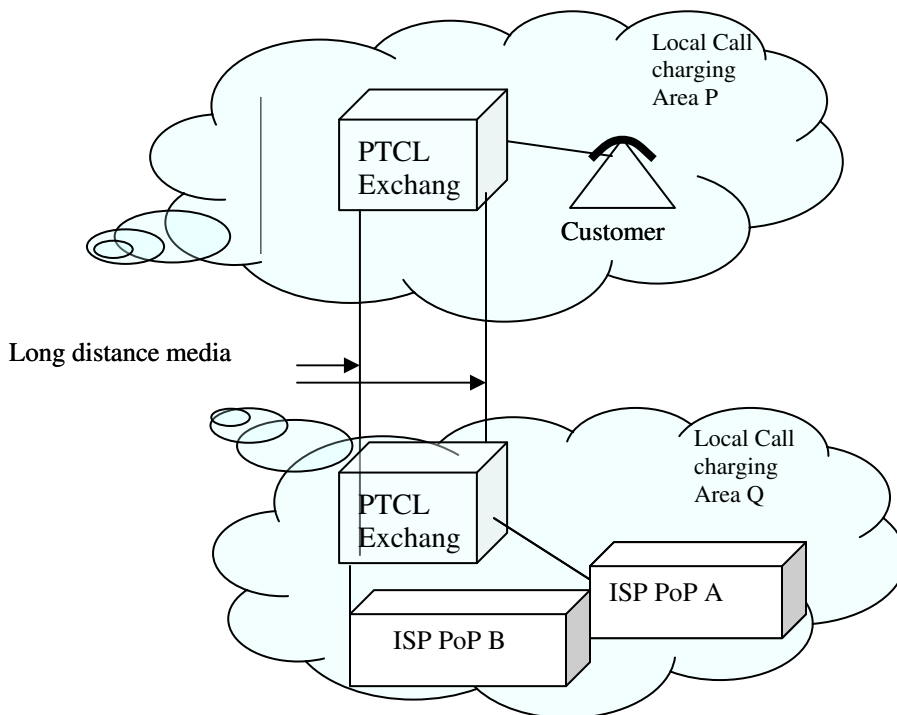


Fig 2.