

BHARAT SANCHAR NIGAM LIMITED

(A Govt. of India Enterprise)

**AGREEMENT WITH
HUNGAMA DIGITAL MEDIA ENTERTAINMENT
PVT. LTD
FOR PROVISION OF ON DEMAND
DIGITAL ENTERTAINMENT SERVICES
TO
THE BROADBAND SUBSCRIBERS OF
BHARAT SANCHAR NIGAM LIMITED**

NO. 64-72/08-Broadband/

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FRANCHISEE AGREEMENT

This agreement is signed on the 28th day of May 2009 by and between **BHARAT SANCHAR NIGAM LIMITED**, a company registered under the Companies Act 1956 having its registered and corporate office at Bharat Sanchar Bhawan, Janpath, New Delhi - 110 001. Registered office acting through Shri H.C. Pant, CS & GM (Legal) (hereinafter called **BSNL** which expression shall, unless repugnant to the context, include its successors in business, administrators, liquidators and assigns or legal representatives) of the **FIRST PARTY**

AND

Hungama Digital Media Entertainment Pvt. Ltd. formerly known as **Virtual Marketing India Pvt. Ltd.**, a company registered under the Companies Act 1956, having its registered office at F1, Laxmi Woollen Mills Compound, Shakti Mills Lane, Off E Moses Road, Mumbai, 400011, acting through **Shri Siddharth Roy**, the Chief Operating Officer (hereinafter called **HUNGAMA** which expression shall, unless repugnant to the context, include its successors in business, administrators, liquidators and assigns or legal representatives) of the **SECOND PARTY**.

WHEREAS the **HUNGAMA** is engaged in Digital Entertainment services, mobile application services, promotions marketing, games, and other allied services in the field of digital entertainment including music (audio and video), movies & television (short form and long form) and any other content that are classified as "digital entertainment" by the consumers, end users or the industry on the internet, mobile and device field which also includes imagery, voice, gaming applications.

WHEREAS **BSNL** is a major telecom service provider licensed to provide all types of telecom services (Basic, Cellular, Internet, long distance etc.) throughout the country (except Delhi & Mumbai) L



WHEREAS HUNGAMA has requested BSNL to sign an agreement for provision of "On Demand Digital Entertainment Storefront" to the Broadband Subscribers of BSNL for providing Online Music, Video and Game services and has further assured BSNL that HUNGAMA have appropriate & sufficient / infrastructure for the equipments & skilled manpower & other facilities to provide services under the agreement and upon such assurance, BSNL has agreed to sign the agreement with HUNGAMA for three years for provision of content based value added service to the Broadband Subscribers of BSNL on a subscription based non-exclusive and revenue sharing basis.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In consideration of the due observance & performance of all the terms and conditions mentioned in this agreement the part I to III and Annexure I attached hereto and forming part of this agreement, BSNL and HUNGAMA agree to sign this agreement on a non-exclusive & revenue sharing basis to provide the content based Value Added Services to the Broadband subscribers of BSNL in its licensed service area and as per conditions contained in various parts and Annexures attached hereto.
2. The agreement shall be valid for a period of **THREE** years from the date of signing unless revoked earlier by either parties. BSNL may extend if deemed expedient, the period of agreement *suo moto* or upon request of HUNGAMA, if made atleast one month before the expiry of the current agreement, on mutually agreed terms. The decision of BSNL shall be final in regard to the grant of extension.
3. HUNGAMA and BSNL hereby agree and unequivocally undertake to fully comply with all terms and conditions stipulated in this agreement along with Part I to III, & Annexure-I attached hereto and without any deviation or reservations of any kind, unless mutually agreed between the parties at any given time.
4. BSNL reserves the right to provide the services similar to those envisaged in this agreement, on its own or to enter into Agreement with other content provider/ service providers/ parties for providing similar services to its customers in future without any restriction of number of content provider/ franchisees/ service providers/parties.
5. Tariffs (i.e. the end user pricing) for the services under this agreement shall be decided by BSNL in consultation with HUNGAMA, the local factors, prevailing competition, market scenario etc. BSNL shall have the overriding powers to decide in case of disputes or issues pertaining to the pricing of the services covered under this agreement. The decision of BSNL shall be final and binding on HUNGAMA in pricing related issues.
6. The Laws of land as promulgated/ modified/ amended and/or replaced from time to time shall govern this Agreement.
7. HUNGAMA shall ensure that the content to be provided as part of the Value added services conforms to the applicable Indian laws. HUNGAMA shall monitor the content on a regular basis to ensure that the same is not obscene or offending to the religion, community or sector violating any copy rights/intellectual property rights of any third party.

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8. HUNGAMA shall indemnify BSNL in respect of any consequences of whatsoever nature arising on account of copy right/intellectual property rights violation in respect of content/technology or Nature/Type of content being in violation of the Laws of India
9. This Agreement shall not be amended or modified or altered or changed in any way except in writing and duly executed by the authorized representative of each party.
10. This Agreement is the complete and exclusive statement of the mutual understandings of the parties. It supersedes and cancels all previous or contemporaneous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement. All modifications must be in writing signed by both parties, except as otherwise provided herein.
11. The Agreement is a confidential document. HUNGAMA and BSNL shall not divulge any part of this Agreement either through oral or written communication or through any other mode to any third party, unless explicitly permitted by the other party or required by law
12. HUNGAMA shall be totally bound and obliged to comply with all applicable norms and directions issued from time to time by the Regulator (TRAI) or the Licensor (DOT) or Govt. of India and any new condition/ direction/ amendment/ stipulation which may be brought in force by the regulator/ Licensor/ Govt. of India subsequent to the execution of this agreement, all such condition/ direction/ amendment/ stipulation should be deemed to be automatically included in this agreement.
13. Each party is and shall remain responsible for obtaining and maintaining for the duration of this agreement, all governmental and other licenses, waivers, consents, registrations, permissions and approvals required of such party for the provision of the services

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed through their respective authorized representatives on the ~~28th~~ day of May 2009.

Signed for and on behalf of **BHARAT SANCHAR NIGAM LIMITED** by Shri H.C. Pant, CS & GM (Legal), the authorized signatory

Signed on Behalf of M/s. HUNGAMA DIGITAL MEDIA ENTERTAINMENT PVT LTD., by Shri Siddharth Roy, Chief Operating Officer authorized signatory & holder of Special Power of Attorney dated

In the presence of following witnesses:

1. Signature [Signature]

Name NITESH ARORA

Occupation HUNGAMA DIGITAL MEDIA ENTERTAINMENT PVT. LTD.

Address PLOT NO. 309-310, UDYOG VIHAR, PHASE-III

Place GURGAON, HARYANA

2. Signature [Signature]

Name Gopal Krishna Garg

Occupation Service

Address BSNL, Bharat Sanchar Bhawan,

Place Janpath, N. Delhi



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SCHEDULE-I
SERVICES PORTFOLIO

- 1.1 The On demand Digital Entertainment services agreed under this agreement will be a chargeable service.
- 1.2 The CHARGEABLE services imply that the subscribers shall be charged some pre-determined tariff for availing these services/ downloading the content under these services. Any additional services at a later date can be added subsequently on mutually agreed basis.
- 1.3 No additional revenue share shall be paid by BSNL to HUNGAMA for enhancing the initial offerings/services.
- 1.4 The libraries of content will depend upon the type of services and will be as per the mutual agreement between BSNL & HUNGAMA. Content will be uploaded on HUNGAMA owned Servers at no cost to BSNL.
- 1.5 HUNGAMA shall extend the latest content for the Services agreed upon in this Agreement without any discrimination vis-à-vis other service provider(s) to whom HUNGAMA may be providing similar services.
- 1.6 HUNGAMA shall also be responsible for evolving the above services in tune with the changing tastes & preferences of the subscribers, changing market scenario. HUNGAMA shall have the right to add/ remove/ update content items, Content Packages and content subscriptions to/from the respective list and Portal by providing updated lists.
- 1.7 The minimum frequency of services updation / content refreshment shall be 1 month. This will include the addition of new features in the services, addition of new items under different categories of services and/or imparting new look & feel to the existing services.
- 1.8 BSNL reserves the right to suspend the services wherever and whenever BSNL is convinced that the content is outdated/ obscene/ offending to the feelings of any religion or community or sector or against the Law or un-satisfactorily responsive. (HUNGAMA shall monitor the content on a regular basis to ensure compliance with applicable Indian laws and that the same is not outdated/ obscene/ offending to the religion, community or sector violating any copy rights/intellectual property rights of any third party).

2. Service Provisioning

2.1 The commercial launch of the Services shall be done as early as possible but not later than 2 months from the date of signing of the agreement. If Hungama is not able to successfully launch the services within stipulated period, BSNL shall be at a liberty to terminate the agreement.



2 TERMS & CONDITIONS

PART-I COMMERCIAL CONDITIONS

1. **Purpose and Scope of the agreement**

- 1.1. The timely provision of services, regular and timely update of content and ready availability of requisite content from its legal source along with its due copyright/ IPR, shall be the essence of this agreement and shall form the central factor of this agreement.
- 1.2. This agreement will enable HUNGAMA to provide On line Digital Entertainment Services to BSNL Broadband subscribers by making all necessary arrangements at its own costs for the infrastructure (content/applications/servers, etc) involved in provision of these services including hosting space, connectivity and billing integration. The services would be run, maintained and updated by HUNGAMA.
- 1.3. BSNL shall be responsible for providing connectivity as will be technically feasible either on DSL broadband or on other access media as per the terms and conditions of the agreement.
- 1.4. **The list of activities agreed to be undertaken by HUNGAMA would include:**
 - a. **Service Hosting:** Installation of hardware equipment like Content application and database servers, Authentication server, Billing Server etc at its own cost. BSNL may offer collocation facility for the hardware as per the collocation tariffs of BSNL.
 - b. **Portal Hosting:** Creation of an Online Music, Video and Game on demand service Portal for facilitating the delivery of various content services under BSNL's brand name with cobranding of HUNGAMA. Arrangement of necessary hardware and software resources required to host the above portal at its own cost.
 - c. **Portal Operation & Maintenance:** Operation & Maintenance of the above Portal/ Associated Hardware at its own cost on 24X7 basis including regular monitoring & updation of the content /services based on market scenario /trends, as per customers' tastes & preferences and/or as desired by BSNL.
 - d. **Access from BSNL Website:** The BSNL designated website shall have a prominent link to the web-page operated by the content/ services provider, which will enable the subscribers to browse and preview/ select/ download the content/service after identification of the respective subscriber's identity and confirmation of the request through an appropriate mechanism. After confirmation, the requested content/services shall be provided to the subscribers. HUNGAMA shall maintain the branding of BSNL throughout the above process.
 - e. **Content arrangement.** HUNGAMA shall be responsible for sourcing the content required for the content based services agreed under this agreement, managing the content, obtaining the Intellectual Property rights (IPRs) / copyrights at its own cost and complying with the Intellectual Property Rights of the content, as applicable, and content protection on its own.



f. Billing information:

For Post paid services: HUNGAMA shall be responsible for generation of complete billing information and CDRs in support of delivery of content/ services to enable BSNL to bill customers for post paid services. HUNGAMA shall be responsible for providing and maintaining at its own cost, the Billing System for providing necessary data for BSNL to generate the bills to be raised upon all its customers served by HUNGAMA's solution as part of this agreement. The necessary details shall be provided to BSNL, as per the format and frequency requested for by BSNL.

For Prepaid services: HUNGAMA will be responsible for setting up the online bill payment infrastructure to enable e-payment by the BSNL customers for the prepaid services. HUNGAMA shall be responsible for providing and maintaining at its own cost, the Billing System for all prepaid BSNL's customers served by HUNGAMA's solution as part of this agreement. The necessary details shall be provided to BSNL, as per the format and frequency requested for by BSNL.

g. Maintenance support HUNGAMA shall provide tier 2 (after first level of queries are supported by BSNL's contact centers) support for customer care to BSNL by providing full back-end support to solve all kinds of problems/ queries raised by the customers relating to these services. HUNGAMA shall also conduct a training programme session of atleast 5 hours for BSNL's customer service and Sales team at one place in each of the four geographical regions. All expenses related to travel, boarding and lodging, etc. of BSNL officials shall be borne by BSNL

h. Augmentation: HUNGAMA would ensure that the availability of the servers is maintained with the increase in the traffic by augmentation of the servers.

i. Miscellaneous: Any other activity(ies) necessary for the successful implementation/ provisioning of the services.

1.5 The list of activities agreed to be undertaken by BSNL would include:

(a) Connectivity: BSNL shall provide to HUNGAMA, the broadband access (virtual pipe) to BSNL's customers. BSNL shall extend the connectivity to the content servers of the firm at its datacenter located in one of the area of BSNL operation. The bandwidth requirement will increase with the increase in traffic. The bandwidth will be provided as justified.

(b) Co-location: BSNL shall offer co-location at its own premises to the franchisee servers on chargeable basis at applicable rates.

(c) Billing - BSNL shall be responsible for commercial aspects, billing of customers and revenue collection.

(d) Marketing: BSNL shall also do the marketing activity as part of the normal value added services promotion.

2 Duration of Agreement

2.1 The period of agreement shall be for 3 years subject to fulfillment of rollout obligations as given below

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- 2.1.1 The minimum rollout obligations of the franchisee during the agreement period shall be as follows:

Time (from the date of signing of agreement)	Number of MoD/VoD customers	Number of Games on Demand customers
12 months	2,00,000	1,00,000
24 months	10,00,000	5,00,000

3. Extension of Agreement:

In case the above rollout obligations are met, the agreement may be considered for extension for a period of another 3 years (subject to renegotiation of the revenue share). In case of default in rollout as above, BSNL will be at liberty to terminate/shortclose the agreement by giving 30 days prior written notice to Hungama.

4. Modifications in the Terms and Conditions of Agreement

The terms and conditions of the Agreement are subject to modification by mutual agreement based upon the request of either party. Notwithstanding anything contained herein, the rates of payment to HUNGAMA and other related conditions may be changed upon mutual consent of both the parties or if in BSNL's opinion, the prevailing policy framework of the Govt., and Regulations/ Directions or tariff orders of TRAI, make the rates payable to HUNGAMA unviable. In case of no agreement being reached in such cases, BSNL reserves the right to terminate the agreement as per the relevant clauses of this agreement.

5. Restrictions on 'Transfer of agreement'

This Agreement is not assignable, transferable or sub-licensable by HUNGAMA. HUNGAMA shall not assign or transfer its right(s) in any manner whatsoever under this agreement to a third party and shall ensure that no third party interest is created due to any of its action of whatsoever nature.

6. INTELLECTUAL PROPERTY RIGHTS/ COPYRIGHTS

6.1 The Intellectual property rights of BSNL and HUNGAMA shall remain their own and this Agreement shall not affect their ownership in any way unless mutually agreed upon.

6.2 HUNGAMA shall be responsible for obtaining the legitimate copyrights/ Intellectual Property Rights of the content provided as part of the services agreed upon under this Agreement.

6.3 HUNGAMA shall ensure that no profiling information regarding the Broadband subscribers of BSNL using these services is collected, analyzed, sold, transferred or otherwise disclosed to any third party or utilized for the purpose of promoting the other than agreed products/ services of franchisee and/or any third party. Such data including the other data pertaining to usage like the login ID, etc created by the subscribers in availing the services & residing in server(s) of HUNGAMA shall be destroyed by the HUNGAMA within seven days of expiry or termination of this agreement under confirmation to BSNL.



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- 6.4 HUNGAMA and BSNL shall not use each others trademarks, trade names, service marks, copyrights, patents, trade secrets, trade dress or Logos, etc. without the concerned party's prior written consent.
- 6.5 Each party recognizes that the respective other party is the sole owner of all right, title and interest in the trademark patents, copyrights, marks, trade dress, trade secrets, operating practices/ procedures or other intellectual property rights relating to services offered by each party, the advertising and promotional material and Customer/ Subscriber information related to the services provided by each party, all other items tangible or intangible, used presently or in future and the goodwill which is or which shall become attached to any of the foregoing (collectively, the "BSNL Intellectual Property" and "HUNGAMA Intellectual Property" respectively. Each party hereby acknowledges that it shall have no right, title or interest in the other party's Intellectual Property and the same are assets of the other party. Any customization or modification done by HUNGAMA /BSNL shall not affect the exclusive rights to and ownership of all or any of the services of the respective party.
- 6.6 HUNGAMA shall not knowingly interfere or cause any third party to knowingly interfere with BSNL Intellectual Property Rights. HUNGAMA agrees and undertake that it shall take all necessary & timely measures to ensure that BSNL Intellectual Property Rights are not infringed, passed off, diluted, reverse- engineered, hacked into, misappropriated, tampered with and / or copied or used by HUNGAMA or any of its directors, officers, employees, agents, consultants, representatives, subsidiaries, associates, servants or any other person except as expressly provided herein. HUNGAMA shall immediately inform BSNL in the event it becomes aware of any infringement, passing off, misappropriation or dilution of BSNL Intellectual Property Rights and that it shall provide, all reasonable information and assistance necessary in order to assist BSNL to abate the infringement, passing off, misappropriation, unauthorized copying or use of, or dilution of its intellectual property.
- 6.7 Either party shall not reproduce, decompile, disassemble or reverse engineer any of the Products or Services of the other party in any manner whatsoever for any purpose without the prior written consent of the other party.
- 6.8 HUNGAMA agrees that it shall not use, re-use or disclose, either directly or indirectly, to any person or other company or its associates or subsidiary companies any knowledge or information concerning BSNL's services, affairs of or intellectual properties of BSNL which HUNGAMA may have acquired from BSNL during the course of or incidental to this Agreement or any knowledge or information concerning BSNL's services, affairs or intellectual properties of BSNL which may have been shared by BSNL with HUNGAMA, after the termination/ expiry of this Agreement for any reason whatsoever under this agreement which HUNGAMA , may be or may have been concerned or interested in.
- 6.9 HUNGAMA shall not alter or otherwise tamper with any equipment, related accessories and software provided by BSNL including any all replacements, modifications, enhancements and or additions thereto.



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6.10 This clause shall survive the termination or expiry of this Agreement.

7 Provision of Service

- 7.1 HUNGAMA shall be responsible for installation, hosting, testing, commissioning, protection, operation and maintenance of all the equipment (hardware, software, help desks, etc.) and contents at its own cost for providing the Service under this Agreement.
- 7.2 Bandwidth costs for connecting to the franchisee servers for the purpose of this agreement will be borne by BSNL. This is however subject to the provisioning of the franchisee servers in the area of operation of BSNL.
- 7.3 HUNGAMA shall also be responsible for obtaining the copyrights and complying with the Intellectual Property Rights of the content, wherever applicable. HUNGAMA shall indemnify BSNL in respect of any consequences of whatsoever nature arising on account of copyright violation of content or content being in violation of laws of land.
- 7.4 It is specifically agreed by HUNGAMA that revenue generated by pushing advertisements on the portal would be shared with BSNL as per the revenue share arrangement mentioned in the agreement.
- 7.5 HUNGAMA shall be responsible for monitoring the content on a continuous basis to ensure compliance with applicable Indian laws.
- 7.6 HUNGAMA shall be responsible for extending all of its latest online Music, Video and Game services to the Broadband subscribers of BSNL.
- 7.7 HUNGAMA shall continuously update its services, covered under the agreement, to include the latest services in line with the customer's preferences & market demand from time to time.
- 7.8 It is specifically agreed by HUNGAMA that it shall at no point of time use the connectivity under this agreement for pushing the content other than online digital entertainment services as covered under this agreement without the consent of BSNL. BSNL may however agree to such proposal at mutually negotiated commercial arrangement.
- 7.9 BSNL shall operate & manage all its related network elements including MPLS Backbone and Broadband access infrastructure (BRAS, Tier-II, Tier-I, DSLAM, subs. line etc).

8. Delivery of Service

The commercial launch of the Services shall be done as early as possible but not later than 2 months from the date of signing of the agreement. If Hungama is not able to successfully launch the services within stipulated period, BSNL shall be at a liberty to terminate the agreement.

9. Suspension, Revocation or Termination of agreement

- 9.1 BSNL reserves the right to suspend the operation of this agreement, at any time, due to change in its own license conditions or upon directions from the competent government authorities or in the circumstances as stated in para 5 of Part III of this Agreement. In such a situation, BSNL shall not be responsible for any damage or loss caused or arisen out of aforesaid action. Further, the suspension of the agreement will not be a cause or



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ground for extension of the period of the agreement and suspension period will be taken as period spent. During this period, no charges for use of the facility of HUNGAMA shall be payable by BSNL.

- 9.2 BSNL may, without prejudice to any other remedy available for the breach of any conditions of agreement, by a written notice of one month issued to HUNGAMA at its registered office, terminate this agreement under any of the following circumstances:
- a) HUNGAMA failing to perform any obligation(s) under the agreement;
Or
 - b) HUNGAMA failing to rectify, within the time prescribed, any defect as may be pointed out by BSNL.
Or
 - c) HUNGAMA going into liquidation or ordered to be wound up by competent authority.
- 9.3 Notwithstanding anything, either party may terminate the agreement, by giving notice of at least ONE month in advance. The effective date of surrender of agreement will be ONE month counted from the date of receipt of such notice by the other party or the authority that signed the agreement on behalf of other party.
- 9.4 If HUNGAMA is wound up or goes into liquidation, it shall immediately (and not more than a week) inform about occurrence of such event to BSNL in writing. In that case, the written notice period can be modified by BSNL as deemed fit under the circumstances. BSNL may either decide to issue a termination notice or to continue the agreement by suitably modifying the conditions, as it feels fit under the circumstances.
- 9.5 Breach of non-fulfillment of Agreement conditions may come to the notice of BSNL through complaints or as a result of the regular monitoring. Wherever considered appropriate, BSNL may conduct an inquiry either *suo-moto* or on complaint to determine whether there has been any breach in compliance of the terms and conditions of the agreement by HUNGAMA or not. HUNGAMA shall extend all reasonable facilities and shall endeavor to remove the hindrance of every type upon such inquiry.
- 9.6 HUNGAMA shall be responsible for maintaining the Services under the agreement even during the period when the notice for surrender/termination of agreement is pending. If the agreed Quality of Service is not maintained during the said notice period, it shall be treated as material breach liable for termination and any revenue share payment pending with BSNL shall be forfeited.

10 Actions pursuant to Termination of Agreement

- 10.1 Upon termination or surrender or expiry of the Agreement, HUNGAMA shall ensure clearance of dues, if any, which it is liable to pay to BSNL. In case of failure of HUNGAMA to pay the amounts due to BSNL, the outstanding amounts shall be recovered from the revenue share of HUNGAMA or from the bank guarantee submitted by HUNGAMA without prejudice to any other action(s) for recovery of the amounts due to BSNL. BSNL shall ensure clearance of dues, if any, which it is liable to pay to HUNGAMA till date of termination of services or till such point that consumers are being charged for services rendered by HUNGAMA under this agreement.



10.2 Notwithstanding any other rights and remedies provided elsewhere in the agreement, upon termination of this agreement:

- i) Neither Party shall represent the Other Party in any of its dealings.
- ii) Neither Party shall intentionally or otherwise commit any act(s) as would keep a third party to believe that the other Party is still related to the former party for provision of online Music, Video and Game services for Broadband subscribers of BSNL.
- iii) Each party shall stop using the other Party's name, trade mark, etc., in any audio or visual form.
- iv) The expiration or termination of the Agreement for any reason whatsoever shall not effect any obligation of either Party having accrued under the Agreement prior to the expiry or termination of the Agreement and such expiry or termination shall be without prejudice to any liabilities of either Party to the other Party existing at the date of expiry or termination of the Agreement.

11 Dispute Settlement

11.1 In the event of any question, dispute or difference arising under this agreement or in connection there-with (except as to the matters, the decision to which is specifically provided under this agreement), the same shall be referred to the sole arbitration of the CMD, BSNL, New Delhi or in case his designation is changed or his office is abolished, then in such cases to the sole arbitration of the officer for the time being entrusted (whether in addition to his own duties or otherwise) with the functions of the CMD, BSNL or by whatever designation such an officer may be called (hereinafter referred to as the said officer), and if the CMD, BSNL or the said officer is unable or unwilling to act as such, then to the sole arbitration of some other person appointed by the CMD, BSNL or the said officer.

11.2 There will be no objection to any such appointment on the ground that the arbitrator is a BSNL Executive or that he has to deal with the matter to which the agreement relates or that in the course of his duties as a BSNL Executive he has expressed his views on all or any of the matters in dispute. The award of the arbitrator shall be final and binding on both the parties to the agreement. In the event of such an arbitrator to whom the matter is originally referred, being transferred or vacating his office or being unable to act for any reason whatsoever, the CMD, BSNL or the said officer shall appoint another person to act as an arbitrator in accordance with terms of the agreement and the person so appointed shall be entitled to proceed from the stage at which it was left out by his predecessors.

11.3 The arbitrator may from time to time with the consent of both the parties enlarge the time frame for making and publishing the award. Subject to the aforesaid, Arbitration and Conciliation Act, 1996 and the rules made there under, any modification thereof for the time being in force shall be deemed to apply to the arbitration proceeding under this clause.

11.4 The venue of the arbitration proceeding shall be the office of the CMD, BSNL, New Delhi or such other places as the arbitrator may decide.



12. Force- Majeure

If at any time, during the continuance of this agreement, the performance in whole or in part, by either party, of any obligation under this 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 (as are not limited to the establishments and facilities of HUNGAMA), 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 21 days from the date of occurrence thereof, neither party shall, by reason of such event, be entitled to terminate the agreement, nor shall either party have any such claims for damages against the other, in respect of such non-performance or delay in performance. Provided Service under the agreement shall be resumed as soon as practicable, after such event comes to an end or ceases to exist. The decision of BSNL 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 and conclusive. However, the Force-majeure events noted above will not in any way cause extension in the period of the agreement.

13. Customer Service

- 13.1 The front-end support for all service related complaints from subscribers would be the existing BSNL Customer Care Personnel. Appropriate training/ instructions would be provided by HUNGAMA to the BSNL staff for the same at no extra costs to BSNL.
- 13.2 For further support, assistance and guidance to authorized BSNL personnel manning the Customer care centers/ help-line/help-desk for fault rectification and Tier 2 support to subscribers of BSNL, HUNGAMA will setup helpdesks on its own cost. Such helpdesk shall ensure prompt remedy to the problems/issues reported by BSNL or its subscribers or problems/issues found by HUNGAMA on its own.
- 13.3 The helpdesk shall also be the entry point for content & service related issues. It may be relevant to clarify that mere setting up of Helpdesk will not absolve HUNGAMA of its responsibility to continuously monitor the content.
- 13.4 Telephone numbers/Email address of Help desk of HUNGAMA shall be provided by HUNGAMA to BSNL. before commercial commissioning of the services.

14. Marketing

- 14.1 HUNGAMA shall share with BSNL all data pertaining to the usage of services by the subscribers of BSNL and will help BSNL in leveraging the same in effective advertising /promoting/ marketing.
- 14.2 BSNL and HUNGAMA may work out special promotion schemes/ contests, etc exclusively for BSNL's Broadband subscribers, on mutually agreed basis, under this Agreement.
- 14.3 HUNGAMA shall maintain the branding of BSNL along with HUNGAMA throughout the interaction with the subscribers while they will be availing the services or downloading the relevant content.



14.4 HUNGAMA shall jointly work with BSNL for working out strategies for advertising, marketing and promoting the content based services to BSNL's customers. Promotion shall be carried out under joint branding.

14.5 Wherever BSNL and HUNGAMA advertise the services being offered under this agreement, the same should be at their own respective cost and will carry the name and logo of respective other party. A copy of the advertisement by one party will be sent to the other party prior to its release

15. Testing of Interface

The joint testing for each and every interface with BSNL's network may be carried out as mutually agreed between HUNGAMA and BSNL. The joint testing shall be done as per test schedule prescribed by BSNL.

16. Right to inspect

16.1 BSNL or its authorized representative shall have the right to inspect the sites/ equipments used for extending the On demand digital entertainment Service by HUNGAMA and in particular but not limited to, have the right to have access to junctions, terminating interfaces, hardware/ software, memories of semiconductor, magnetic and optical varieties, wired or wireless options, distribution frames and conduct the performance test including to enter into dialogue with the system through input/ output devices or terminals. HUNGAMA will provide the necessary facilities for continuous monitoring of the system, as required by BSNL or its authorized representative(s). The inspection will ordinarily be carried out after reasonable notice except in circumstances where giving such a notice will defeat the very purpose or essence of the said inspection.

16.2 Wherever considered appropriate BSNL may conduct any inquiry either suo-moto on complaint to determine whether there has been any breach in compliance of terms & conditions of the agreement by HUNGAMA or not? In case of such inquiry, HUNGAMA shall extend all reasonable facilities without any hindrance or delay, provided that prior written notice of 15 days is given and conducted within reasonable working hours.

17. Confidentiality of information

17.1 Subject to conditions contained in this Agreement, HUNGAMA shall take all necessary steps to safeguard the privacy and confidentiality of any information about BSNL and its subscribers from whom it has acquired such information by virtue of the Service provided and shall use its best endeavors to secure that:

(a) No person acting on behalf of HUNGAMA divulges or uses any such information except as may be necessary in the course of providing Services to BSNL; and

(b) No person seeks such information other than is necessary for the purpose of providing Service to BSNL customers.

17.2 HUNGAMA shall ensure that no profiling information regarding the Broadband subscribers of BSNL is collected, analyzed, sold, transferred or otherwise disclosed to any third party or utilized for the purpose of promoting the other than agreed products/ services of the HUNGAMA and/or any third party.



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- 17.3 HUNGAMA shall take necessary steps to ensure that HUNGAMA and any person(s) acting on its behalf observe confidentiality of customer information.
- 17.4 HUNGAMA shall, prior to commencement of Service, confirm in writing to BSNL that HUNGAMA has taken all necessary steps to ensure that it and its employees shall observe confidentiality of customer information.
- 17.5 This clause shall survive the termination or expiry of this Agreement.

18. Prohibition of certain activities by M/s HUNGAMA

- 18.1 HUNGAMA shall not engage, on the strength of this Agreement, in the provision of any Service other than the Service as defined under this Agreement.
- 18.2 HUNGAMA agrees not to provide any unlawful, harassing, libelous, defamatory, abusive, threatening, harmful, vulgar, obscene, or otherwise objectionable content of any kind.
- 18.3 HUNGAMA is obliged to provide, without any delay the tracing facility to trace origin or content of nuisance, obnoxious or malicious messages or communications transported through his equipment and network. Any damages arising out of default on the part of HUNGAMA in this regard shall be sole liability of HUNGAMA.
- 18.4 In case any confidential information is divulged to HUNGAMA for proper implementation of an Agreement, it shall be binding on HUNGAMA and its employees to maintain its secrecy and confidentiality.
- 18.5 HUNGAMA will ensure that the installation carried out by it should not become a safety hazard and is not in contravention of any statute, rule or regulation and public policy.

19. Set Off

Any sum of money due and payable to HUNGAMA under this Agreement or otherwise shall be appropriated by BSNL and the same may be set off against any claim of BSNL for payment of a sum of money arising out of this Agreement or under any other Agreement made by the HUNGAMA with BSNL.

20. Indemnification

- 20.1 HUNGAMA agrees to protect, defend, indemnify and hold harmless BSNL and its employees, officers, directors, agents or representatives from and against liabilities, damages, fines, penalties and costs (including legal costs and disbursements) directly arising from or relating to:
- a) Any breach of any statute, regulation, direction, orders or standards from any governmental body, agency, telecommunications operator or regulator applicable to such party;
 - b) Any breach of the terms and conditions in this agreement by the HUNGAMA;
 - c) Any claim of any infringement of any Intellectual Property Right or any other right of any third party or of law by HUNGAMA;
 - d) Any claim made by any third party arising out of the use of the services or content and arising in connection with interruptions or degradations of service to BSNL's customers caused solely by HUNGAMA



20.2 In case of any claim by any third party towards licensing or otherwise for the products provided by HUNGAMA, it will be sole responsibility of HUNGAMA to settle such claims. Under no circumstances BSNL will have any liability for any such claim.

20.3 This clause shall survive the termination or expiry of this Agreement.

21 Relationship

Each party understands that it is an independently owned business entity and this Agreement does not make it, its employees, associates or agents as employees, agents or legal representatives of the other party for any purpose whatsoever. Neither party has express or implied right or authority to assume or to undertake any obligation in respect of or on behalf of or in the name of the Other Party or to bind the Other Party in any manner. In case, any party, its employees, associates or agents hold out as employees, agents, or legal representatives of the other party, the former party shall forthwith upon demand make good any/all loss, cost, damage including consequential loss, suffered by the other party on this account.

22. Exclusivity

This Agreement is non-exclusive and nothing in this Agreement will be construed to prevent either party from entering into a similar Agreement with any other party or to restrict such party from directly engaging in related activities.

23. Liability

Except as provided in this Agreement, hereinabove, neither party shall be liable to other party or any other party by virtue of termination of this Agreement for any reason whatsoever for any claim for loss or profit or on account for any expenditure, investment, leases, capital improvements or any other commitments made by the other party in connection with their business made in reliance upon or by virtue of this Agreement.

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PART-II
FINANCIAL CONDITIONS

1. Financials

1.1 Tariffs

1.1.1 The mutually agreed tariffs on various packages shall be as follows:

1.1.1.1 Regular tariff For On line Music and Video on demand services:

S.No.	Packages	Subscription Type	Charges
1	Package 1 comprising of 30,000 Music tracks + 1000 Music videos	Flat rental for unlimited download	Rs. 199/- p.m.
2	Package 2 comprising of 30,000 + songs	Flat rental for unlimited download	Rs. 149/- p.m

1.1.1.2 Tariff for Games on demand services:

S.No.	Packages	Subscription Type	Charges
1	Premium package (400 downloadable games)	Flat rental for unlimited download	Rs. 90/- per month.
2	Casual Package (100 Online Flash Games)	Flat rental for unlimited download	Rs. 49/- per month

1.1.2 The tariffs shall be regulated, maintained and reviewed by BSNL from time to time in consultation with M/s Hungama

1.1.3 HUNGAMA shall be responsible for intimating the subscriber the charges payable by him/her on downloading such chargeable services.

1.1.4 In case of any dispute or problem arising on account of pricing of services among the content providers providing services under BSNL's branding, the decision of BSNL shall be final and binding on all of the concerned content provider(s) including HUNGAMA.

1.1.5 The service related license fee, if any, payable by BSNL to Govt. of India shall be borne by BSNL from its revenue share whereas the content related Intellectual Property Rights (IPR)/ Royalty Payouts/ Taxes/Govt. levies applicable shall be borne by HUNGAMA from its revenue share.

1.2 Revenue Share:

Hungama and BSNL revenue share .



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S.No.	Item	Net Revenue Share	
		Hungama	BSNL
On Demand Music and Video Portal			
1	Subscription Charges for On Line Songs/Music	60%	40%
2	Download of the Video (movie content)	70%	30%
On Line Games Portal			
3	Subscription charges for online Games	60%	40%
Advertisement			
4	Advertisement revenue	50%	50%

- 1.2.1 Revenue share shall be reviewed after 6 months of the launch of services and shall be renegotiated with M/s HUNGAMA by BSNL. M/s HUNGAMA should provide all required details of royalty payouts etc. for review of revenue share.
- 1.2.2 BSNL will charge M/s Hungama at applicable rates for the co-location of the Hungama equipment in BSNL premises.

2. BILL ISSUE AND COLLECTION

2.1 Billing may be either Postpaid or Prepaid service.

2.2 Postpaid Billing

- 2.2.1 BSNL shall be responsible for commercial functions of bill issue and its collection for the Content based services provided to BSNL's customers under this agreement. The services shall be billed as part of Broadband Services/ Basic Telephony services provided by BSNL. The bills will be raised and collected by BSNL from the subscribers.
- 2.2.2 HUNGAMA shall not charge any money or money(s) from the subscribers of BSNL. No additional service other than those forming part of this agreement is to be provided by HUNGAMA to the subscribers of BSNL either free of cost or for a cost without written approval of BSNL.
- 2.2.3 HUNGAMA shall send the CDRs generated in its billing system in respect of all customers served through its solution atleast once everyday or as mutually agreed to the destined BSNL server in the format prescribed by BSNL.
- 2.2.4 HUNGAMA shall disclose all information in respect of revenues arising out of offered services to BSNL's customers for the purposes of revenue sharing. Any disclosure found to be false at any stage shall amount to breach of contract and shall attract relevant termination clauses of this agreement
- 2.2.5 BSNL shall have the right to use the detailed billing information provided by the HUNGAMA for settlement of any grievances raised by the customers, and HUNGAMA shall indemnify BSNL against any such liabilities that may arise on account of this.



- 2.2.6 The terms and conditions of payments by customers shall be governed by BSNL's rules from time to time. The disconnection and reconnection practice for payment by defaulters shall be enforced

2.2.7 REVENUE SHARE PAYMENT PROCESS

- 2.2.7.1 Payment of revenue share shall be made on a monthly basis to HUNGAMA on receipt of the invoice at the Circle Level. HUNGAMA shall prefer consolidated bill to the Broadband Coordinator of JAG level or any other officer designated for this purpose by the Circle Head. The Broadband Coordinator or the nominated person shall verify the bill within seven days for accuracy and deductions if any. This verified bill shall be forwarded to the Finance Officer of BSNL who will release the payment within 15 days of the receipt of verified bill.
- 2.2.7.2 The payment of revenue share shall be made to HUNGAMA on the billed amount after the deduction of applicable statutory levies and/or taxes applicable from time to time, from the revenues accrued on account of provisioning of content based services to the customers. All such taxes/levies shall be a pass-through item and shall be billed to and collected from the customer and paid to the respective statutory bodies by BSNL, except such cases where liabilities arise on account of claims raised by concerned Government/Regulatory authorities in a post-facto manner, and where such dues are not recoverable from the end customer, such liability shall be shared in the same ratio as the revenue share of the respective parties.
- 2.2.7.3 Any discrepancy found would be mutually discussed and resolved. Balance of Payments arising due to any reason shall be adjusted in future payments by BSNL.
- 2.2.7.4 BSNL may decide to use the CDRs generated by its own system for billing the customers. In such a case if there is any discrepancy between the chargeable logs/CDRs of HUNGAMA and BSNL, the decision of BSNL shall be final for variation of up to 5%, but any deviation beyond this will be mutually settled between BSNL and HUNGAMA.
- 2.2.7.5 In case of any dispute/complaints from the subscribers regarding any defect or non-delivery and consequent refund request except for connectivity related issues, HUNGAMA shall be responsible for providing the conclusive evidence of performance at its end, failing which the disputed charges will be deducted from the payment of the HUNGAMA and accordingly the charges shall be adjusted in the subsequent bill of the postpaid subscriber or credited to subscriber's account in case of prepaid subscribers, under intimation to the concerned subscriber.

2.3 Prepaid Billing

- 2.3.1 HUNGAMA shall be responsible for setting up the online Bill payment infrastructure for prepaid billing for Services to the customers .
- 2.3.2 Both online payment through web based applications as well payment through physical vouchers shall be implemented.
- 2.3.3 HUNGAMA shall develop and host an online payment application at its own cost to enable the customers to make online payment.
- 2.3.4 HUNGAMA will be responsible for printing & bearing the expenses of Prepaid Vouchers. However, quantity of vouchers, supply of PINs', physical distribution to the

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various outlets/distributors shall be controlled by BSNL. For this, BSNL will have a Nodal Telecom Circle for supervision of the activities under prepaid services,

- 2.3.5 HUNGAMA will also be responsible for any liability arising out of the purchase, sale, and usage of the prepaid cards & franchisee shall indemnify BSNL for the same
- 2.3.6 HUNGAMA shall implement the rating rules as per the requirement in BSNL's product offerings. Franchisee shall provide for updation and recharge of prepaid balances of customers in real time and real time web reporting of customer account balances and call details.
- 2.3.7 **Reconciliation of Accounts for online entertainment digital pre paid service**
- 2.3.7.1 Details on the procedure to be adopted in case of Prepaid Services for Billing to the end customer, its Collection and revenue share payments shall be decided by BSNL and intimated to HUNGAMA for implementation.

3. PERFORMANCE BANK GUARANTEE

Hungama shall submit a Performance Bank Guarantee (PBG), in the prescribed performa (attached as Annexure-II hereto), at the time of signing this agreement.

The PBG of Rupees 7 (Seven) Lakhs will be submitted by Hungama valid for 36 months from the date of signing the Agreement for ensuring satisfactory performance of the Agreement.

Without prejudice to its rights of any other remedy, BSNL shall en-cash the PBG in case of any breach in terms and conditions of the agreement or in case of failure to roll out the services as per the agreed schedule & parameters or failure to comply with the content related laws including IPR/copyrights, on part of Hungama.

Hungama shall extend the validity of the PBG on yearly basis for the further extended period of this agreement, if any, or otherwise till all the dues of BSNL by virtue of this agreement have been fully paid and its claims satisfied & discharged.

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PART-III
TECHNICAL CONDITIONS

1. The Application server

- 1.1 The application servers of the HUNGAMA should be capable of providing services as mentioned under Part I of this Agreement.
- 1.2 Adequate redundancy shall be built into the design of the application server so that failure of a single sub-system does not affect the performance/ ensure high up time and the services being provided by the system.
- 1.3 In the process of operating the Services, HUNGAMA shall be responsible for
- (i) Hosting and installation of the equipment;
 - (ii) Proper upkeep and maintenance of the equipment; and
 - (iii) Maintaining the agreed Quality of Service;
 - (iv) acquisition of content, its protection and regular updation
 - (v) Billing infrastructure for prepaid services
- 1.4 The system should be able to generate statistical data per site, per server and per date. The MIS data pertaining to these services shall be periodically made available to BSNL. The system should be able to record data for a minimum period of ninety days.

2. Engineering Details

HUNGAMA shall furnish to BSNL or its authorized representative(s), in such manner and at such times as may be required by BSNL complete technical details with all calculations for engineering, planning and dimensioning of the system/network, concerned relevant literature, drawings, installation materials regarding the application servers

3. Interconnection with network of BSNL

- 3.1 BSNL shall facilitate the access to its appropriate network elements (Edge Routers) to facilitate provision of services agreed upon under this agreement. The connectivity between the BSNL's network elements and the application servers of HUNGAMA shall be exclusively utilized for carrying the traffic pertaining to services to BSNL subscribers only.
- 3.2 BSNL shall be responsible for providing the required connectivity of HUNGAMA servers located at HUNGAMA datacenters to the concerned network elements of BSNL .
- 3.3 The concerned NOC In-charge of Data Network Circle of BSNL shall responsible for evaluation of the services before commercial launch and for continuous monitoring of the services and the response time etc., thereafter.

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4. Quality of Service

- 4.1 Both parties shall operate and maintain their own network and/or setup so as to conform to mutually agreed Quality of Service standards.
- 4.2 Telecom Regulatory Authority of India (TRAI)/ TEC may specify QOS parameters from time to time. Both BSNL and HUNGAMA agree that in such an eventuality, they shall use commercially reasonable efforts to meet the QOS requirements set forth by TRAI.
- 4.3 HUNGAMA shall be responsible for: -
- i) Maintaining the performance and quality of service standards.
 - ii) Ensuring an overall system uptime to be more than 99 % on monthly basis
 - iii) Maintaining the MTTR (Mean Time To Restore) within the specified limits of the quality of service as given below in respect of normal failures excluding catastrophes:
 - a) 90% of faults reported on monthly basis by subscribers should be rectified within 24 hours and 99% within three Calendar days.
 - b) HUNGAMA will keep a record of number of faults and rectification reports in respect of the service, which will be produced before BSNL as and when and in whatever form desired.
 - iv) Rectification of fault within three hours in case of fault(s) at the HUNGAMA's end resulting in non-availability of the services.
- 4.4 HUNGAMA shall be responsive to the complaints lodged by BSNL. HUNGAMA shall rectify the anomalies within the specified MTTR and maintain the history sheets for each installation, statistics and analysis on the overall maintenance status & the same shall be made available to BSNL at prescribed intervals in prescribed format/proforma.
- 4.5 In case of non-availability of the Services/ service getting affected partially/ fully due to HUNGAMA reasons for more than three hours, HUNGAMA shall be penalized as per calculation given below:
- ✓ Average monthly (averaged on last two billing cycle basis) revenue generated on account of services covered under the agreement in the concerned Circle = Rs A
 - ✓ Number of hours for which the service remained un-available/ affected = D
 - ✓ Compensation = $[A/(24*30)]D$

The amount so calculated will be deducted from the revenue share of the corresponding billing cycle.

5. Protection of Network

- 5.1 Each party will use its best endeavor and in good faith to ensure that it does not do or permit to be done or omit or permit the omission of any matter in relation to its network, which will cause damage to the other party's network or result in the interference with the operation of the other party's network.
- 5.2 Each party is to co-operate with the other party & adopt reasonable precautions in accordance with the usual procedure, to prevent act of sabotage to the network interconnected with it or to prevent fraudulent use of the same.

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- 5.3 At all times, HUNGAMA shall make all reasonable efforts to safeguard the Broadband infrastructure of BSNL from being abused or spammed by any third party.
- 5.4 BSNL shall use commercially reasonable efforts to provide the services under this Agreement during all days without any interruption in accordance with industry standards, except where such interruption arises out of, results from, or is related to an event of Force Majeure or other cause or circumstances beyond the reasonable control of BSNL.
- 5.5 BSNL shall be responsible for transmission of content through its Broadband infrastructure. However, BSNL may suspend the transmission in whole or in part at any time without notice if:
1. BSNL reasonably considers it necessary to safeguard provision of content services on Broadband infrastructure or the integrity of the Network or the mentioned network;
 2. The Broadband Network fails or require modification or maintenance; or
 3. If there has been unauthorized, unlawful or fraudulent use of the transmission or any transmission is causing or may potentially cause damage or interference to the BSNL Broadband Network
 4. It is necessary to comply with a mandatory direction or request of the Department of Telecommunications or other Competent authority, or
 5. BSNL receives complaint from its subscribers for reasons related but not to limited to omission, errors or incorrect data, use of obscenity in the services provided by HUNGAMA under this Agreement. In such an event, the services shall remain suspended till the matter is resolved to the satisfaction of all parties concerned.

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ANNEXURE-1

DEFINITIONS OF TERMS AND EXPRESSIONS

Unless the context otherwise requires, the different terms and expression used shall have the meaning assigned to them in the following paragraph:

1. The "APPLICATION SERVER" means software & hardware to facilitate a comprehensive solution for building, deploying, enabling and managing enterprise class application.
2. "NETWORK" means the BROADBAND Network run by Bharat Sanchar Nigam Limited for providing the Broadband services to its subscribers
3. "VALIDITY OF THE AGREEMENT" is the period for which this agreement may be effective.
4. "SERVICES" or "SERVICE" means **Online Music, Video and Game on demand services over Broadband** as defined under Schedule I of this Agreement.
5. "HUNGAMA" shall refer to **HUNGAMA DIGITAL MEDIA ENTERTAINMENT PVT. LTD.**, which has entered into agreement with BSNL for providing the **Online Music, Video and Game on demand content based value added services.**
6. "BSNL" means **BHARAT SANCHAR NIGAM LIMITED.**
7. "TARIFF" means Charges payable by the subscriber for the service provided
8. "TRAI" means Telecom Regulatory Authority of India established under the TRAI Act, 1997.
9. "SPAM" will be construed to have happened if Broadband subscriber is sent un-solicited information of any kind. Unsolicited means that the Recipient has not granted verifiable permission for the message to be sent.
10. "AGREEMENT" means this agreement along with all parts, schedules and Annexures attached hereto and includes all amendments & modifications thereof as may be mutually agreed by the parties, in writing.
11. "MAINTENANCE" means the analysis, coding, testing and release of corrections to the Products, including Product enhancements, Maintenance updates of the services

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ANNEXURE - II

Performa for performance Bank Guarantee

In consideration of the CMD, BSNL (hereinafter called 'BSNL') having agreed to exempt _____ (hereinafter called 'the said contractor(s)') from the demand under the terms and conditions of an agreement No. _____ dated _____ made between _____ and _____ for the provision of **Online Music, Video and Game on demand content based services** for BSNL Broadband customers (hereinafter called "the said agreement"), of security deposit for the due fulfillment by the said contractor (s) of the terms and conditions contained in the said Agreement, on production of the bank guarantee for _____ we, (name of the bank) _____ (hereinafter refer to as "the bank") at the request of _____ (contractor(s) do hereby undertake to pay to the BSNL an amount not exceeding _____ without any demur, reservation, contest or protest and/or without any reference to the contractor stating that the amount claimed is due by reason breach of any of terms & conditions of the said contract or agreement or against any loss or damage caused to or suffered or would be caused to or suffered BSNL by reason by reason of any breach by the said Contractor(s) of any of the terms and conditions contained in the said Agreement.

2. We (name of the bank) _____ do hereby undertake to pay the amounts due and payable under this guarantee without any demure, merely on a demand from the BSNL by reason of breach by the said contractor(s) of any of the terms or conditions contained in the said Agreement or by reason of the contractors failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee where the decision of BSNL in these counts shall be final and binding on the bank. However, our liability under this guarantee shall be restricted to an amount not exceeding _____.

3. We undertake to pay to the BSNL any money so demanded notwithstanding any dispute or disputes raised by the contractor(s) in any suit or proceeding pending before any court or tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be valid discharge of our liability for payment there under and the contractor(s) shall have no claim against us for making such payment.

4. We (name of the bank) _____ further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said agreement and that it shall continue to be enforceable till all the dues of the BSNL under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till _____ (office/Department) BSNL certifies that the terms and conditions of the said Agreement have been fully or properly carried out by the said contractor(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in have been fully or properly carried out by the said

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contractor(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the expiry of **Three Years** from the date hereof, we shall be discharged from all liabilities under this guarantee thereafter.

5. We (name of the bank) _____ further agree with the BSNL that the BSNL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the BSNL against the said Contractor(s) and do forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the BSNL or any indulgence by the BSNL to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

6. This guarantee will not be discharged due to the change in the constitution of the bank or the Contractor(s).

7. We (name of the bank) _____ lastly undertake not to revoke this guarantee during its currency except with the previous consent of the BSNL in writing.

Dated the _____ day of _____

for _____
(Indicate the name of the bank)

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