

**MERCANTILE COMMUNICATIONS PVT. LTD.**  
**SUPPLY OF TELECOMMUNICATIONS SERVICES AGREEMENT**  
**GENERAL TERMS AND CONDITIONS**

**PARTIES**

1. Mercantile Communications Private Limited a Private Limited Company, incorporated under the Companies ACT 2021 of Nepal, a NSP (Network Service Provider) and ISP (Internet Service Provider) license holder, having its registered office at Durbar Marg, PO Box No: 66, Kathmandu, Nepal here in after referred to as; (**Mercantile Communications Pvt. Ltd**), and
2. A customer specified on the Service Order Form (**Customer**);

**AGREEMENT**

The Parties agree that each Service provided by Mercantile Communications Pvt. Ltd to the Customer will be governed, in order of precedence, by:

- (a) The **Other Terms** relevant to that Service;
- (b) The relevant **Order Form**; and
- (c) The **General Terms and Conditions**.

which together form the agreement between the parties (**Agreement**).

**GENERAL TERMS AND CONDITIONS**

**1. SERVICES**

- (a) Mercantile Communications Pvt. Ltd shall provide each Service to the Customer in accordance with this Agreement.
- (b) Mercantile Communications Pvt. Ltd will determine the most appropriate means of service including the method, technology and route of delivery.

**2. DURATION**

- (a) Minimum contract period shall be detailed in Service Order form Annexure I. Any changes in the site location, or number of sites or bandwidth upgrade or downgrade will be amended by signing of New Service Order Form.
- (b) Mercantile Communications Pvt. Ltd will send 30 days prior written notice to customer as a reminder on service expiry date. If the customer fails to renew the service agreement after 2 written notifications, the agreement will be extended automatically for 90 days period. And if the customer fails to renew the agreement even after the extension of 90 days, the agreement will be renewed automatically under the same clauses, terms and conditions unless either party sends written notification.

**3. CUSTOMER'S OBLIGATIONS**

- (a) Customer shall assist Mercantile Communications Pvt. Ltd technical team for the implementation of the circuit.
- (b) Customer shall provide clean power supply to the equipment. Warranty will exclude malicious damage and damage due to voltage fluctuation.
- (c) Customer shall comply with latest applicable clauses of Telecommunication ACT of Nepal. **Customer** shall ensure that the use of the services shall comply with all rules, regulations, guidelines and laws governing the services issued by any governmental or regulatory authority in the territory. **Mercantile** will not take

any responsibility if **Customer** uses the link for any application forbidden by NTA's policy like **VOIP**. The client will be solely responsible for the use of the connectivity.

- (d) Customer shall not use the service in any manner that would cause Mercantile Communications Pvt. Ltd. to be in breach of any Applicable law for any purpose prohibited under applicable laws.
- (e) Customer shall provide at its own expense, when so required by Mercantile Communications Pvt. Ltd., all facilities and/or resources whatsoever for the proper installation, operation and maintenance of a service and/or any Equipment, such as, but not limited to, power points, electricity, pipes, access and security measures;
- (f) Customer shall not share or allow to be shared a Service or any Equipment with any other person without the prior written consent of Mercantile Communications Pvt. Ltd. nor use or allow a Service to be used for any purpose other than that for which it is subscribed.
- (g) The rates shall be kept confidential by both sides and will be reviewed after 1 year, unless there is drastic change in the market price. Based upon the market trend, benefit shall be extended to **Customer**.
- (h) As per the NTA rule, Customer shall provide Copy of Company Registration, VAT and PAN registration, Citizenship, Passport certificate or whichever will be applicable to be attached along with this contract.

#### **4. INVOICES AND PAYMENT**

The monthly service charge and one time Charges will be as per Service order form Annexure I.  
The service charge is to be paid *in monthly advance basis*.

Payment shall be made within 30 days of the receipt of the invoice. If the payment is not received within 30 days after the invoice, Mercantile Communications reserves the right to temporarily disconnect or limit your bandwidth. Upon payment of the due amount full service will be restored.

##### **4.1 Taxes**

- (a) The Charges are **exclusive** of any taxes.
- (b) The Customer agrees to pay all taxes which may be imposed by any taxing authority in relation to any amount payable under this Agreement whether existing at the Effective Date or coming into effect at any later time.

#### **5. EQUIPMENT**

##### **5.1 Liability for Equipment in case of rental**

- (a) The Customer is responsible for Equipment while in the Customer's custody or control or on the Premises; and liable to Mercantile Communications Pvt. Ltd. for any loss or damage to Equipment in the Customer's custody or control (except in so far as any such loss or damage is due to the negligent act or omission of Mercantile Communications Pvt. Ltd. ).
- (b) Any cost arising from damage or malfunctioning of the equipment shall be borne by the customer as per the price set for. The customer shall also bear the freight and transportation charge in the event the equipment needs to be sent for repair abroad.
- (c) Any equipment rented to the customer from Mercantile Communications Pvt. Ltd. shall be deemed "Mercantile's Equipment" for the purposes of this Agreement.

## 5.2 Sale of Equipment

Where Mercantile Communications Pvt. Ltd. is selling equipment to Customer in connection with any Service, absent an express written agreement to the contrary, the following terms shall apply to Mercantile Communications Pvt. Ltd. 's sale and Customer's purchase of any such equipment:

- (a) Any equipment purchased by Customer from Mercantile Communications Pvt. Ltd. shall be deemed "Customer Equipment" for the purposes of this Agreement.
- (b) Any such equipment is provided a warranty of one year
- (c) Title to the equipment shall pass to Customer only upon payment in full of the purchase price, as specified in the Service Order Form Annexure I.
- (d) Any cost arising from damage or malfunctioning of the equipment shall be borne by the customer as per the price set for. The customer shall also bear the freight and transportation charge in the event the equipment needs to be sent for repair abroad.

## 6. FORCE MAJURE

- (a) Neither Mercantile Communications Pvt. Ltd nor customer shall be responsible to each other for their inability to carry out their responsibilities under this Contract due to strikes, riots, malicious damages, war, hostilities, terrorism or any disaster, fire, flood, lightning and damages/acts due to acts of God.
- (b) Notwithstanding the foregoing, if any of the above mentioned events shall preclude Mercantile Communications Pvt. Ltd and/or Customer from meeting any or all of the obligations hereunder, for a period of more than 1 month from the date of occurrence of such act, it shall be open to either party to terminate this Contract by giving one month's notice.

## 7. CONFIDENTIALITY

- (a) Each party undertakes to treat as confidential all confidential information disclosed to it in the course of this Contract relating to business, products and services of the other. Each party shall protect any such information received by using same care and precautions as are or ought to be used in keeping confidential its own confidential information.
- (b) This Article shall remain in force even after the termination of this contract.

## 8. REGULATIONS

This Agreement is made expressly subject to all present and future valid orders, approvals, directives and regulations of any applicable regulatory body having jurisdiction over the subject matter hereof. If this Agreement, or any of its provisions, shall be found contrary to or in conflict with any such order, rule, regulation, directive or law, the Agreement or such provision(s) shall be deemed modified to the extent necessary to comply with any such order, rule, regulation, directive or law and shall be modified in such a way as is consistent with the form, intent or purpose of this Agreement.

- (a) Each Party shall obtain and maintain all respective permissions, licences and authorities which may from time to time be required in connection to its performance under this Agreement, including, but not limited to, the installation, operation and use of the equipment or the provision of Services by that Party and to comply with all other relevant statutory and legal obligations.
- (b) In performing their obligations under the Agreement, each Party shall comply with all applicable laws, rules and regulations of governmental entities having jurisdiction over such performance.

- (c) **Customer** shall ensure that the use of the Services shall comply with all rules, regulations, guidelines and laws governing the Services issued by any governmental or regulatory authority in the territory.
- (d) Either Party may make alterations to the Services as necessary to comply with changed safety standards or governmental regulations applicable during the Term ("Changes of Laws"), to make the Services non-infringing with respect to any patent, copyright or other proprietary interest. A Party will provide the other with reasonable notice of such changes where they may affect the services.

## 9. TERMINATION OF CONTRACT

- (a) As per the type of services termination clause has been defined in Service order form.

## 10. DISPUTE SETTLEMENT AND APPLICABLE LAW

10.1 If any dispute arising out between the Parties in relation to this Contract, it shall be settled amicably between them, if it could not be settled amicably between them, it shall be settled by the process of arbitration. The number of Arbitrator shall be three.

- Each party shall appoint one Arbitrator and the arbitrators so appointed shall appoint third Arbitrator.
- The place of Arbitration shall be Kathmandu.
- The decision of the Arbitrator shall be final and binding upon both parties.

10.2 This Agreement shall be governed by the Laws of Nepal. In case any of the provision of this Contract is interpreted as being conflicting with the prevailing laws of Nepal, the provision mentioned in the Laws shall prevail and conflicting provision of this Contract shall be considered as void. However, all other provisions of the Contract shall remain valid and binding between the Parties.

10.3 If any terms and conditions not specifically mentioned herein shall be governed by the prevailing laws of Nepal.

## 11. AMENDMENT OF CONTRACT

(a) Amendment or modification, if an, to this Agreement shall be applicable at any point in time after the mutual agreement between **Mercantile Communications Pvt. Ltd** and **Customer** and form as an addendum to the new Service order form Annexure I.

(b) Neither party shall be liable for any breach of this agreement where the breach is caused by a force of nature, civil disorder, military operations, acts or omissions of the government, that party's or its related or affiliated companies compliance with an obligation under Law, acts or omissions of person for whom that party is not responsible (including in particular telecommunications or satellite) or any other cause outside that party's reasonable control within the operation site and field.

(c) This agreement shall be subject to the laws of Nepal. **Mercantile Communications Pvt. Ltd** and **customer** here by submit to the non-exclusive jurisdiction of Nepalese Courts.

(d) All matters in this document falls under the law of Government of Nepal. Under rules and regulations of Government of Nepal, Telecommunications Act should not be violated.

<p>Accepted for and on behalf of</p> <p>Mercantile Communications Pvt. Ltd.</p> <p>.....</p> <p>Authorized Signature</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Stamp:</p>	<p>Service Order Accepted by</p> <p>Customer Name</p> <p>.....</p> <p>Authorized Signature</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Stamp:</p>
<p><b>Witness</b></p> <p>Mercantile Communications Pvt. Ltd.</p> <p>.....</p> <p>Authorized Signature</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Stamp:</p>	<p><b>Witness</b></p> <p>Customer Name</p> <p>.....</p> <p>Authorized Signature</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Stamp:</p>

# Service Order Form (ISP SERVICES)

## Annexure I

<b><u>Customer Info:</u></b>	<b><u>ISP License Info:</u></b>
	ISP License No:
	ISP License Validity:

### Service Description

#### CONNECTIVITY

- 1.1 **Mercantile Communications Pvt. Ltd.** shall provide symmetrical committed Internet bandwidth through the Indo-Nepal terrestrial optical fiber link up to Kathmandu. The bandwidth shall be built-up by Mercantile Communications in Nepal territory up to the Indo – Nepal border (i.e. Bhairahawa/ Birgunj) and then on the OFC system working between India and Nepal.
- 1.2 **Mercantile Communications Pvt. Ltd.** shall provide technical support during Installation, Configuration and Commissioning of the bandwidth including full technical support during configuration in the existing **Customer** Network for implementation of the service.
- 1.3 The bandwidth shall be tested end-to-end. The announcement of **Customer** IP prefixes shall be ascertained and verified. After this period the leased Internet Bandwidth service shall be tested with application of live traffic for a period of three days. The bandwidth shall be considered commissioned at the end of the three (3) days test period and verification of the performance of the link and route availability by both parties. The lease period of .....year shall commence with the commissioning of bandwidth.
- 1.4 **Mercantile Communications Pvt. Ltd.** shall provide performance parameters for the link provisioned for **Customer** including MRTG graphs. Access to such information shall be made available for **Customer** to monitor the circuit performance and bandwidth utilization.

## Service Uptime

Service Uptime 99%

## Monthly Recurring Charges

S/No	Service Location	Service Start Date	Agreement Start Date	Agreement Expiry date	Band-width	Monthly Bandwidth Cost (NRS)	One time Equipment Charge (NRS)	One time Installation Charge (NRS)
1.								
2.								
3.								
4.								
5.								
<b>GRAND TOTAL</b>								

### Other Terms:

- The above charges are exclusive of 13% VAT.
- TSC (Telecommunication Service charge) of 13% will be additional to 13% Vat in case of Internet Service Charge.
- The addition of the sites or change in site location will be amended by signing of the new Annexure I.
- During the term of this agreement **Customer** can upgrade the BW with 7 days written notice.

#### 1. Operational support

1.1 **Mercantile Communications Pvt. Ltd.** shall provide technical support for the service 24 hours of the day, 7 days of the week. Response to support, issues and problems raised by **Customer** shall be responded by telephone, fax or email within thirty (30) minutes.

1.2 **Mercantile Communications Pvt. Ltd.** shall make available the facilities to **Customer** for online a) registration of problems and support issues b) monitoring of the links and bandwidth utilization and c) generate reports of usage.

Mercantile Communications Pvt. Ltd. shall provide online MRTG to **Customer**. **Customer** shall be provided with Login Name and Password to access the same and view the utilisation of the links.

1.3 Nodal Point in **Mercantile Communications Pvt. Ltd.** for reporting faults, operational support regarding Internet service and for coordination after the commissioning of bandwidth:

## 2. **Regulatory Obligation**

Customer shall obtain ISP License from Nepal Telecommunication Authority.

<p><b>NOC Contact Number :</b></p> <p><b>977-1-4445920 /4440773</b></p> <p><b>EXT: 321/322/323/324</b></p> <p><b>Fax: 977-1-4225407</b></p> <p><b>Email: <a href="mailto:mcnoc@mercantile.com.np">mcnoc@mercantile.com.np</a></b></p>
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## 2. **TERMINATION:**

2.1 Either party will retain the right to terminate this service if any party fails to perform or comply in accordance with this contract and fails to take the necessary action to remedy such breach within 60 days, upon the receipt of written notice from either party specifying alleged breach and requiring remedy, in such case the acquisition party may terminate this agreement without obligation. The termination right under this agreement.

2.2 **By Customer:** **Customer** may terminate this Agreement if any of the following occurs:

- a. If the quality of service is not up to the standards as per the Service Level Agreement and in spite of written notice of 30 days, the quality is not rectified as per the agreed set standard.
- b. **Mercantile Communications Pvt. Ltd.** otherwise fails to comply in all material respects with the covenant agreements or conditions herein, which remain uncorrected for thirty (30) business days after receipt of written notice from **Customer**, specifying in detail the alleged failure unless such failure is caused due to force majeure circumstance.
- c. **Customer** is prohibited from utilising this service by any applicable government authority.
- d. **Customer** on its convenience can terminated the contract at any time in which case customer has to pay monthly recurring charge for the remaining unutilized period of the entire agreement.



- 2.3 **By Mercantile Communications Pvt. Ltd.:** may terminate this Agreement if any of the following occurs:
- 2.3.1 Mercantile Communications Pvt. Ltd. may terminate this Agreement if the customer fails to comply with the terms and conditions as mentioned in this agreement. Mercantile Communications Pvt. Ltd. will provide **Customer** with written notice of any breach as soon as it occurs, describing in detail the nature of the breach. Following receipt of such notice **Customer** will have an opportunity to remedy the breach within a reasonable period of time as agreed, which at minimum will give the Breaching Party 30 days after receipt of such written notice to correct the breach before termination may occur. If the breach is not cured during the remedy period agreed (or as set forth above) Mercantile Communications Pvt. Ltd. may terminate this Agreement for the breach by providing **Customer** with written notice declaring termination effective forthwith.
- 2.3.2 This Agreement may be terminated by Mercantile Communications Pvt. Ltd. in case **Customer** becomes bankrupt or otherwise insolvent as declared by the competent court, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to either of them.
- 2.4 Notwithstanding anything else in this Agreement, in the event a Force Majeure condition continues beyond forty five (45) days the parties shall mutually decide whether to continue with the Agreement or terminate the same.
- 2.5 In the event of any regulatory or government restrictions, the agreement can be terminated forthwith upon such instruction received from the regulatory or government agency.

2.6 **CONSEQUENCES OF TERMINATION**

- 2.6.1. In the event the Agreement is terminated, the following shall be the consequences:
- a. Unless otherwise agreed in writing by Mercantile, all or any sums payable under this Agreement and which are unpaid at the date of termination shall forthwith become due and payable by **Customer**.
- 2.6.2 Unless otherwise provided in this Agreement, termination is without prejudice to any other right or remedy of the Parties. Termination of this Agreement does not release either Party from any liability which, at the time of termination, has already accrued to the other Party or which may accrue in respect of any act or omission prior to termination or from any obligation that is expressly stated to survive the termination.

**Acceptance from the parties**

Accepted for and on behalf of Mercantile Communications Pvt. Ltd.	Service Order Accepted by Customer Name
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<p>.....</p> <p>Authorized Signature</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Stamp:</p>	<p>.....</p> <p>Authorized Signature</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Stamp:</p>
<p><b>Witness</b></p> <p>Mercantile Communications Pvt. Ltd.</p> <p>.....</p> <p>Authorized Signature</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Stamp:</p>	<p><b>Witness</b></p> <p>Customer Name</p> <p>.....</p> <p>Authorized Signature</p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Stamp:</p>