

**BHARAT SANCHAR NIGAM LTD.
(A Govt. of India Enterprise)**

EXPRESSION OF INTEREST

Bharat Sanchar Nigam Ltd. invites Expression of Interest from companies meeting the eligibility criteria as prescribed herein for providing Video Tutoring Service to BSNL's Broadband (on Wireline & FTTH) Customers

Notice No. 14-5/2012-BBVAS/VTS

Date of issue: 21/02/2013

Interested companies shall express the interest in prescribed application form/ Format & same be sent to:

DM (BBVAS), O/o Sr.GM (IT-CFA)
7th Floor, Bharat Sanchar Bhawan, Janpath, New Delhi-110001

The EOI can be downloaded from BSNL's Website www.bsnl.co.in.

Instructions for Companies

1.0 Introduction

Bharat Sanchar Nigam Limited (BSNL), a Public Sector Undertaking of Government of India, is the largest Telecom Service Provider in India having countrywide presence with over 120 million customers. It is also the largest ISP and presently offering Broadband Service on wireline, fibre & wireless to its customers. The Broadband network of BSNL is currently operating across the nation except in Delhi and Mumbai.

2.0 Broadband Network Architecture

The broadband network of BSNL (Deployed under the project “National Internet Backbone-II”) comprises the managed MPLS backbone and the broadband access. The backbone network carries broadband and narrowband Internet traffic, content based service traffic, Virtual Private Network (VPN) traffic, IP TAX traffic, etc. The two layers of the MPLS backbone are the CORE & the EDGE networks. The CORE Network comprises the routers connected with the high speed STM-16 transmission links whereas the EDGE network comprises the EDGE routers connected to the CORE routers through the Gigabit Ethernet or STM-16 links. This layer aggregates customer traffic, enforces QOS and extends managed access to the customers. This layer provides the customer access through three mechanisms: (a) Dialup, (b) Dedicated access, and (c) broadband access.

3.0 Purpose of the EOI

BSNL intends to provide Video Tutoring service on chargeable basis to its Broadband (on Wireline, FTTH) Customers across its network. This EOI invites offers from Video Tutoring service providers to enter into agreement with BSNL on non-exclusive, revenue sharing basis for offering such Video Tutoring Service to BSNL customers. The selected companies can offer the services after signing the company agreement with BSNL which would contain all the terms and conditions entailed in this EOI. The basic Objective of this EOI is to enable BSNL to provide subscription Video Tutoring service to its Broadband (on Wireline, FTTH) Customers. The eligible companies are also required to do all the end to end management of the customer marketing, selling and servicing activities in coordination with various BSNL circles.

BSNL also expects Operation, Maintenance, Billing and provisioning support in respect of provision of Video Tutoring service to BSNL customers by the selected companies. Subsequently, if technically feasible we may extend this service to our wireless Broadband Customers also.

4.0 Eligibility Criteria

4.1 Eligible are Indian Companies who are registered /incorporated in India. Taking into consideration the number of Broadband (on Wireline, FTTH) Customers it is very essential that the company have sufficient experience in setting up of and running such a service in India/worldwide. The following criterion shall be met by the company or the company who intends to participate in this EOI and only those companies who qualify the following conditions, need apply:

- i. The Company shall be registered/ incorporated in India under the company's act 1956.

- ii. The company shall have a Cumulative Total Turnover of INR 3 Crores during last three financial years (i.e. Year 2009-10, 2010-11 & 2011-12) with minimum turnover of INR 50 Lakhs in each of the year in one of the following areas or any combination thereof,
 - a. Telecom applications/ VAS or
 - b. Educational Content provisioning or
 - c. Educational Content development or
 - d. Educational Content application development/ Video Tutoring or
 - e. IT Application
- iii. Company shall have relevant experience of setting up & running successfully Video Tutoring Service and having a minimum of 1,000 customers with Internet/ Telecom service provider or 100 groups (Schools/ Colleges/ Institutions/Training Centres etc.) for a period of at least one year on the date of submission of application for EOI. The appropriate certificate/ self certificate in this regard shall be submitted.
- iv. If company applying for is not meeting the experience as at para 4(iii) above, then the application for EOI can also be submitted through a legally bound consortium (Annexure-IV of EOI) with a company who is having experience as at para 4(iii). However in such case, front or main applicant, who will submit the application for EOI on behalf of the Consortium, henceforth will be called the Lead Company. In case of Consortium, turnover of both Lead Company and Consortium partner shall be counted. Lead Company and Consortium partner shall have a cumulative total turnover of INR 3.0 Crores with share of Lead Company INR 2.25 Crores & that of Consortium Partner as INR 0.75 Crore (i.e. in ratio of 75% & 25%) in last three financial years as per clause 4.1(ii) above. Accordingly, minimum turnover shall be INR 37.50 Lakhs & 12.50 Lakhs respectively during each of the said financial year. The certificate from the client(s) in this regard shall be submitted. The Lead Company only will interact with BSNL for all obligations/ payments.
- v. The company or any of members of consortium, if any shall not be a Licensed Telecom Service Provider to provide Basic Services/ Cellular Telephony Services/ Internet Services/ UASL/ NLD/ ILD Services anywhere in India. Self Certificate by the company shall be submitted.
- vi. The company or any of its members in the consortium shall not have controlling equity stake or vice-versa in & of any Basic Services/ Cellular Telephony Services/ Internet Services/ UASL/ NLD/ ILD Services operating company (ies) in India. Self Certificate by the company shall be submitted.
- vii. Even at a later date, if there is a substantial change in ownership structure of the company leading to the above mentioned types of companies getting a controlling stake, then BSNL reserve the right to terminate the contract.
- viii. Consortium partner Company shall also meet the conditions as per Para (v) & Para(vi). Self certificate shall be shall be submitted by the Consortium partner.
- ix. Companies are required to submit certificates/ documentary proof for item (i) to (viii). The verifiable references along with contact details shall also be cited in the EOI application for item (iii) to (iv).

5. Instructions to applicants for EOI

- 5.1 One EOI shall be submitted by applicant fulfilling the eligibility criteria in format as specified in Annex-I along with the documents.

- 5.2 In case of consortium, Memorandum of Understanding signed by all the members, specifying the lead member & listing out all the obligation of member shall be provided.
- 5.3 **Performance Bank Guarantee (PBG) In case of Individual Company-** Performance Bank Guarantee (PBG) of Rs. 5 Lakhs is to be provided within 15 days of receipt of communication from BSNL regarding approval of their application. PBG is to be submitted before signing of the agreement for ensuring the satisfactory performance of the agreement. The PBG shall be valid for 32 months and shall be forfeited inter-alia for not achieving revenue targets as mentioned in clause 6.15 (ii) of EOI. **In case of Consortium-** Performance Bank Guarantee (PBG) of Rs. 5 Lakhs & 2 Lakhs are to be provided by the Lead Company & Consortium partner respectively within 15 days of receipt of communication from BSNL regarding approval of their application. PBGs are to be submitted before signing of the agreement for ensuring the satisfactory performance of the agreement. PBGs of both Lead Company as well as consortium partner shall be valid for 32 months. PBGs of both Lead Company as well as Consortium partner shall be forfeited inter-alia for not achieving revenue target as mentioned in clause 6.15 (ii) of EOI.
- 5.4 BSNL reserves the right to reject any or all the applications (expression of interest received) or stop the process of EOI / testing at any stage, at its sole discretion without assigning any reason In case of any dispute relating to this expression of interest / agreement, New Delhi court shall have the exclusive jurisdiction.
- 5.5 An agreement bordering around the terms and conditions of the EOI shall be signed with selected company(s).
- 5.6 The agreement with the company shall be on non-exclusive basis. Further, BSNL reserves the right to provide its own Video Tutoring Services at any time or to enter into Agreement with other Company/ parties for providing similar services in its licensed service area from time to time in future without any restriction of number of Companies/ parties.
- 5.7 The period of non-exclusive agreement shall be 26 months (2 months for installation of equipment, integration & testing with BSNL network and 24 months for service).
- 5.8 BSNL reserves the right to have a presentation on the company's proposal as part of the evaluation process.

5.9 Company shall submit all below mentioned documents along with the application form:

- 5.9.1 Attested copy of the certificate of Incorporation.
- 5.9.2 Latest Audited results of last three financial years (2009-10, 2010-11 & 2011-12).
- 5.9.3 Articles and Memorandum of Association or partnership deed as the case may be.
- 5.9.3.1 In case a company intends to submit the bid through a legally bound consortium with the company as lead partner, the company is required to submit the following documents pertaining to consortium members.
- 5.9.3.2 Attested copy of the certificate of Incorporation for Consortium members, registered in India.
- 5.9.3.3 Certified accounts for last three financial years (2009-10, 2010-11 & 2011-12) for all consortium members/ their parental global organization.
- 5.9.3.4 Only lead company shall interact with the BSNL for all obligations/payment, however all consortium members shall be responsible for the execution of the

- project.
- 5.9.3.5 A consortium member may participate in more than one consortium. However a company is not permitted to be a consortium member under another company for this project.
- 5.9.3.6 No change in consortium members i.e. addition or dropping of a member shall be permitted after the submission of the bid.
- 5.9.4 Company shall submit along with application of EOI, the complete list of partners. The company shall furnish signed letters from all the partners stating their participation in the said EOI. The company shall have teaming agreement with the partners OEMs individually, to ensure that respective product support and services for implementation, operation, maintenance, spares for a minimum period of 3 years.
- 5.9.5 Business plan for the proposed term of agreement. The Company shall have to give a commitment to generate top line revenue of minimum Rs.1 Crore during the tenure of agreement.
- 5.9.6 The company shall have to provide a list of courses (to be available to end user on the day of launch of service) and a list of tutors with whom the company is having an agreement and authority letters from at least 5 content owners & 25 tutors confirming agreement with the Company to provide content for BSNL video tutoring subscription service. On the day of launch selected company has to launch with at least 5 courses. The required authority letter from the content owners of these courses to be provided at the time of launch. In future, in case company wants to offer more courses same authority letter from the content owners to be provided. Content shall be screened before allowed to be launched.
- 5.9.7 A letter of authority from Lead Company as well as Consortium Partner stating that in case of non performance, BSNL can en-cash the Performance Bank Guarantee of both Lead Company as well as Consortium Partner and the Lead Company & Consortium Partner shall not have any objection.
- 5.9.8 List of Directors including their names(s) and address (es) along with contact telephone numbers, DIN of each director & CIN of the Company.
- 5.9.9 Certified True copy of Board's/ Management's resolution in favour of authorized signatory. It should not have been dated more than two months prior to date of EOI.
- 5.9.10 Specimen signature(s) of authorized signatory duly attested by the Bidder's Bankers.
- 5.9.11 Undertakings, in support of Company or any of consortium members if any not having equity stake and not being a Licensed Service Provider as required in eligibility conditions.
- 5.9.12 NDU (Non- Disclosure Undertaking), duly notarized on non judicial stamp paper of Rs.50/- (NDU format enclosed).
- 5.9.13 Revenue generation commitment required as per target clause 6.15 of EOI and an undertaking clearly committing to submit the Performance Bank Guarantee or Performance Bank Guarantees (in case of consortium) within 15 days of receipt of communication from BSNL regarding approval of their application. PBG or PBGs (in case of consortium) is/are to be submitted before signing of the agreement.
- 5.10 A representative Draft agreement, containing the complete commercial, financial and technical conditions to be signed for providing the Video tutoring Value Added Services over Wireline broadband & FTTH broadband is attached**

Note- The power requirement beyond 5KW and higher may be dealt with on case to case basis, however , the thumb rule shall be to take power consumption charges at the highest slab @ Rs. 10 per unit and add 25% of the amount so calculated.

- 6.7 The company shall need to provide the service's Network Architecture with diagram which shall be scrutinized by competent BSNL Technical Team. It shall also submit detailed integration requirement document with BSNL system.
- 6.8 Company shall be totally bound and obliged to comply with all applicable norms and directions of Telecom Commercial Communications Customers Preference Regulations (TCCCPR) issued from time to time by the Regulator (TRAI) or the Licensor (DOT) or Govt. of India.
- 6.9 The company shall maintain a portal, which shall enable users from BSNL side to view various customer level details of the services provided by the company through BSNL network. This portal shall be available on Internet, so that any user from BSNL shall be able to access the Video Tutoring Service via Internet. User shall be able to logon to the portal for availing the facilities like customer account details, billing details & customer service history. Provisioning & billing of the Video Tutoring Service should be integrated by the company with BSNL CDR System (OSS & BSS of wire line & broadband) without any cost to BSNL.
- 6.10 THE COMPANY shall ensure that the content to be provided as part of the Value Added Services conforms to the applicable Indian laws, IT Act 2008 and its amendment issued from time to time by Govt. THE COMPANY shall monitor the content on a regular basis to ensure that the same is not obscene or offending to the laws of the land, community or sect or violating any copy/ intellectual property of any third party.
- 6.11 The company shall adhere to SLA, which BSNL has offered to its customers, if any. Data download while accessing the content under Video Tutoring Service shall be counted in the monthly broadband download limit of the customer.
- 6.12 The company shall also conduct product training for BSNL Officers to make them conversant about their product capabilities vis-à-vis customer requirement.
- 6.13 **Delivery of Service:** The Company shall ensure provisioning of commercial Video Tutoring Services in the agreed service area within 30 days of provision of requisite connectivity by BSNL. In case of failure to start the service in the specified time period a penalty of Rs.500/- per day of delay shall be applicable subject to a maximum of Rs. 1 Lakh.
- 6.14 **Marketing of Services:**
 - i. All Marketing, advertising, sales and promotion of agreed Video Tutoring Service besides sourcing the content for the Video Tutoring Services shall be undertaken by the Company at its own cost.
 - ii. The Company shall get pamphlets or brochures designed, approved, printed at their cost and delivered to the in-charge (Sales & Marketing) office in the Circle or any other predefined single point of delivery in the Circle, during first 6 months of the agreement and again during next 12 months. BSNL shall facilitate distribution of these pamphlets/ brochures through its Franchisees, telephone bills & Points of Sales (POS) to those customers who shall be coming to POS for buying some other BSNL products/ services.
 - iii. Call Centre would need to be established by the Companies at their own cost, both for tele-calling, subscriber verification & also customer support. For the purpose of

customer query & customer care a toll free number would be advertised by the Company. Toll free number would be provided by BSNL free of cost wherever available. This toll-free number should only be utilized for promoting the Video Tutoring Service being provided under agreement with BSNL only. If any misuse of the facility is detected at any stage, the free service shall be withdrawn.

- iv. For the customer service, the Company shall provide to BSNL 7 days a week helpdesk, either web based or call center. The booking of complaint to the Company can be made by customer, BSNL NOC/Call Center/Node. For emergency case specifically for situation where critical node is down, the Company shall ensure that the complaint is attended within 12 hours.
- v. The Company shall also conduct promotional events for generating business / creating awareness about BSNL products and services.
- vi. SMS, e-mail based marketing, marketing through print media & electronic media would be done by the Company.
- vii. BSNL would market the Video Tutoring services, if so desired and workable either as Video Tutoring service or as part of bouquet of services offered by BSNL.

6.15 TARGETS :-

- i. The minimum target for the company is to bring business worth at least Rs. 1,00,00,000 (Rs. 1 Crore) in the period of the agreement.
- ii. Following rollout schedule would be applicable for the duration of the agreement.

S.No.	Period	Revenue Target
1	first 12 months	Rs. 30 Lakhs
2	26 months	Rs. 1 Crore

- iii. **In case of Individual Company-** The Performance Bank Guarantee shall be forfeited in case of not achieving revenue targets as mentioned in clause 6.15 (ii). After PBG forfeiture existing agreement shall be terminated.

In case of Consortium- PBGs of both Lead Company as well as Consortium partner shall be forfeited inter-alia for not achieving revenue target as mentioned in clause 6.15 (ii) of EOI . After PBG forfeiture existing agreement shall be terminated.

6.16 Dispute Settlement

- i. 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. The agreement to appoint an arbitrator shall be in accordance with the Arbitration and Conciliation Act 1996.
- ii. There shall 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.

- iii. The arbitrator may from time to time with the consent of both the parties enlarge the time- frame for making & 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.
- iv. The venue of the arbitration proceeding shall be the office of the CMD, BSNL, New Delhi or office of the arbitrator at New Delhi. The EOI shall be governed by and constructed in accordance with the laws of India and the jurisdiction of Court at New Delhi, India.

6.17 Security and Lawful Interception for Value Added Service:

- a. BSNL shall have the right to direct, to warn, to penalize the company or terminate the Agreement after considering any report of conduct or antecedents detrimental to the security of the nation. The decision of BSNL in this regard in accordance with such DOT directions shall be final and binding and in any case the company shall bear all liabilities in the matter and keep BSNL informed for all claims, cost, charges or damages in this respect.
- b. In accordance of DOT guidelines, the company shall provision for lawful interception for Video Tutoring Service, wherever required by security agencies. Further, any new Value Added Services should be added/ commissioned in the network only after having confirmed the provisioning of appropriate monitoring facilities for the same.
- c. The company shall provide all possible support to BSNL in case law enforcement agencies approach BSNL for any investigation & monitoring purposes involving traffic passing through the servers installed by the company.
- d. The company would also be duty bound to follow the TCCCP & other regulations issued by TRAI/DOT. Any violations thereof may lead to cancellation of the agreement.
- e. The PBG or PBGs (in case of consortium) submitted at the time of signing of the agreement having validity of 32 months for ensuring the satisfactory performance of the agreement. The Company/ Lead Company & Consortium Partner (in case of consortium) shall extend the validity of same for further extension of agreement if any, or otherwise till all the dues of BSNL by virtue of this agreement have been fully paid & its claim satisfied & discharged.

6.18 Quality of Service

- i. The Company shall operate and maintain its setup including the Application Servers conforming to Quality of Service standards, to be mutually agreed upon. The initial set up should be capable to handle at least 10,000 customers with concurrency of 1,000 customers. The selected company shall upgrade the set up within one month of reaching 70% of the capacity.

- ii. No Quality of Service Parameters (QOS) has been specified at present. However, Telecom Regulatory Authority of India (TRAI)/ TEC may specify QOS parameters in the future. Both BSNL and the company agree that in such an eventuality, they shall use commercially reasonable efforts to meet the QOS requirements set forth by TRAI.
- iii. The company 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 3 hours and 99% within 8 hours.
 - b) The company shall keep a record of number of faults and rectification reports in respect of the service, which shall 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 company's end resulting in non-availability of the services.
 - v) The company shall be responsive to the complaints lodged by BSNL. The company 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.
 - vi) In case of non-availability of the Video Tutoring Services/ Video Tutoring Service getting affected partially/ fully due to reasons pertaining to the company for more than three hours, IG 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 Video Tutoring Service remained un-available/ affected = D
 - ✓ Compensation = $[A/(24*30)]D$

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

7.0 Submission of application:

- 7.1 The application for Expression of Interest in format as specified in Annex-V along with all required documents must be submitted in sealed envelopes, super scribed "Expression of Interest for Video Tutoring Service for BSNL Broadband (on Wireline, FTTH) Customers" and addressed to the contact person indicated in this EOI. The envelope shall indicate the name and address of the Company.
- 7.2 Application giving the details is to be made on the Company's letter head. A copy of this EOI duly signed in on all pages meaning by acceptance of all clauses be submitted along with application form.
- 7.3 All costs & expenses associated with submission of application shall be borne by the Company submitting the application and BSNL shall have no liability in any manner in this regard. BSNL reserve the right to terminate the process of short-listing for any reason whatsoever.

Note: This policy is open ended and any company which is interested and meets the eligibility conditions may submit its proposal on any working day. BSNL would however reserve the right of periodic review of the entire policy or any elements thereof based on its business needs.

FORMAT OF THE NON-DISCLOSURE UNDERTAKING

(To be submitted duly notarized on non-judicial stamp paper of Rs.50/- only)

M/s _____, a company registered under Companies Act 1956, having its registered office at _____ acting through Shri _____, the authorized signatory (which expression shall, unless repugnant to the context, include its successors in business, administrators, liquidators and assigns or legal representatives) hereby declare and undertake that we shall not divulge any part of this agreement either through oral or written communication or through any mode to anyone.

We further undertake and declare that we shall be responsible for safe custody of the papers/documents including the Agreement proposed to be entered into between M/s BHARAT SANCHAR NIGAM LIMITED and ourselves. We shall ensure all necessary steps to safeguard the privacy and confidentiality of the Agreement and shall use our best endeavours to secure that no person acting on our behalf or ourselves divulge or disclose or use any part of the Agreement without the written consent of M/s BHARAT SANCHAR NIGAM LIMITED.

We further declare and undertake that if we declare not to sign the above Agreement with M/s BHARAT SANCHAR NIGAM LIMITED, we shall return back the copy of the Agreement (in original) back to designated official acting on behalf of M/s BHARAT SANCHAR NIGAM LIMITED within one month without preserving any copy of the same, in any form, whatsoever.

We further declare and undertake to indemnify M/s BHARAT SANCHAR NIGAM LIMITED for any loss or damage(s) caused to it by virtue of any default from our side in compliance to the aforesaid conditions.

Signed on behalf of M/s _____ by Shri _____
(Name and Designation) authorized signatory.

UNDERTAKING

We, M/s _____, a company registered under Companies Act 1956, having registered office at _____ do hereby undertake and declare that we do not have an equity stake in & of any

- Basic Services
- Cellular Services
- Internet Services
- Unified Access Services
- National Long Distance Services
- International Long Distance Services

operating company(ies) in India.

Signed on behalf of M/s _____ by Shri _____ (Name & Designation) authorized signatory (with company stamp).

UNDERTAKING

We, M/s _____, a company registered under Companies Act 1956, having registered office at _____ do hereby undertake and declare that we are not a licensed service provider to provide Basic services/Cellular services/Internet services/Unified Access services/ NLD/ILD services anywhere in India.

Signed on behalf of M/s _____ by Shri _____ (Name & Designation) authorized signatory (with company stamp).

ANNEXURE - II

Proforma for Performance Bank Guarantee for Individual/ Lead Company

1. In consideration of the CMD BSNL (hereinafter called 'BSNL') having agreed to exempt M/s _____ (hereinafter called 'the said VAS Company') from the demand under the terms and conditions of Letter of Intent Reference No. _____ dated _____ made between Bharat Sanchar Nigam Ltd. and _____ for the provision of Video Tutoring service for BSNL data customers (hereinafter called "the said agreement"), of security deposit for the due fulfillment by the said VAS Company of the terms and conditions contained in the said Agreement, on production of the bank guarantee for Rs.10,00,000 we, _____ Bank Limited (hereinafter refer to as "the bank") at the request of M/s _____ (VAS Company do hereby undertake to pay to the BSNL an amount not exceeding Rs. 10,00,000 against any breach of terms & conditions of the agreement or failure of rollout of services under the agreement or any loss or damage caused to or suffered or would be caused to or suffered BSNL by reason of any breach by the said VAS Company of any of the terms and conditions contained in the said Agreement.
2. We _____ Bank do hereby undertake to pay the amounts due and payable under this guarantee without any demure, merely on a demand from BSNL by reason of breach by the said VAS Company of any of the terms or conditions contained in the said Agreement or by reason of the contractors failure to perform the said Agreement or rollout of Video Tutoring Service by VAS Company under agreement or loss suffered by BSNL by such breach by the VAS Company. 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 Rs. 10,00,000 /-.
3. We undertake to pay to the BSNL any money so demanded notwithstanding any dispute or disputes raised by the VAS Company 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 VAS Company shall have no claim against us for making such payment.
4. We _____ 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 BSNL certifies that the terms and conditions of the said Agreement have been fully or properly carried out by the said VAS Company 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 **32 months** from the date hereof, we shall be discharged from all liabilities under this guarantee thereafter.
5. We _____ further agree with BSNL that 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 VAS Company 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 VAS Company 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 VAS Company or for any forbearance, act or omission on the part of the BSNL or any indulgence by the BSNL to the said VAS Company 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 shall not be discharged due to the change in the constitution of the bank or the VAS Company.
7. We _____ 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)

ANNEXURE - III
Proforma for Performance Bank Guarantee for Consortium Partner

1. In consideration of the CMD BSNL (hereinafter called 'BSNL') having agreed to exempt M/s _____ (hereinafter called Consortium Partner of M/s _____ 'the said VAS Company') from the demand under the terms and conditions of Letter of Intent Reference No. _____ dated _____ made between Bharat Sanchar Nigam Ltd. and M/s _____ (Lead Company) for the provision of Video Tutoring service for BSNL data customers (hereinafter called "the said agreement"), of security deposit for the due fulfillment by the Consortium Partner of M/s _____ (VAS Company) of the terms and conditions contained in the said Agreement, on production of the bank guarantee for Rs.3,50,000/- we, _____ Bank Limited (hereinafter refer to as "the bank") at the request of M/s _____ (Consortium Partner of VAS Company) do hereby undertake to pay to the BSNL an amount not exceeding Rs.3,50,000 /- against any breach of terms & conditions of the agreement or failure of rollout of Online Education Services under the agreement or any loss or damage caused to or suffered or would be caused to or suffered BSNL by reason of any breach by the said VAS Company and/or Consortium Partner of any of the terms and conditions contained in the said Agreement.
2. We _____ Bank do hereby undertake to pay the amounts due and payable under this guarantee without any demure, merely on a demand from BSNL by reason of breach by the said VAS Company and /or Consortium Partner of any of the terms or conditions contained in the said Agreement or by reason of the contractors failure to perform the said Agreement or rollout of Video Tutoring Service by VAS Company and /or Consortium Partner under agreement or loss suffered by BSNL by such breach by the VAS Company and /or Consortium Partner. 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 Rs.3,50,000 /-.
3. We undertake to pay to the BSNL any money so demanded notwithstanding any dispute or disputes raised by the VAS Company and /or Consortium Partner 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 VAS Company and /or Consortium Partner shall have no claim against us for making such payment.
4. We _____ 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 BSNL certifies that the terms and conditions of the said Agreement have been fully or properly carried out by the said VAS Company and /or Consortium Partner 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 **32 months** from the date hereof, we shall be discharged from all liabilities under this guarantee thereafter.

5. We _____ further agree with BSNL that 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 VAS Company and /or Consortium Partner 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 VAS Company and /or Consortium Partner 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 VAS Company and /or Consortium Partner or for any forbearance, act or omission on the part of the BSNL or any indulgence by the BSNL to the said VAS Company and /or Consortium Partner 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 shall not be discharged due to the change in the constitution of the bank or the VAS Company and /or Consortium Partner.
7. We _____ 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)

ANNEXURE C
AGREEMENT PROFORMA
(To be furnished on Rs 100/- stamp paper after communication
for final selection is received from BSNL)

To be executed on non-judicial stamp paper worth Rs 100/- and continuation sheets on ledger papers and two copies on ordinary paper to be submitted neatly type-written sheets on one side of the paper in single line spacing.

**AGREEMENT FOR PROVISION OF VIDEO TUTORING SERVICES TO BROADBAND
(ON WIRELINE & FTTH) CUSTOMERS OF BSNL**

This agreement is signed on the ____ day of _____ 2013 by and between **BHARAT SANCHAR NIGAM LIMITED**, a company registered under the Companies Act 1956 having its Registered office & Corporate office at Bharat Sanchar Bhawan, H C Mathur Lane , Janpath, New Delhi – 110 001 acting through ----- (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

-----, a company registered under the Companies Act 1956, having its registered office at -----, acting through -----, the authorized signatory (hereinafter called ----- 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 ----- is engaged in the business of educational content development &/or distribution/video tutoring on internet platform

Whereas BSNL is a major telecom service provider licensed to provide all types of telecom services throughout the country except Delhi & Mumbai.

Whereas THE COMPANY has requested for an agreement as per **EOI No. 14-5/2012-BBVAS/ VTS** floated by BSNL **dated 21/02/2013** for provision of video tutoring based value added services to the Broadband (on Wireline, FTTH) Customers of BSNL. Where upon and in pursuance to the said request, has further assured to BSNL, that, Company have appropriate equipment, infrastructure, skilled manpower & other facilities to provide services under the agreement, where upon in pursuance of said request & assurance, BSNL has agreed to an agreement with THE COMPANY for two years & two months, effective from -----, for provision of video tutoring Content based value added services to the Broadband (on Wireline, FTTH) Customers of BSNL on a subscription based on 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 II, Annexure I & schedule attached hereto and forming part of this agreement, BSNL and ----- agree to sign an agreement on non-

exclusive & revenue sharing basis to provide the video tutoring Services to Broadband (on Wireline, FTTH) Customers of BSNL in its licensed service area and as per conditions contained in the said EOI & various parts and Annexures attached hereto.

2. The agreement shall be valid for a period of 26 **months** from the date of signing unless revoked earlier. BSNL may extend, if deemed expedient, the period of agreement by one more year based on the performance of the company. The decision of BSNL shall be final in regard to the grant of extension.
3. ----- 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 & schedule 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 Services similar to those envisaged through this agreement, on its own or to enter into Agreement with other content provider / service providers/ parties for providing similar services to its broadband (on Wireline, FTTH) Customers in future without any restriction of number of content provider/ companies/ service providers/parties. Tariffs (i.e. the end user pricing) for the services under this agreement shall be mutually decided. Any change in the same shall be with written mutual consent of both parties.
5. The Laws of land as promulgated/ modified/ amended and/or replaced from time to time shall govern this Agreement.
6. The company 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.
7. 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.
8. 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.
9. The Agreement is a confidential document. The company 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.
10. The company 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.

11. 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.
12. THE COMPANY shall ensure that the content to be provided as part of the Value Added Services conforms to the applicable Indian laws, IT Act 2008 and its amendment issued from time to time by Govt. THE COMPANY shall monitor the content on a regular basis to ensure that the same is not obscene or offending to the laws of the land, community or sect or violating any copy/ intellectual property of any third party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed through their respective authorized representatives on the _____ day of _____.

Signed for & on behalf of **BHARAT SANCHAR NIGAM LIMITED** by Shri _____, **GM (_____)**, **BSNL Corporate Office**, the authorized signatory.

Signed on behalf of _____ by _____, the authorized signatory & holder of Special Power of Attorney dated _____

In the presence of following witnesses:

1. Signature
Name
Occupation.
Address

2. Signature
Name
Occupation.
Address

Place

Place

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SCHEDULE-I
SERVICES PORTFOLIO

- 1.1 The video tutoring service to be provided under this agreement shall be on chargeable service as per rates mutually decided by the parties.
- 1.2 The CHARGEABLE services imply that the subscribers shall be charged some pre determined tariff for availing these services. Any additional services such as pay per use can be added subsequently on mutually agreed basis.
- 1.3 No additional revenue share shall be paid by BSNL to the company for enhancing the initial offerings/services.
- 1.4 THE COMPANY shall extend the latest approved content for the Services agreed upon in this Agreement without any discrimination vis-à-vis other Broadband service provider(s) to whom THE COMPANY may be providing similar services.
- 1.5 THE COMPANY shall also be responsible for evolving the above services in tune with the preferences of the subscribers. THE COMPANY 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. This, however, would be done under consultation & full information of BSNL.
- 1.6 The list of tutors & the courses would be refreshed as & when required by the company to be in line with customer requirements. This shall 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 as decided by the company.
- 1.7 BSNL reserves the right to suspend the services wherever and whenever BSNL is convinced that the content is obscene/ offending to the feelings of any religion or community or sect or against the Law. THE COMPANY shall monitor the content on a regular basis to ensure compliance with applicable laws and that the same is not outdated/ obscene/ offending to the religion, community or sect or violating any copy rights/intellectual property rights of any third party.

2. Trial of the Service

Each subscriber who registers for the Video Tutoring Service shall be offered a free trial period of 7 days. The subscriber may withdraw his registration if he so desires before the end of the trial period. The company would ensure the notification to the subscriber by means of a “pop-up” at the end of the trial period requesting express consent to continue with the service. Upon receiving such consent, billing of the consumer shall start from the first day following the expiry of his trial. The details of such customers would be provided to BSNL for raising monthly invoice to the customers. Subscribers who do not express any consent, their Video Tutoring Service would be discontinued.

3. Service Provisioning

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

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 tutors from along with content's due copyright/ IPR, shall be the essence of this agreement and shall form the central factor of this agreement.
- 1.2. This agreement shall enable the company to provide video tutoring Services to BSNL broadband (on wireline & FTTH) customers by making all necessary arrangements at its own costs for the infrastructure (content/applications/servers, etc) involved in provision of these services with BSNL providing support in the form of hosting space, connectivity and billing integration.
- 1.3 These content based service as described above shall be delivered over BSNL's established DSL based infrastructure over the copper last mile to the customer's premises or FTTH to the customer's premises for which BSNL shall provide the required connectivity and bandwidth as per the terms and conditions of the agreement.
- 1.4 **The list of activities to be undertaken by THE COMPANY would include:**
 - a. **Educational Portal Creation:** Creation of an Educational Portal for facilitating the delivery of various educational content services under co-branding of both BSNL & the company.
 - b. **Portal Hosting:** Arrangement of necessary hardware & 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 & up dation 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 shall enable the subscribers to browse and preview/ select/download the content/ Video Tutoring 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. The company shall maintain the branding of BSNL throughout the above process. The process of discontinuance by customer would be displayed prominently on the home page.
 - e. **Service Hosting:** Installation of hardware equipments like video server, Billing Server, Authentication Server, Application Servers etc. at its own cost. The hardware setup should be able to operate independently of any other servers/network. Entire hardware deployed shall be carrier grade. The equipment setup by the company shall be used exclusively for offering services to BSNL customers. THE COMPANY shall be responsible for insuring their equipment.
 - f. **Content/tutors arrangement:** THE COMPANY 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, on its own. The company would also be responsible for arranging and enlisting tutors, who should be reputed.

- g. Billing information:** THE COMPANY 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 these services. THE COMPANY shall be responsible for providing and maintaining at its own cost, the information for providing necessary data for BSNL to generate the bills to be raised upon all the customers served by THE COMPANY'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 but at least on monthly basis.
- THE COMPANY shall maintain a portal, which shall enable designated SSA level users from BSNL side to view various customer level details of the services provided by THE COMPANY through BSNL network. This portal shall be available in Internet, so that any designated SSA level user from BSNL shall be able to access the services via Internet. SSA level user shall be able to logon to the portal for availing the following facilities.
- i) **Customer Account details.** Details of the latest plans subscribed by a particular customer– Name of service, Plan Name, Facilities of this plan, Service start date, Service end date, Service status and any other useful field. The search key shall be std_code, phone_no combination.
 - ii) **Customer Service History:-**This should provide month wise or period wise history of plans subscribed by one particular customer. With this, the SSA user should be able to track the history of the customer for at least one year. The search key shall be std_code,phone_no combination.
 - iii) **Customer billing details:** - This should provide the details of the amount to be billed/already billed from one customer - month wise or period wise. With this facility the SSA user should be able to find out the amount to be billed/already billed from the customer for each month. Billing data for at least one year should be available for viewing. The search key shall be std_code, phone_no combination or along with month or period(date_from , date_to).
 - iv) **Customer Activity details:** - This should provide a chronological list of activities carried out by the user in Topper portal, like activation, deactivation etc, with full details, so that the genuineness of the claim by the customer regarding activation/deactivation of the service can be ascertained. The search key shall be std_code,phone_no combination.
 - v) **SSA Billing feed files download:** - In BSNL, SSAs are identified by LDCC name. Each LDCC shall have many SDCCs identified by std_codes. THE COMPANY can build the logic for distribution of SSA wise files based on this data. The SSA billing unit user should be able to download the billing file from this portal. To begin with THE COMPANY can upload the SSA files sent by ITPC unit in this place. Later on THE COMPANY can use their own logic for creating these SSA level files.
 - vi) **Provision for uploading the billing report by SSAs.:** - Provision should be given to each SSA billing user for uploading one billing report in the portal so that the actual amount billed can be viewed by the company and other designated users from BSNL at various levels. This shall help to fix the billing issues with tremendous ease.
- h. Maintenance support:** THE COMPANY shall provide full 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. If BSNL front-end is not able to resolve the customer queries, THE COMPANY shall provide support to resolve the same. The company shall provide customer care portal for SSA level users to deal with customer complaints related to video tutoring Service. THE COMPANY shall also conduct a training programme session in

circles for BSNL's customer service and Sales team. All expenses related to travel, boarding and lodging, etc. of BSNL officials shall be borne by BSNL.

- 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 the company, the broadband access (virtual pipe) to BSNL's customers and connectivity of the company video tutoring content equipment to BSNL's IP network. The required connectivity to the concerned network elements of BSNL shall be provided by BSNL free of charge. However, the server and the application need to reside in Bangalore in BSNL's Network Operating Centre (NOC). In case, the server can't be installed at Bangalore (due to some valid reasons), the connectivity from BSNL network element would be on paid basis at commercial rates. Co-location facility in BSNL premises shall be extended to company subject to feasibility & payment of requisite Infrastructure charges of BSNL applicable at the time of signing of agreement. The word Infrastructure means electricity/space/air-conditioning. Current infrastructure charges per annum per site deployment for following power limits are as follows (which may get amended subsequently):

S. No.	Power (load)	Rate per annum per site
1	Up to 2 KW	Rs. 3.5 Lakhs
2	Between 2 KW-5KW	Rs. 6.5 Lakhs

Note- The power requirement beyond 5KW and higher may be dealt with on case to case basis, however, the thumb rule shall be to take power consumption charges at the highest slab @ Rs. 10 per unit and add 25% of the amount so calculated.

- b. BSNL shall provide authorized company personnel access (subject always to normal security requirements of BSNL) to any of the hardware installed at BSNL's data centre/s.
- c. BSNL shall be responsible for commercial aspects, billing of customers and revenue collection.

2 Duration of Agreement

This agreement shall be valid for a period of 26 **months** from the date of signing the Agreement unless revoked earlier as per the termination clause of this agreement. If at any stage during the tenure of this agreement, it comes to the notice of BSNL that THE COMPANY has misrepresented the facts or submitted any false information or hidden any information, which could have affected the signing of this agreement with THE COMPANY, BSNL shall inform THE COMPANY of such lapse and provide two weeks notice to provide clarifications thereof. If THE COMPANY fails to provide reasonable reply to the satisfaction of BSNL during this period, the agreement shall stand terminated immediately under intimation to THE COMPANY.

3. Extension of Agreement

For further extension, BSNL would have the say based on the performance of the company during the year. The decision of BSNL shall be final in regard to the grant of extension or renewal.

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 THE COMPANY 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 the COMPANY 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 THE COMPANY except with prior written consent of BSNL. THE COMPANY 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 except with prior written consent of BSNL.

6. INTELLECTUAL PROPERTY RIGHTS/ COPYRIGHTS

- 6.1 The Intellectual property rights of BSNL and THE COMPANY shall remain their own and this Agreement shall not affect their ownership in any way unless mutually agreed upon.
- 6.2 THE COMPANY 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 at its own cost.
- 6.3 THE COMPANY shall ensure that no profiling information regarding the broadband (on wireline, FTTH) 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 company 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 THE COMPANY shall be destroyed by the company within seven days of expiry or termination of this agreement under confirmation to BSNL.
- 6.4 THE COMPANY and BSNL shall not use each other's 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 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 THE COMPANY/BSNL shall not affect the exclusive rights to and ownership of all or any of the services of the respective party.
- 6.6 THE COMPANY shall not knowingly interfere or cause any third party to knowingly interfere with BSNL Intellectual Property Rights. THE COMPANY 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 THE COMPANY or any of its directors, officers, employees, agents, consultants, representatives, subsidiaries, associates, servants or any other person except as expressly provided herein. THE COMPANY 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 THE COMPANY 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 THE COMPANY 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 THE COMPANY, after the termination/ expiry of this Agreement for any reason whatsoever under this agreement which THE COMPANY, may be or may have been concerned or interested in.
- 6.9 THE COMPANY 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.
- 6.10 This clause shall survive the termination or expiry of this Agreement.

7. Provision of Service

- 7.1 THE COMPANY shall be responsible for installation, testing, commissioning, operation and maintenance of all the equipment (hardware, software, help desks, etc.) and contents at its own cost for providing the Video Tutoring Service under this Agreement.
- 7.2 THE COMPANY shall also be responsible for obtaining the copyrights and complying with the Intellectual Property Rights of the content, wherever applicable. THE COMPANY 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.
- 7.3 It is specifically agreed by THE COMPANY that it shall, at no point of time, use the connectivity under this agreement for pushing content other than Educational video tutoring content without the consent of BSNL for BSNL's Broadband (on Wireline, FTTH) Customers. BSNL may however agree to such as proposal at mutually negotiated commercial arrangement
- 7.4 THE COMPANY shall be responsible for monitoring the video tutoring content on a continuous basis to ensure compliance with applicable Indian laws.
- 7.5 The company shall provide all necessary support required by Law Enforcement agencies for monitoring/ interception as per applicable laws.
- 7.6 THE COMPANY 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.

7.7 BSNL shall operate & manage all its related network elements (BRAS, Tier-II, Tier-I, DSLAM, subs. line etc).

8. Delivery of Service:

8.1 The Company shall ensure provisioning of commercial Video Tutoring Services in the agreed service area within 30 days of provision of requisite connectivity by BSNL. In case of failure to start the service in the specified time period a penalty of Rs.500/- per day of delay shall be applicable subject to a maximum of Rs. 1 Lakh.

8.2 Following roll-out schedule would be applicable for the duration of the agreement:

S.No.	Period	Revenue Target
1	first 12 months	Rs. 30 Lakhs
2	26 months	Rs. 1 Crores

8.3 In case of Individual Company- The Performance Bank Guarantee shall be forfeited in case of not achieving revenue targets as mentioned in clause 8.2. After PBG forfeiture existing agreement shall be terminated.

8.4 In case of Consortium- PBGs of both Lead Company as well as Consortium partner shall be forfeited inter-alia for not achieving revenue target as mentioned in clause 8.2. After PBG forfeiture existing agreement shall be terminated.

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 Clause 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 shall not be a cause or ground for extension of the period of the agreement and suspension period shall be taken as period spent. During this period, no charges for use of the facility of THE COMPANY 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 THE COMPANY at its registered office, terminate this agreement under any of the following circumstances:

- a) THE COMPANY failing to perform any obligation(s) under the agreement;
- b) THE COMPANY failing to rectify, within the time prescribed, any defect as may be pointed out by BSNL.
- c) THE COMPANY going into liquidation or ordered to be wound up by competent authority.

9.3 EITHER PARTY may terminate the agreement, by giving notice of at least ONE month in advance. The effective date of surrender of agreement shall 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 THE COMPANY 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 or 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 THE COMPANY or not. THE COMPANY shall extend all reasonable facilities and shall endeavor to remove the hindrance of every type upon such inquiry.

- 9.6** THE COMPANY shall be responsible for maintaining the agreed Quality of Service, 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, THE COMPANY shall ensure clearance of dues, if any, which it is liable to pay to BSNL. In case of failure of THE COMPANY to pay the amounts due to BSNL, the outstanding amounts shall be recovered from the revenue share of THE COMPANY lying with BSNL 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 THE COMPANY till date of termination of services or till such point that consumers are being charged for services rendered by THE COMPANY

- 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 Education content for broadband (on wireline & FTTH) customers 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 affect 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 unshalling to act as such, then to the sole arbitration of some other person appointed by the CMD, BSNL or the said officer. The agreement to appoint an arbitrator shall be in accordance with the Arbitration and Conciliation Act 1996.

- 11.2** There shall 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 office of the arbitrator at New Delhi.

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 THE COMPANY), 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 Video Tutoring Service may be so resumed (and the time frame within which the Video Tutoring Service may be resumed) or not shall be final and conclusive. However, the Force-majeure events noted above shall not in any way cause extension in the period of the agreement.

13. Customer Service

The front end support for all Video Tutoring service related complaints from subscribers would be provided by the Company's Customer Care Personnel. THE COMPANY shall provide online web-based interface to the existing support centre staff to track usage of services by subscribers of BSNL. Appropriate training/ instructions would be provided by THE COMPANY to the BSNL staff for the same at no extra costs to BSNL.

For further support, assistance and guidance to authorized BSNL personnel manning the Customer care centers/ help-line/help-desk for fault rectification and support to subscribers of BSNL, THE COMPANY shall setup helpdesk 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 THE COMPANY on its own.

The helpdesk shall also be the entry point for content & Video Tutoring Service related issues. It may be relevant to clarify that mere setting up of Help desk shall not absolve THE COMPANY of its responsibility to continuously monitor the content. Telephone

numbers/Email address of Help desk of THE COMPANY shall be provided by THE COMPANY to BSNL before commercial commissioning of the services.

14. Marketing

- 14.1 All Marketing, advertising, sales and promotion of agreed Video Tutoring Service besides sourcing the content for the Video Tutoring Services shall be undertaken by the Company at its own cost.
- 14.2 The Company shall get pamphlets or brochures designed, approved, printed at their cost and delivered to the in-charge (Sales & Marketing) office in the Circle or any other predefined single point of delivery in the Circle, during first 6 months of the agreement and again during next 12 months. BSNL shall facilitate distribution of these pamphlets/ brochures through its Franchisees, telephone bills & Points of Sales (POS) to those customers who shall be coming to POS for buying some other BSNL products/ services.
- 14.3 Call Centre would need to be established by the Company at their own cost, both for tele-calling, subscriber verification & also customer support. For the purpose of customer query & customer care a toll free number would be advertised by the Company. Toll free number would be provided by BSNL free of cost wherever available. This toll-free number should only be utilized for promoting the Video Tutoring Service being provided under agreement with BSNL only. If any misuse of the facility is detected at any stage, the free service shall be withdrawn.
- 14.4 For the customer service, the Company shall provide to BSNL 7 days a week helpdesk, either web based or call center. The booking of complaint to the Company can be made by customer, BSNL NOC/Call Center/Node. For emergency case specifically for situation where critical node is down, the Company shall ensure that the complaint is attended within 12 hours.
- 14.5 The Company shall also conduct promotional events for generating business/ creating awareness about BSNL products and services.
- 14.6 SMS, e-mail based marketing, marketing through print media & electronic media would be done by the Company.
- 14.7 BSNL would market the Video Tutoring services, if so desired and workable either as Video Tutoring service or as part of bouquet of services offered by BSNL.

15. Testing of Interface:

The joint testing for each and every interface with BSNL's network may be carried out as mutually agreed.

16. Right to inspect

- 16.1 BSNL or its authorized representative shall have the right to inspect the sites/ equipments used for extending the Video Tutoring Service by THE COMPANY 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. THE COMPANY shall provide the necessary facilities for continuous monitoring of the system, as required by BSNL or its authorized representative(s). The inspection shall ordinarily be carried out after reasonable notice except in circumstances where giving such a notice shall defeat the very purpose or essence of the said inspection.
- 16.2 Wherever considered appropriate BSNL may conduct any inquiry either suo-moto as complaint to determine whether there has been any breach in compliance of terms &

conditions of the agreement by THE COMPANY or not? In case of such inquiry, THE COMPANY shall extend all reasonable facilities without any hindrance or delay, provided that prior written notice is given and conducted within reasonable working hours.

17. Confidentiality of information_

17.1 Subject to conditions contained in this Agreement, THE COMPANY 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 Video Tutoring Service provided and shall use its best endeavors to secure that:

- (a) No person acting on behalf of THE COMPANY 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 Video Tutoring Service to BSNL.

Provided, the above Para shall not apply where BSNL has consented in writing to such information, being divulged or used and such information is divulged or used in accordance with the terms of that consent; or the information is already open to the public.

17.2 THE COMPANY shall ensure that no profiling information regarding the broadband (on wireline & FTTH) customers 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 COMPANY and/or any third party.

17.3 THE COMPANY shall take necessary steps to ensure that THE COMPANY and any person(s) acting on its behalf observe confidentiality of customer information.

17.4 THE COMPANY shall, prior to commencement of Service, confirm in writing to BSNL that THE COMPANY 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 THE COMPANY

18.1 The company shall not engage, on the strength of this Agreement, in the provision of any Service other than the Video Tutoring Service as defined under this Agreement.

18.2 THE COMPANY agrees not to provide any unlawful, harassing, libelous, defamatory, abusive, threatening, harmful, vulgar, obscene, or otherwise objectionable content of any kind.

18.3 THE COMPANY 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 THE COMPANY in this regard shall be sole liability of THE COMPANY.

18.4 In case any confidential information is divulged to THE COMPANY for proper implementation of an Agreement, it shall be binding on THE COMPANY and its employees to maintain its secrecy and confidentiality.

18.5 THE COMPANY shall 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 THE COMPANY 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 COMPANY with BSNL.

20. Indemnification

THE COMPANY 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 COMPANY;
- c) Any claim of any infringement of any Intellectual Property Right or any other right of any third party or any of law by THE COMPANY
- 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 Video Tutoring Service to BSNL's customers caused solely by THE COMPANY

In case of any claim by any third party towards licensing or otherwise for the products (/application/contents) provided by THE COMPANY, it shall be sole responsibility of THE COMPANY to settle such claims. Under no circumstances, BSNL shall have any liability for any such claim.

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 shall 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.

PART II.
FINANCIAL CONDITIONS

1. Pricing

- 1.1 The pricing to customers would be decided mutually by both the parties i.e. BSNL and THE COMPANY.
- 1.2 Both parties may offer more packages based on mutual agreement. For all such revenues invoiced, **Flat revenue share of 40% to BSNL & 60 % to THE COMPANY.**
The content related Intellectual Property Rights (IPR)/ Royalty payouts applicable shall be borne by the Company from its revenue share.
- 1.3 The other statutory levies or taxes, license fees as applicable from time to time or as amended by DOT (Department of Telecommunication) from time to time, shall be deducted from the total revenue generated out of Video Tutoring Service revenues. The balance amount i.e after deducting all duties/ taxes/ fees etc, would be shared in the ratio between BSNL & Selected Company indicated above. It may be noted that statutory levies or taxes/ license fee to be deducted from the total revenue may vary depending on the licensor's requirements.
- 1.4 THE COMPANY shall be responsible for intimating the subscriber (students) the charges payable by him/her on downloading such Chargeable services.

2. BILL ISSUE AND COLLECTION

- 2.1 BSNL shall be solely responsible for all 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 WIRE LINE Broadband/ Basic Telephony services or FTTH Services provided by BSNL. The bills shall be raised and collected by BSNL from the subscribers.
- 2.2 THE COMPANY 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 THE COMPANY to the subscribers of BSNL either free of cost or for a cost without written approval of BSNL.
- 2.3 THE COMPANY shall send the CDRs generated in its billing system in respect of all customers served through its solution at least once every day or as mutually agreed to the destined BSNL server in the format prescribed by BSNL.
- 2.4 Revenue sharing with Company (i.e. VAS provider) will be done on subscription charges levied from the customer for Video Tutoring service. No revenue sharing will be done on data usage charges levied from the customer for download/streaming of contents of Video Tutoring service.
- 2.5 THE COMPANY shall disclose all information in respect of revenues arising out of running the content based 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.
- 2.6 BSNL shall have the right to use the detailed billing information provided by the COMPANY for settlement of any grievances raised by the customers, and THE COMPANY shall indemnify BSNL against any such liabilities that may arise on account of this, limiting to the respective invoice value, because of any breach on part of THE COMPANY.

- 2.7 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.
- 2.8 The revenue, on account of Broadband connectivity shall not be shared with the COMPANY. The revenue sharing is applicable only for the video tutoring content service provided by THE COMPANY.

3. REVENUE SHARE PAYMENT PROCESS

- 3.1 Payment of revenue share of THE COMPANY shall be made on monthly basis on receipt of the invoice which shall be based on the realized amount. The invoice shall be settled by BSNL as per the provisions of laid down policy on the subject as modified from time to time. The verified invoices shall be processed & paid within two months.
- 3.2 The payment invoice/feed file would be generated after the same is verified by BSNL. The activation/deactivation details on real time/daily basis/periodic basis as decided by BSNL would be provided by the company to BSNL, whose designated official(s) would reconcile & correct/update the monthly data to be fed in the company feed file before the same is handed over to BSNL at the end of the month. This reconciliation would be done before the customers are billed. The payment accordingly would be made to the company on the basis of the realized bills.
- 3.3 The payment of revenue share shall be made to THE COMPANY on the **collected** amount after the deduction of applicable statutory levies (like license fees, service tax etc.) and/or taxes applicable from time to time, on the amount billed on account of provisioning of content based services to the customers. All such taxes/levies would be paid to the respective statutory bodies by BSNL. Levies payable on billed amount to the statutory bodies would be calculated & deducted from the collected amount. Thereafter, revenue-sharing would be done in the prescribed ratio.
- 3.4 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.
- 3.5 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 THE COMPANY and BSNL, the decision of BSNL shall be final for variation of up to 10%, but any deviation beyond this shall be mutually settled between BSNL and THE COMPANY.
- 3.6 In case of any dispute/complaints from the subscribers regarding any defect or non-delivery and consequent refund request, THE COMPANY shall be responsible for providing the conclusive evidence of performance at its end, failing which the disputed charges shall be deducted from the payment of the COMPANY 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.
- 3.7 Notwithstanding anything contained above, BSNL reserves the right to modify the billing process based on the practicality of integration of its own CDR system with the company system. However, it would be ensured that the payment to the company is released within a month (subject to funds' availability).

4. PERFORMANCE BANK GUARANTEE-

The Company shall submit a Performance Bank Guarantee (PBG), in the prescribed proforma (attached as Annexure-II & III hereto), at the time of signing this agreement.

In case of Individual Company- The PBG of Rupees 5 Lakhs shall be submitted by the THE COMPANY valid for 32 months from the date of signing the Agreement for ensuring

satisfactory performance of the Agreement. PBG of the Company shall be forfeited inter-alia for not achieving revenue targets as mentioned in clause 8.2 of Part- I Commercial Condition of the agreement.

The company shall extend the validity of same for further extension of agreement if any, or otherwise till all the dues of BSNL by virtue of this agreement have been fully paid & its claim satisfied & discharged.

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 Video Tutoring Service as per the agreed schedule & parameters or failure to comply with the content related laws including IPR/copyrights, on part of THE COMPANY. PBG would not be en-cashed if the delay in rollout is due to reasons attributable to BSNL i.e. if the company is not able to meet its commitments because of the inability on BSNL's part in meeting its pre rollout and customer acquisition obligations timely.

In case of Consortium- Performance Bank Guarantee (PBG) of Rs. 5 Lakhs & 2 Lakhs shall be submitted by the Lead Company & Consortium partner respectively valid for 32 months from the date of signing the Agreement for ensuring satisfactory performance of the Agreement. PBGs of the Lead Company and Consortium Partner shall be forfeited inter-alia for not achieving revenue targets as mentioned in clause 8.2 of Part- I Commercial Condition of the agreement.

The Lead company & Consortium Partner shall extend the validity of same for further extension of agreement if any, or otherwise till all the dues of BSNL by virtue of this agreement have been fully paid & its claim satisfied & discharged.

Without prejudice to its rights of any other remedy, BSNL shall en-cash the PBGs of both Lead Company & Consortium Partner in case of any breach in terms and conditions of the agreement or in case of failure to roll out the Video Tutoring Service as per the agreed schedule & parameters or failure to comply with the content related laws including IPR/copyrights, on part of Lead Company &/or Consortium Partner. PBGs would not be en-cashed if the delay in rollout is due to reasons attributable to BSNL i.e. if the Lead Company is not able to meet its commitments because of the inability on BSNL's part in meeting its pre rollout and customer acquisition obligations timely.

5. Tariff Plans – tariff plans shall be mutually decided.

PART-III
TECHNICAL CONDITIONS

1. The Application server

- 1.1 The application server of the COMPANY 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, THE COMPANY shall be responsible for
 - (i) Installation of the equipment;
 - (ii) Proper upkeep and maintenance of the equipment; and
 - (iii) Maintaining the agreed Quality of Service;
 - (iv) Customer support.
- 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

THE COMPANY 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, and 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 THE COMPANY shall be exclusively utilized for carrying the traffic pertaining to services to BSNL subscribers only.
- 3.2 The concerned NOC In-charge of Broadband Network Circle of BSNL shall be responsible for evaluation of the services before commercial launch and for continuous monitoring of the services and the response time etc., thereafter

4. Quality of Service

- 4.1 The Company shall operate and maintain its setup including the Application Servers conforming to Quality of Service standards, to be mutually agreed upon. The initial set up should be capable to handle at least 10,000 customers with concurrency of 1,000 customers. The selected company shall upgrade the set up within one month of reaching 70% of the capacity.
- 4.2 No Quality of Service Parameters (QOS) has been specified at present. However, Telecom Regulatory Authority of India (TRAI)/ TEC may specify QOS parameters in the future. Both BSNL and THE COMPANY agree that in such an eventuality, they shall use commercially reasonable efforts to meet the QOS requirements set forth by TRAI.
- 4.3 THE COMPANY 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 3 hours and 99% within 8 hours.
 - b) THE COMPANY shall keep a record of number of faults and rectification reports in respect of the service, which shall 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 COMPANY's end resulting in non-availability of the services.
- 4.4 THE COMPANY shall be responsive to the complaints lodged by BSNL. THE COMPANY 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/performance.
- 4.5 In case of non-availability of the Video Tutoring Services / Video Tutoring Service getting affected partially/ fully due to THE COMPANY reasons for more than three hours, THE COMPANY shall be penalized as per calculation given below:
 - a) 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
 - b) Number of hours for which the Video Tutoring Service remained un-available/ affected = D
 - c) Compensation = $[A/(24*30)]D$
 - d) The amount so calculated shall be deducted from the revenue share of the corresponding billing cycle.

5. Protection of Network

- 5.1 Each party shall 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 shall 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.
- 5.3 At all times, THE COMPANY 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 Elements, or
 - 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 order of court.
5. BSNL receives complaint from its subscribers for reasons related but not limited to omission, errors or incorrect data, use of obscenity in the services provided by THE COMPANY under this Agreement. In such an event, the services shall remain suspended till the matter is resolved to the satisfaction of all parties concerned.

ANNEXURE-I
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 (on WIRELINE & FTTH) to its customers.
3. **“VALIDITY OF THE AGREEMENT”** is the period for which this agreement may be effective.
4. **“SERVICES”** or **“SERVICE”** means **EDUCATIONAL CONTENT over** WIRELINE Broadband & FTTH Broadband as defined under Schedule I of this Agreement.
5. **“THE COMPANY”** shall refer to -----which has entered into agreement with BSNL for providing the Educational s 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”** shall be construed to have happened if Broadband customer (on WIRE LINE or FTTH)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 Annexure 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
12. **“MARKS”** means the trademarks, trade names or service marks, logos and other distinctive brand features of set out in Annexure II or communicated to BSNL by THE COMPANY from time to time solely in connection with the marketing and presentation of the Educational services, using the Software.

Annexure IV– Format of Consortium Agreement
 <On non-judicial stamp paper of appropriate value>
 Consortium Agreement

In compliance to Clause No. **4.1(iv)** of **EOI No. 14-5/2012-BBVAS/VTS dated 21/02/2013**, a consortium has been formed on <Date> between < **Company’s Name**> and various technology providers to meet various eligibility criteria specified in the EOI under reference.

It has been agreed amongst all the consortium members that <**Company’s Name**> is designated to submit the **Application** on behalf of this consortium and henceforth is called as **Lead Company**. It is also confirmed that all the members of the said consortium meet the eligibility conditions as specified in the above referred EOI and have authorized the lead company by way of dully executed power of attorney in his favour to act on their behalf (“Lead Company” and “Company” has been used interchangeably).

It has also been agreed that the in its capacity as **Company**, < **Company’s Name**> will interact with BSNL for all obligations,

The **Lead Company** and its technology/consortium partners shall be liable for due performance of the contract jointly and severally, where as the responsibility of consortium partners other than the lead company, shall be limited to such consortium partner’s share of obligations in the contract for products and/ or services as defined in the teaming agreement and other agreements signed between the Lead Company and Consortium Partner to the Lead Company. Copies of all such agreements including the teaming agreements shall form part of consortium agreement.

The details of Company and various consortium partners are as under:-

< **Company Name**> :- <**Details containing Registered office & correspondence address**>
 <**Consortium Partner 1**> :- <**Details containing Registered office & correspondence address**>

:
:
:

IN WITNESS WHEREOF the parties have caused this AGREEMENT to be executed by their duly authorized officers as of the day first above written

For < Company’s Name > Signature of Authorized Signatory Name:- Designation:- Contact Phone:- Email-ID:- Date:- Witness-1 Signature:- Name: Designation:- Contact Phone:- Email-ID:-	For <Consortium Partner-1> Signature of Authorized Signatory Name:- Designation:- Contact Phone:- Email-ID:- Date:- Witness-1 Signature:- Name: Designation:- Contact Phone:- Email-ID:-
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Date:- Witness-2 Signature:- Name:- Designation:- Contact Phone:- Email-ID:- Date:-	Date:- Witness-2 Signature:- Name:- Designation:- Contact Phone:- Email-ID:- Date:-
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ANNEXURE –V

Expression of Interest for Video Tutoring Service for BSNL's Broadband (on wireline & FTTH) Customers

Notice No. 14-5/2012-BBVAS/VTS

Date of issue: 21/02/2013

Letter of Application (on Company's letter head)

(To be submitted with EOI Application by Applicant (Lead Member in the case of Consortium))

DM (BBVAS), O/o Sr.GM (IT-CFA)

7th Floor, Bharat Sanchar Bhawan, Janpath, New Delhi-110001

Sub: - Submission of Expression of Interest (Eoi) for Video Tutoring Service for BSNL's Broadband (on Wireline, FTTH) Customers

Sir,

With reference to the above invitation for Expression of Interest (Eoi), we have examined and understood the instructions, terms and conditions provided in Eoi. We hereby enclose our Application in the prescribed format as mentioned in Eoi along with along with all required documents.

We confirm that we agree with the instructions, terms and conditions provided in the Eoi. The undersigned declares that the statements made and the information provided in the duly completed application are complete, true, and correct in very detail.

We also understand that BSNL is not bound to accept the offer either in part or in full. If BSNL rejects the offer in full or in part, it may do so without assigning any reasons thereof.

Yours faithfully,

Authorized Signatory (of Lead Member in case of Consortium)

(Name & Designation, seal of the firm)

Date:

Place: