

# License Agreement & NIA

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## AAO PAPER IV-NOTES

### Topic

1. Financial condition of various License Agreement.
2. Provision regarding Spectrum Usage Charges & Bank Guarantees in NIA 2010 onwards.
3. Reconciliation of revenue shown in AGR (Adjusted Gross Revenue) and P & L Account
4. Numerical Question for Practice.

# Financial Conditions of Various License Agreements

Telecom license agreements are legal contracts issued by regulatory authorities that grant telecom operators permission to provide services within specified frameworks. These agreements outline the rights and obligations of the licensee, ensuring compliance with regulatory standards and promoting fair competition.

## Importance of Financial Conditions

- **Ensures Compliance:** Clear financial conditions help ensure that operators adhere to regulatory requirements.
- **Promotes Fair Competition:** By establishing a level playing field, these conditions encourage fair bidding and service delivery among operators.
- **Enhances Government Revenue:** The financial framework allows the government to collect revenue from spectrum usage, contributing to national development.
- **Facilitates Sustainable Operations:** By requiring operators to maintain financial health, the conditions promote sustainable telecom services

## Types of License

1. Unified License.
2. Unified License (Virtual Network Operator).
3. NLD Service (National Long Distance Service- National Level)
4. ILD Service (International Long Distance -National Level)
5. PMRTS Service Public Mobile Radio Trunking Service
6. VSAT CUG Service Very Small Aperture Terminal (VSAT) Closed User Group (CUG) Service
7. INSAT MSS-R Service INSAT- (Indian National Satellite system) Mobile Satellite System Reporting

## Unified License

### FINANCIAL CONDITIONS

#### Fee Payable

(i) **Entry Fee:** A one-time non-refundable **Entry Fee** for each authorized Service shall be paid as per Annexure-II. The total amount of Entry fee shall be subject to a maximum of Rs. **15 Crore** (Rupees Fifteen crore only)

(ii) **License Fee:** In addition to the Entry Fee, an annual License fee as a percentage of Adjusted Gross Revenue (AGR) shall be paid by the Licensee service-area wise, for each authorized service from the effective date of the respective authorization. The License fee shall be 8% of the AGR, inclusive of USO Levy which is presently 5% of AGR.

Provided that from Second Year of the effective date of respective authorization, the License fee shall be subject to a minimum of 10% of the Entry Fee of the respective authorized service and service area

#### Space Segment Charges:

In case of Satellite based service, the space segment charges will be payable to Department of Space (DoS) as applicable and/or as may be specified from time to time.

The space segment monitoring charges shall be payable to Network Operations Control Centre (NOCC) by Licensee as per the rates decided by the Licensor from time to time.

#### Schedule of payment of ANNUAL LICENSE FEE and other dues:

License Fee shall be payable in **four quarterly** instalments during each financial year (FY) **commencing 1<sup>st</sup> of April**

The Licensee shall adjust and pay the difference between the advance payment made and actual amount duly payable for the last quarter of financial year within 15 days of the end of the quarter.

Any delay in payment of License Fee, or any other dues payable under the License beyond the stipulated period will attract interest at a rate which will be **2% above the 01 year Marginal cost of Lending rate (Prime lending rate**

**previously** of State Bank of India existing as on the beginning of the Financial Year (namely 1<sup>st</sup> April) in respect of the license fees pertaining to the said Financial Year. The interest shall be compounded **Annually (prev. Monthly)** and a part of the month shall be reckoned as a full month for the purposes of calculation of interest. A month shall be reckoned as an English calendar month

### **BANK GUARANTEES:**

- 1. Performance Bank Guarantee:** Performance Bank Guarantee (PBG) in prescribed format shall be submitted separately for each service and service area for the amount, subject to a maximum of **Rs 44 Crore (pre 220 Crore)** initially, before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for **one year**, from any scheduled bank or public financial institution duly authorized to issue such bank guarantee, to cover violation of license conditions and to ensure the performance under the license agreement including compliance of instructions issued by the Licensor from time to time. The PBGs shall be maintained and kept valid by the licensee during the entire currency of the license agreement. However, the Licensor may increase the value of PBGs whenever any demand is raised for non-compliance of terms and conditions of License/authorization to the extent it remains un-securitized by the existing PBGs, which shall be maintained till clearance of such demand by the licensee.
- 2. Financial Bank Guarantee:** The Licensee shall submit Financial Bank Guarantee (FBG) separately for each service and service area for the amount, subject to a maximum of **Rs 8.8 Crore (prev 44 crore)** initially before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year, from any Scheduled Bank or Public Financial Institution duly authorized to issue such Bank Guarantee, in the prescribed Proforma. Subsequently, the amount of FBG shall be equivalent **to 20%the estimated** sum payable equivalent to License fee for two quarters and other dues not otherwise securitized. The amount of FBG shall be subject to periodic review on six monthly basis by the Licensor and shall be renewed from time to time.

3. Initially, the Bank Guarantees (FBG as well as PBG) shall be valid for a period of **one year** and shall be renewed from time to time. The Licensee, on its own, shall extend the validity period of the Bank Guarantees at least one month prior to date of its expiry without any demand or notice from the Licensor on year-to-year basis. Any failure to do so, shall amount to violation of the terms of the License and entitle the Licensor to encash the Bank Guarantees and to convert into a cash security without any reference to the Licensee at his risk and cost. No interest or compensation whatsoever shall be payable by the Licensor on such encashment.
4. Where the Bank Guarantees have been encashed partially, the licensee on such occasions, shall restore the encashed guarantees to the full amount. Any failure to do so shall amount to violation of the terms and conditions of the license.
5. Without prejudice to its rights of any other remedy, Licensor may encash Bank Guarantee (FBG as well as PBG) in case of any breach in terms & conditions of the License by the Licensee.

### **Preparation of Accounts:**

The Licensee will draw, keep and furnish independent accounts for each service and service area and shall fully comply with any order, direction or regulation as may be issued by TRAI and rules/instructions/directions as are issued by the Licensor from time to time

The Licensee shall be obliged, in respect of each authorized service and service area separately, to:

- a) Compile and maintain accounting records, sufficient to show and explain its transactions in respect of each completed quarter of the License period or of such lesser periods as the Licensor may specify, fairly presenting the costs (including capital costs), revenue and financial position of the Licensee's business under the License including a reasonable assessment of the assets employed in and the liabilities attributable to the Licensee's business, as well as, for the quantification of Revenue or any other purpose.

(b) Procure in respect of each of those accounting statements prepared in respect of a completed financial year, a report by the Licensee's Auditor in the format prescribed by the Licensor, stating inter-alia whether in his opinion the statement is adequate for the purpose of this condition and thereafter deliver to the Licensor a copy of each of the accounting statements not later than three months at the end of the accounting period to which they relate.

c) Send to the Licensor a certified statement sworn on an affidavit, by authorized representative of the company, containing full account of Revenue as defined in condition 19 for each quarter separately along with the payment for the quarter.

d) Furnish to the Licensor full detail of inter-operator settlement of accounts eg. pass through charges, usage of network and facilities, domestic and international roaming including details of the settlement regime through accounting rate or any other mechanism, etc. All bilateral settlements including those between the ILD service provider and other foreign partners (carriers) shall be through normal banking channel in a transparent manner.

22.3 (a) The Licensor or the TRAI, as the case may be, shall have a right to call for and the Licensee shall be obliged to supply and provide for examination any books of accounts that the Licensee may maintain in respect of the business carried on to provide the service(s) under this License at any time without recording any reasons thereof.

22.3 (b) Licensee shall invariably preserve all billing and all other accounting records (electronic as well as hard copy) for a period of three years from the date of publishing of duly audited & approved Accounts of the company and any dereliction thereof shall be treated as a material breach independent of any other breach, sufficient to give a cause for cancellation of the License.

22.4 The records of the Licensee will be subject to such scrutiny as may be prescribed by the Licensor so as to facilitate independent verification of the amount due to the Licensor as its share of the revenue.

22.5 The Licensor may, on forming an opinion that the statements or accounts submitted are inaccurate or misleading, order Audit of the accounts of the Licensee by appointing Auditor at the cost of the Licensee and such auditor(s)

shall have the same powers which the statutory auditors of the company enjoy under Section 227 of the Companies Act, 1956. The remuneration of the Auditors, as fixed by the Licensor, shall be borne by the Licensee.

22.6 The Licensor may also get conducted a 'Special Audit' of the Licensee company's accounts/records by "Special Auditors", the payment for which at a rate as fixed by the Licensor, shall be borne by the Licensee. This will be in the nature of auditing the audit described in **para 22.5** above. The Special Auditors shall also be provided the same facility and have the same powers as of the companies' auditors as envisaged in the Companies Act, 1956.

22.7 The Licensee shall be liable to prepare and furnish the company's annual financial accounts according to the accounting norms and principles prescribed and the directions given by the Licensor or the TRAI, as the case may be, from time to time.

22.8 The Licensor, to ensure proper and correct assessment, verification and settlement of revenue share paid, can, if deemed necessary, add, modify, alter, substitute and amend whatever stated in this Chapter, namely Chapter-III of this license. The licensee shall comply with the instructions/directions issued in this regard from time to time.

### **Definition of 'Adjusted Gross Revenue': Applicable Gross Revenue (ApGR) and Adjusted Gross Revenue (AGR):**

#### **Gross Revenue:**

Gross revenue includes all the money the Licensee earns from selling goods and services, leasing or renting infrastructure, allowing others to use its resources, application fees, installation fees, call charges, late fees, selling equipment (including accessories), annual maintenance contracts, income from value-added and supplementary services, access or interconnection fees, and any other miscellaneous income like interest and dividends. This total is calculated without set-off any related expenses

#### **Applicable Gross Revenue (ApGR):**

ApGR shall be equal to Gross Revenue (GR) of the licensee as reduced by the items listed below:

- (i) Revenue from operations other than telecom activities/ operations.
- (ii) Revenue from activities under a license/ permission issued by Ministry of



- Information and Broadcasting.
- (iii) Receipts from the USO Fund.
  - (iv) List of other income\* to be excluded from GR to arrive at ApGR
    - a. Income from Dividend
    - b. Income from Interest
    - c. Capital Gains on account of profit of Sale of fixed assets and securities
    - d. Gains from Foreign Exchange rates fluctuations
    - e. Income from property rent
    - f. Insurance claims
    - g. Bad Debts recovered
    - h. Excess Provisions written back
- \*Subject to conditions given in Annexure VIII.

#### **Adjusted Gross Revenue (AGR):**

For the purpose of arriving at the "Adjusted Gross Revenue (AGR)", following shall be excluded from the Applicable Gross Revenue (ApGR):

- a. Charges of pass through nature paid to other telecom service provider(s) to whose network, the licensee's network is interconnected, and;
- b. Goods and Service Tax (GST) paid to the Government, if the Applicable Gross Revenue (ApGR) had included as component of GST.

#### **Unified License (Virtual Network Operator)**

A UL VNO license is a type of license issued by the Department of Telecommunications (DoT) in India, enabling companies to operate as Virtual Network Operators (VNOs). This license is different from the Unified License (UL), which permits companies to provide a wide array of telecom services. The UL VNO license is specifically tailored for businesses that wish to offer telecom services without the need to invest in their own network infrastructure.



# **Exam notes "Provision Regarding Spectrum Usage Charges & Bank Guarantees in NIA 2010 Onwards"**

The Notice Inviting Applications (NIA) serves as the official document that outlines the terms and conditions for spectrum auctions in India. Since 2010, NIAs have defined the financial obligations on telecom operators, particularly with regard to Spectrum Usage Charges (SUC) and Bank Guarantees (BGs). These provisions are critical in regulating the telecom sector and ensuring efficient spectrum usage.

## **List of Key Notice Inviting Applications (NIA) in Telecom Sector (2010 Onwards)**

Here is a list of significant **Notice Inviting Applications (NIA)** issued for spectrum auctions by the Department of Telecommunications (DoT) in India, starting from 2010:

### **1. NIA 2010**

- **Purpose:** First major spectrum auction for 3G and Broadband Wireless Access (BWA).
- **Key Bands:**
  - **2100 MHz** for **3G** services.
  - **2300 MHz** for **Broadband Wireless Access (BWA)**.
- **SUC Structure:** SUC levied as a percentage of **AGR (Adjusted Gross Revenue)**.

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### **2. NIA 2012**

- **Purpose:** Auction following the cancellation of 122 2G licenses by the Supreme Court in 2012.
- **Key Bands:**
  - **1800 MHz** for 2G services.
- **SUC Structure:** Varies from 3% to 8% of AGR.

### 3. NIA 2013

- **Purpose:** Re-auction of spectrum for telecom operators who did not win or lost licenses in the 2012 auction.
  - **Key Bands:**
    - **1800 MHz.**
    - **900 MHz** (introduced for the first time for reallocation).
  - **SUC Structure:** Based on a weighted average for all spectrum holdings.
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### 4. NIA 2014

- **Purpose:** Auction for the renewal and reallocation of spectrum in key bands for telecom services.
  - **Key Bands:**
    - **900 MHz.**
    - **1800 MHz.**
  - **SUC Structure:** Weighted average based on spectrum holdings.
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### 5. NIA 2015

- **Purpose:** Major spectrum auction for multiple bands to renew expiring licenses and boost capacity for 4G services.
  - **Key Bands:**
    - **800 MHz, 900 MHz, 1800 MHz, and 2100 MHz.**
  - **SUC Structure:** Same weighted average SUC method applied to spectrum holdings.
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### 6. NIA 2016

- **Purpose:** Introduction of large-scale spectrum auctions across multiple frequency bands to support 4G rollout.
  - **Key Bands:**
    - **700 MHz** (introduced for the first time but went unsold).
    - **800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz, and 2500 MHz.**
  - **SUC Structure:** Weighted average based on total spectrum holdings.
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## 7. NIA 2021

- **Purpose:** 4G and future technology spectrum auction post-COVID-19, with the introduction of reforms like **zero SUC for new spectrum.**
  - **Key Bands:**
    - 700 MHz, 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 2500 MHz.
  - **SUC Structure:**
    - **Zero SUC** for spectrum auctioned in 2021.
    - **Weighted average SUC** for legacy spectrum holdings.
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## 8. NIA 2022

- **Purpose:** First 5G spectrum auction to promote the deployment of 5G networks in India.
  - **Key Bands:**
    - 600 MHz, 700 MHz, 3.3-3.67 GHz (mid-band for 5G), 26 GHz (millimeter-wave for 5G).
  - **SUC Structure:**
    - **Zero SUC** for all spectrum acquired in the 2022 auction.
    - **Weighted average SUC** for operators holding legacy spectrum.
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## 9. NIA 2023

- **Purpose:** Second round of 5G auction to bolster the spectrum holdings of telecom operators.
  - **Key Bands:**
    - 600 MHz, 700 MHz, 3.3-3.67 GHz, 26 GHz.
  - **SUC Structure:**
    - **Zero SUC** for all spectrum acquired in the 2023 auction.
    - **Weighted average SUC** for previous holdings.
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## 10. NIA 2024

- **Purpose:** Continuation of 5G and future technology expansion with more spectrum availability.
- **Key Bands:**

## Numerical Practice Set

### Example 1

A telecom operator has the following revenues for the financial year:

- **Service Revenue:** ₹500 crore
- **Other Income:** ₹50 crore
- **Non-Telecom Revenue:** ₹10 crore (this should be excluded from AGR)

**Calculate the Adjusted Gross Revenue (AGR) and the applicable Spectrum Usage Charges (SUC) if the SUC rate for the operator is 5% of AGR.**

### Steps to Solve

1. **Calculate AGR:**
  - **AGR** = Service Revenue + Other Income - Non-Telecom Revenue
  - $AGR = ₹500 \text{ crore} + ₹50 \text{ crore} - ₹10 \text{ crore}$
2. **Calculate SUC:**
  - **SUC** = SUC Rate  $\times$  AGR
  - $SUC = 5\% \times AGR$

### Solution

#### Step 1: Calculate AGR

$$AGR = 500 + 50 - 10 = 540 \text{ crore}$$

#### Step 2: Calculate SUC

$$SUC = 5\% \times 540 \text{ crore} = \frac{5}{100} \times 540 = 27 \text{ crore}$$

Therefore

- **Adjusted Gross Revenue (AGR):** ₹540 crore
- **Spectrum Usage Charges (SUC):** ₹27 crore

### Example 02

A telecom operator has reported the following financial details for the year:

- **Service Revenue:** ₹800 crore
- **Other Income:** ₹70 crore
- **Non-Telecom Revenue:** ₹30 crore (this should be excluded from AGR)

**Calculate the Adjusted Gross Revenue (AGR) and the applicable Spectrum Usage Charges (SUC) if the SUC rate for the operator is 3% of AGR.**

Steps to Solve

1. Calculate AGR:

- $AGR = \text{Service Revenue} + \text{Other Income} - \text{Non-Telecom Revenue}$
- $AGR = ₹800 \text{ crore} + ₹70 \text{ crore} - ₹30 \text{ crore}$

2. Calculate SUC:

- $SUC = \text{SUC Rate} \times AGR$
- $SUC = 3\% \times AGR$

Solution

*Step 1: Calculate AGR*

$$AGR = 800 + 70 - 30 = 840 \text{ crore}$$

*Step 2: Calculate SUC*

$$SUC = 3\% \times 840 \text{ crore} = 3100 \times 840 = 25.2 \text{ crore}$$

Therefore

- **Adjusted Gross Revenue (AGR):** ₹840 crore
- **Spectrum Usage Charges (SUC):** ₹25.2 crore

### Example 03

#### TYPE -1

In case of entry fee of Rs. 2,00,000/-

Minimum annual license fee is 10% of Rs. 2,00,000/- = Rs. 20,000/-

Minimum quarterly license fee is Rs. 20,000/4 = Rs. 5,000/-

In case of entry fee of Rs. 20,000/-

Minimum annual license fee is 10% of Rs. 20,000/- = Rs. 2,000/-

Minimum quarterly license fee is Rs. 2,000/4 = Rs. 500/-

Question: XYZ is an UL TSP Licensee providing service in Chhattisgarh Service Area who paid entry fee Rs. 2,00,000/-. The Adjusted Revenue earned by the Licensee as per Profit and Loss Account for the Financial year 2019-20 is Rs.7,00,000/-. The Adjusted Gross Revenue shown by the Licensee in AGR statement and LF dues paid by him is detailed below. Calculate dues if any payable by the Licensee.

### Gross Revenue

Particular	Q1	Q2	Q3	Q4	TOTAL
<b>Revenue</b>	50000	100000	200000	350000	700000
<b>LF dues paid</b>	1000	6000	8000	6000	2100

**Ans.**

The Licensee has paid entry fee: Rs.2,00,000/-

10% of Entry fee is: Rs.20,000/-

Minimum LF payable for each quarter = Rs.20,000/4 = Rs.5000/-

Particular	Q1	Q2	Q3	Q4	TOTAL
AGR stated by the company	50000	100000	200000	350000	700000
LF (@ 8%)	4000	8000	16000	28000	56000
LF payable	5000*	8000	16000	28000	57000
LF dues paid	1000	6000	8000	6000	21000
Dues payable	4000	2000	8000	22000	36000

Dues payable= Rs. 36,000/-

Note : Minimum LF @ Rs.5000/- is payable for First quarter.

### Example 4

M/s Vodaphone is an UL TSP Licensee providing service in West Bengal Service Area who paid entry fee 2,00,000/-. The Adjusted Gross Revenue earned by the Licensee as per Profit and Loss Account for the Financial year 2019-20 is 10,00,000/-. The Adjusted Gross Revenue shown by the Licensee in AGR statement is detailed below.

### Gross Revenue

Particular	Q1	Q2	Q3	Q4	Total
AGR	30,000	200000	400000	170000	800000
LF dues paid	2400	16000	32000	13600	64000

**Ans.**

The Licensee has paid entry fee: Rs.2,00,000/-

10% of Entry fee is: Rs.20,000/-

Minimum LF payable for each quarter = Rs.20,000/4 =Rs. Rs.5,000/

Particular	Q1	Q2	Q3	Q4	Total
AGR stated by the company	30000	200000	400000	170000	800000
Add back of unreconciled income	7500	50000	100000	42500	200000
AGR as per DOT	37500	250000	500000	212500	1000000
LF @8%	3000	20000	40000	17000	80000
Minimum LF	5000	5000	5000	5000	20000
LF payable	5000	20000	40000	17000	82000

**Dues payable = Rs. 18,000/-**

“Add back” of additional Revenue Rs. 2,00,000/- is apportioned to four quarters according to Revenue earned in each quarter.as follows:

$$Q1 = 30000/800000 \times 200000 = \text{Rs. } 7500/-$$

$$Q2 = 2,00000/800000 \times 200000 = \text{Rs. } 50000/-$$

$$Q3 = 400000/800000 \times 200000 = \text{Rs. } 100000/-$$

$$Q4 = 170000/800000 \times 200000 = \text{Rs. } 42500/-$$

**Note- If any license fee is paid excess during the year, it will be adjusted in the next financial year.**

### Example 5

If a company is started from the middle of the year, license fee will be calculated from the effective date of respective authorization on pro-rata basis.

Question. XYZ is an UL TSP Licensee providing service in Raipur Service Area who paid entry fee 20,000/-. The Revenue earned by the Licensee as per Profit and Loss Account for the Financial year 2019-20 is 500000. The Gross Revenue shown by the Licensee in AGR statement is detailed below and LF dues @8% paid have been paid by him. The License is in effect from 15.11.2019. Calculate LF dues from the Licensee.



## Gross Revenue

Particular	Q1	Q2	Q3	Q4	Total
Revenue	0	0	150000	350000	500000

Ans

The Licensee has paid entry fee: Rs.20,000/-

10% of Entry fee is: Rs.2,000/- (Minimum LF payable for each quarter is Rs.500/-)

Since the License is in effect from 15.11.2019, LF dues @ pro rata basis is payable from 15.11.19 of the third quarter

Particular	Q1	Q2	Q3	Q4	Total
AGR stated by the company	0	0	150000	350000	500000
LF dues payable	Nil	Nil	6130*	28000	40000
LF dues paid	0	0	12000	28000	40000
Dues	Nil	Nil	-5870	Nil	Nil

Number of days from 15.11.19 to 31.12.19 = 47 days

Number of days from 01.10.19 to 31.12.19 = 92 days (Full quarter)

License fee calculated on pro rata basis =  $47/92 \times 12000 = 6130.43$

Rounded off to = 6130/-

Excess license fee paid = Rs. 12,000- 6130/- = Rs. 5870/-

Excess Rs.5870/- will be adjusted during next financial year 2020-21

### Example 06

License fee payable for the fourth quarter should not be less than the license fee paid during the third quarter

XYZ is a Unified License ISP Licensee providing service in Lucknow Service Area who paid entry fee 2,00,000/-. The Revenue earned by the Licensee

as per Profit and Loss Account for the Financial year 2019-20 is

12,00,000/- The Gross Revenue shown by the Licensee in AGR statement is detailed below.