

REQUEST FOR PROPOSAL

Invitation for participation in process for sale of assets of
Aircel Cellular Limited

Issued on behalf of Aircel Cellular Limited under the authority of the Monitoring Committee of Aircel
Cellular Limited

Assisted by:

Deloitte Touche Tohmatsu India LLP,
7th Floor, Building No. 10, Tower B,
DLF Cyber City, DLF Phase II,
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(Acting as the Advisors to the Monitoring Committee of
Aircel Cellular Limited)

Dated: December 10, 2020

Terms & Conditions for Sale Process

1. Introduction

Aircel Limited, Aircel Cellular Limited and Dishnet Wireless Limited (collectively, “**Aircel Companies**”) had been undergoing corporate insolvency resolution process (“**CIRP**”) under the provisions of the Insolvency and Bankruptcy Code, 2016 (“**Code**”). The CIRP of the Aircel Companies stands completed by virtue of the common order passed by the Hon’ble National Company Law Tribunal, Mumbai Bench (“**NCLT**”) on June 9, 2020 approving the resolution plans submitted by UV Asset Reconstruction Company Limited, which has been published and uploaded on the website of the NCLT on June 18, 2020 (“**Approval Order**”).

Pursuant to the terms of the approved resolution plan(s), with effect from the publication of the Approval Order, the monitoring committee is required to oversee and supervise the operations and management of the Aircel Companies. The monitoring committee has been constituted consisting of one representative of financial creditors, one representative of successful resolution applicant and a representative of Deloitte Touche Tohmatsu India LLP (“**Monitoring Committee**” or “**MC**”), and has assumed its roles and responsibilities in accordance with the terms of the approved resolution plans. Deloitte Touche Tohmatsu India LLP (“**Deloitte**”) has been appointed as advisors (“**Advisor**”) to the Monitoring Committee to assist and advise the MC in implementation of the resolution plan and advising on operational matters of the Aircel Companies.

Various assets of Aircel Cellular Limited (the “**Company**”) such as furniture, fixtures and office / network equipment are maintained at several premises and the aforesaid assets are either not in any use, commercially not useful or not required for the operations of the Company (collectively, “**Assets**”). However, on account of the occupation of the assets at various premises, the Company has been incurring huge costs such as rent and maintenance on an ongoing basis which have been significantly increasing the overall expenditure for the Company. Accordingly, the Monitoring Committee proposes to sell the Assets in order to minimize the escalating costs, subject to the compliance with applicable laws and terms of approved resolution plan (“**Asset Sale**”). The indicative details and categories of the Assets are set out in **Annexure - I** hereunder.

The Advisor is seeking bids for the Assets of the Company on behalf of the Company under the authority from the MC for such proposed sale. The approval shall be separately sought (a) from the Monitoring Committee and (b) other relevant persons, as required, for undertaking the sale of Assets, upon receipt of bids from interested and qualified bidders, pursuant to this document. It is clarified that it is the sole discretion of the Monitoring Committee to accept any bids under this document, and the mere acceptance of bids under this document does not bind the Monitoring Committee to conduct a sale of these assets or consummate the Asset Sale in any manner whatsoever.

2. Eligibility Criteria for the bidder

The potential bidder should not suffer from any of the ineligibilities set out under Section 29A of the Code and in this regard, every bidder is also mandatorily required to provide a duly stamped undertaking in the format provided in **Annexure - II** (Undertaking by potential bidder) of this RFP.

3. Process for sale of Assets

- **Confidentiality Undertaking:** Any potential bidder who is desirous of submitting an offer for the portfolio of the Assets of the Company (in full / part), is required to submit a duly stamped and signed confidentiality undertaking, the format of which is provided in **Annexure – III** of this RFP, as a condition for receiving further information in relation to the asset portfolio in respect of the Assets.
- **Virtual Data Room:** A Virtual Data Room (“VDR”) has been set up, in which further information with regard to the Assets of the Company proposed to be sold by way of the Assets sale, has been provided. The prospective bidder may provide a list of the team members who will need access to the VDR, to the Advisor. Please note that each of such persons who has requested to be given access to the VDR will also be subject to a confidentiality undertaking with terms at least as restrictive as the above referred confidentiality undertaking to be provided by potential bidders. While the Advisors will try to accommodate requests of the prospective bidders pertaining to information or clarifications, as far as practicable, kindly note that it may not be possible to accommodate all such requests given the various constraints including but not limited to availability of information, the short timelines for the process to be completed, logistical challenges, etc.
- While the data / information provided in the VDR has been prepared and provided in good faith, based on information given by the personnel of the Company, the Advisors, the Monitoring Committee and their professional advisors have not verified such information and shall not accept any responsibility or liability whatsoever in respect of any statements or omissions herein, or of the accuracy, correctness, completeness or reliability of information in the VDR or incur any liability under any law, statute, rules or regulations, even if any loss or damage is caused to any of the bidders by any act or omission on their part. The bidder is required to conduct its own diligence, analysis and assessments of the information provided in the VDR.
- **Site Visit:** If a bidder or a representative(s) of the bidder is desirous of undertaking a visit to the site of the Company, the Advisors shall endeavor to arrange and facilitate the same on a best efforts basis. Notwithstanding anything to the contrary contained herein, the Advisors shall be under no obligation to arrange for the site visit. The bidder is expected to make its own arrangements for the site visit. All costs and expenses in relation to the site visit shall be borne by the bidder.

Any delay in completion of the site visit by the bidder shall not entitle such bidder to any extension in the timelines, including the timeline for completion of such visits or submission of the bid, as set out herein unless otherwise communicated by the Advisors.

Non-attendance at the site visit will not be a cause for disqualification of a bidder. The bidder may carry out its own comprehensive due diligence in respect of the Company and shall be deemed to have full knowledge of the condition of the Company and its assets, relevant documents, information etc. whether or not the bidder actually inspects or participates in the site visit or verifies the documentation provided by the Company.

4. Key Terms

- The Assets of the Company are proposed to be sold on an “**AS IS WHERE IS AND WITHOUT RECOURSE BASIS**” and as such, the said disposition is without any kind of warranties, indemnities, covenants or representations.

- The bids submitted by the bidders shall be presented before the Monitoring Committee for approval. The Monitoring Committee shall have the right to approve or not approve any of the binding offers presented to the Monitoring Committee in respect of the Assets proposed to be sold without assigning any reasons to the bidder, and reserves the right to negotiate the payment or any other terms with the bidders. The selection of successful bidder for each Asset shall be based on the bid value meeting the minimum reserve price of the relevant Asset and the bid being the highest bid submitted for such Asset, without prejudice to the right of the Monitoring Committee to negotiate with all or any of the bidders who have bid for the Asset. The minimum reserve price for Assets at such locations shall not be disclosed to the bidders.

It is hereby clarified that in the event all the bids for any of the Assets are less than the minimum reserve price of the relevant Assets, the Monitoring Committee shall have the right to select the successful bidder by conduct of any process as may be decided in the sole discretion of the Monitoring Committee for selection of the successful bidder including but not limited to Swiss challenge method, open bidding process and e-auction, notwithstanding the minimum reserve price of each Asset. In such case, the process adopted by the Monitoring Committee for selection of the successful bidder shall be notified to the Bidders.

- Further, the Advisors and the Monitoring Committee shall have no obligation to indemnify any of the prospective bidders in respect of any expenses incurred by them for purposes of the Assets Sale, and any liabilities (whether present or future) attached to the Assets purchased by such bidder under the Asset Sale. The prospective bidders are expected to conduct their own due diligence in this regard.
- The Assets Sale shall be completed upon receipt of the full Upfront Cash Consideration (defined hereinafter) from the successful bidder and the transfer of the Assets to such successful bidder. All the bids must be unconditional. If however the prospective bidder specifies any reasonable conditions precedent for completion of the Assets Sale, it shall solely be subject to acceptance by the Monitoring Committee and such conditional bids are liable for rejection. The last date for the completion of the Assets Sale and receipt of Upfront Cash shall be decided by Monitoring Committee failing which the Monitoring Committee shall not be obligated to undertake and complete the Assets Sale, unless otherwise agreed by the Monitoring Committee at its sole discretion.
- **Right to Negotiate:** The bidder(s) submitting the highest bid for Assets at each location/ premises will be shortlisted, subject to meeting the minimum reserve price for Assets at such location/ premises. The Monitoring Committee reserves the right to negotiate any of the terms of the bids received with one or more bidder(s), at any time during the bidding process at the sole discretion of the Monitoring Committee, in order to maximize the value for all the stakeholders. The timelines for the negotiation shall be determined and/ or communicated, if necessary, at a later date.
- Non- submission of Earnest Money Bid Deposit (as defined hereinafter) by a bidder along with the submission of a bid shall lead to rendering such bid as non-responsive and the Monitoring Committee shall have the right to reject such bid.

- The Earnest Money Bid Deposit (as defined hereinafter) of the unsuccessful bidder shall be returned within 75 days of the declaration of the successful bidder. The Highest Bidder Earnest Deposit (as defined hereinafter) of the successful bidder shall be returned upon payment of entire bid amount by the successful bidder.
- The Monitoring Committee, at its sole discretion, may separately specify additional conditions or criteria for submission and/ or evaluation of the bids, which may be uploaded on the website of the Company.
- The Advisors and the Monitoring Committee reserve the right to not entertain any requests for clarifications.
- **Modification in Terms & Conditions:** Please note that the Advisors and the Monitoring Committee reserve the right to amend or modify the invitation issued by way of this document, without assigning any reason and without incurring any liability of whatsoever nature. Any amendment or modification shall be posted on the website of the Company. The bidders are requested to regularly visit the website for updates.

5. Requirements for submission of bids

- **Language:** The bids and all related correspondence and supporting documents in relation to the Assets sale shall be in English.
- The entire consideration proposed to be paid by the bidder in relation to sale of assets shall be paid on an “upfront cash” basis (“**Upfront Cash Consideration**”) immediately upon or any time prior to the completion of transfer of the Assets to such bidder, and the payment of the Upfront Cash Considerations shall not be subject to any conditionality and assumptions whatsoever.
- Below are the indicative timelines for the process:

Description	Proposed Date
Submission of BINDING BIDS	On or before January 11, 2021
Offers to be tabled to the Monitoring Committee	January 12, 2021

- The bidders should submit the binding bids latest by January 11, 2021 (“**Due Date**”). The acceptance and evaluation of any bids received by the Advisors after the Due Date shall be subject to sole discretion of the Monitoring Committee.
- The binding offer should *inter-alia* include:
 - The overall profile of the bidder
 - Details of premises/ location of Assets that are proposed to be acquired
 - Price offered for the Assets proposed to be acquired
 - Source of funds

- Time required to vacate the premises/ location upon acceptance of bid, and approval of sale by Monitoring Committee
- Payment Terms:
 - (i) Earnest Money Deposit: 1% of bid value or INR 5,00,000 (Five Lakh Rupees only) whichever is lower, in the form of Bank Guarantee (BG) or Demand Draft (DD) or RTGS credit at the time of submission of bid (“**Earnest Money Bid Deposit**”);
 - (ii) 25% of bid value, in the form of BG or DD or RTGS credit on selection as highest bidder (“**Highest Bidder Earnest Deposit**”); and
 - (iii) Payments terms for the bid value to be decided by Monitoring Committee post discussions with the highest bidder.

If any bank guarantees (“**BG**”) (format provided in **Annexure – IV** of this RFP) are submitted, in relation to (i) & (ii), it shall be released upon payment of the Upfront Cash Consideration in full. If the BG is obtained from a bank outside India, a back to back guarantee shall be furnished from a scheduled commercial bank in India.

- It should be noted that the entire bid amount is to be paid in the form of DD (to be issued in favor of Aircel Cellular Limited, payable at par) or RTGS credit to the account bearing no. 33835885660 on or before the date of execution of the deal documentation. The details of the bank account are as under:

- (i) Company Name: Aircel Cellular Limited
- (ii) Bank: State Bank of India
- (iii) Account Name: Trust & Retention Account
- (iv) Account Number: 33835885660
- (v) Account Type: Current Account
- (vi) Branch: CAG, CHENNAI
- (vii) IFSC: SBIN0009999

- **Sealing and Marking of the bids:** Bid(s) are to be submitted in a single sealed and signed envelope or through E-mail (in a password protected file; password to be disclosed upon further requisition from the MC). The Envelope / E-mail should bear the following transcript:

“Bid for acquisition of assets of Aircel Cellular Limited”

- NAME OF THE BIDDER : [●]
- ATTN. OF : Monitoring Committee of Aircel Cellular Limited
- ADDRESS : Deloitte Touche Tohmatsu India LLP,
7th Floor, Building No. 10, Tower B,
DLF Cyber City, DLF Phase II,
Gurugram - 122002
- EMAIL ADDRESS : INACLMC@deloitte.com
- For any clarifications on the process please write to inacLMC@deloitte.com

- **Other Terms and Conditions**

1. The bidder shall be responsible towards indemnifying the Advisors and the Monitoring Committee, and their representatives, in the event of any claims or actions which may arise against the Advisors or the Monitoring Committee and their representatives, on account of breach of any obligation by the bidder under the bid submitted by such bidder, this document, and / or the confidentiality undertaking.
2. The bidder hereby agrees and releases the Advisors and the Monitoring Committee, and their representatives, irrevocably, unconditionally, fully and finally, from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and / or performance of any obligations set out under this document, and/ or in connection with the asset disposal process envisaged hereunder, and waives any and all rights and / or claims the bidder may have in this respect, whether actual or contingent, whether present or in future.
3. The bidder represents that it is in compliance with the requirements set out under the applicable laws.
4. This document and the Asset Sale process envisaged hereunder shall be governed by, and construed in accordance with, applicable laws, and the NCLT, Mumbai Bench shall have exclusive jurisdiction over all disputes arising under, pursuant to and / or in connection with this document and / or the bid evaluation process.
5. The bid to be submitted by the prospective bidder should be unconditional and irrevocable. The bidder cannot unilaterally change / withdraw a bid once submitted to the Monitoring Committee. No change or supplemental information with respect to a bid once submitted shall be accepted after the last date for submission. The Advisors or the Monitoring Committee, at their sole discretion, may request for additional information / document and / or seek clarifications from a bidder even after the last date for submission of the bids.
6. While this document has been prepared in good faith on the basis of the information provided by the Company, neither the Company, the Advisors, the Monitoring Committee nor any of their representatives make any representation or warranty nor shall have any responsibility or liability whatsoever, whether in contract, tort or otherwise, for any direct, indirect or consequential loss and/ or damage, loss of use, loss of production or loss of profits or interest costs or in respect of any statements or omissions under this document. Any liability is accordingly expressly disclaimed by the Advisors, the Monitoring Committee, and their respective representatives, including in the event such loss or damage has occurred on account of any act or omission on the part of the Advisors, the Monitoring Committee or their respective representatives, whether negligent or otherwise.
7. The bidder shall be responsible for all the costs including but not limited to those associated with the preparation of the bid and the site visit. The Advisors or the Monitoring Committee shall not be responsible in any way for such costs, regardless of the conduct or outcome of the bid process.

8. The Advisors, the MC or their advisors shall not be responsible for any risk, loss, or damage arising on account of, or in connection with, the bidders using email or any other electronic mode of submitting the bids that is not encrypted and not a secure means of transmission, including any risk of possible unauthorized alteration of data and/or unauthorized usage thereof for whatever purposes.

ANNEXURE-I

Indicative asset categories

Class of Asset	Type of Premises / Location	Brief Description of Fixed Assets / Inventory items
Furniture and Fixtures	Pure Office locations / Collocated MSC & Office locations	Tables, Chairs, Fixtures, Woodworks, Cabinets, etc.
Office Equipment	Pure Office locations / Collocated MSC & Office locations	Air Conditioners, Telephones, Printing machines, Fax machines, Air purifiers, Fire extinguishers etc.
Network Equipment	Collocated MSC & Office locations / MSC sites / Network Warehouses	MSC, related network equipment, other network assets such as radio equipment, tower maintenance tools, BTS etc.
Computers & IT assets	Pure Office locations / Collocated MSC & Office locations	Computers, Laptops, Computer Accessories, Servers, Flash drives etc. (excluding Computers & IT assets likely to contain information related to the erstwhile operations of the companies)
Others	All locations	Low Value Assets, Bio-Metric system, Misc items, water disposal machines, voltage meters etc.
Fresh Inventory	Network Warehouses	Accessories, Optical Fibre / Network Cables, Battery Equipment, Network Antenna, AC Power Plants, Electrical components, Network Ancillary Equipment & Replacement Parts, etc.
Site-Return Material	Network Warehouses	Computers & IT Assets, MSC, BSC, related network equipment, other network assets, radio equipment, accessories, fixtures etc.

Kindly refer to list of premises wherein Assets are located and Fixed Asset Register / List of inventory items (as applicable) for each premises, as available on VDR

Please note that additional information continues to be uploaded on VDR and the same would be available for review during the process.

ANNEXURE-II

Format of Undertaking¹

[To be stamped with adequate value (INR 600) under the Stamp Act applicable to the particular state]

I, [name of the authorized person of bidder], son/daughter of [____], aged about [____] years, currently residing at [Address to be inserted] and having Aadhaar / Passport number [____], on behalf of [name of the bidder] having registered office at [____] ("**Bidder**") pursuant to authorization of the Board of the Bidder dated [____] (as enclosed herewith), do solemnly affirm and state to the monitoring committee ("**MC**") of Aircel Cellular Limited ("**Company**") as follows:

1. That I am duly authorized and competent to make and affirm the instant undertaking for and on behalf of the Bidder in terms of [resolution of its board of directors/ power of attorney dated [____]]. I hereby unconditionally state, submit and confirm that the document is true, valid and genuine.
2. I hereby unconditionally state, submit and confirm that the Bidder does not suffer from any of the ineligibilities or disqualifications as set out under Section 29A of the Insolvency and Bankruptcy Code, 2016 ("**Code**").
3. That the Bidder unconditionally and irrevocably represents, warrants and confirms that it is eligible under the provisions of the applicable laws to submit a bid for the sale of assets of the Company as set out in request for proposal dated [____], and that it shall provide all documents, representations and information as may be required by the MC to substantiate its eligibility to the satisfaction of the MC.
4. That the Bidder unconditionally and irrevocably undertakes that it shall provide all data, documents and information as may be required to verify the statements made under this undertaking.
5. That the Bidder understands that the MC may evaluate the bid to be submitted by the Bidder and such evaluation shall be on the basis of the confirmations, representations and warranties provided by the Bidder under this undertaking.
6. That in the event any of the above statements are found to be untrue or incorrect, then the Bidder unconditionally agrees to indemnify and hold harmless the each member of the MC against any losses, claims or damages incurred by the MC on account of such ineligibility of the Bidder.
7. That the Bidder agrees and undertakes to disclose/inform forthwith, to the members of the MC, if the Bidder becomes aware of any change in factual information in relation to it which would make it ineligible to submit the bid under applicable laws at any stage of the bidding process of the Company, after the submission of this undertaking.

¹ Note: In case a bidder is an individual, relevant changes, as applicable, may be made in the format of the undertaking.

8. That this undertaking shall be governed in accordance with the laws of India and the courts and tribunals of Mumbai shall have the exclusive jurisdiction over any dispute arising under this undertaking.

SIGNED AND DELIVERED for and on behalf of [*insert name of bidder*], by its duly authorized signatory:

Name:

ANNEXURE-III

Confidentiality Undertaking

[To be printed by the bidder on the stamp paper of appropriate amount (INR 600) as per the stamp act applicable to the state of execution. bidder is requested to procure the appropriate stamp paper]²

This confidentiality undertaking has been signed by _____, a potential bidder, having its office at _____ acting through Mr./Ms. _____, the authorized signatory / authorized representative (“**Bidder**” which expression shall, unless repugnant to the context, include its successors, legal representatives, permitted assigns and administrators in business) in favour of Monitoring Committee of Aircel Cellular Limited.

WHEREAS

1. Aircel Cellular Limited, a company registered under Companies, Act, 1956 (hereinafter referred to as “**Company**”) had been undergoing corporate insolvency resolution process (“**CIRP**”) under the provisions of the Insolvency and Bankruptcy Code, 2016. The CIRP of the Aircel Companies stands completed by virtue of the common order passed by the Hon’ble National Company Law Tribunal, Mumbai Bench (“**NCLT**”) on June 9, 2020 approving the resolution plan submitted by UV Asset Reconstruction Company Limited, which has been published and uploaded on the website of the NCLT on June 18, 2020 (“**Approval Order**”).
2. Pursuant to the terms of the approved resolution plan, with effect from the publication of the Approval Order, the monitoring committee is required to oversee and supervise the operations and management of the Aircel Companies. The monitoring committee has been constituted consisting of one representative of financial creditors, one representative of successful resolution applicant and a representative of Deloitte Touche Tohmatsu India LLP (“**Monitoring Committee**” or “**MC**”), and has assumed its roles and responsibilities in accordance with the terms of the approved resolution plans.
3. The Monitoring Committee proposes to sell various assets of the Company such as furniture, fixtures and office / network equipment maintained at several premises that are either not in any use, commercially not useful or not required for the operations of the Company as set out in request for proposal dated _____ (“**Assets**”), subject to the compliance with applicable laws and terms of approved resolution plan (“**Asset Sale**”).
4. The MC is required to share the information with a potential bidder after receiving an undertaking from the bidder to the effect that the bidder shall maintain confidentiality of the information shared and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the confidentiality terms.

THEREFORE, the Bidder hereby declares and undertakes as follows:

1. The Bidder declares and undertakes that it will not divulge any information including any financial information of the Company disclosed to it by the MC (or any other person on behalf of the MC) through oral, electronic or written communication or through any mode to anyone and the same

² Changes, as applicable, may be made to the draft if the bidder is an individual.

shall constitute “**Confidential Information**”. Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall be deemed as Confidential Information.

2. The Bidder further unconditionally and irrevocably undertakes and declares that
 - a) the Confidential Information shall be kept confidential by the Bidder and shall be used solely as allowed under the applicable laws;
 - b) it shall not use the Confidential Information to cause any undue gain or undue loss to itself or any other person;
 - c) it shall comply with all provisions of law for the time being in force relating to confidentiality and insider trading in relation to such Confidential Information;
 - d) it shall protect any intellectual property of the Company which it may have access to;
 - e) the Confidential Information may only be disclosed to and shared with any directors, officers, employees or advisors of the Bidder, by the Bidder, in accordance with applicable laws, including in relation to confidentiality and insider trading, and terms of this confidentiality undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the Asset Sale process of the Company, provided that the Bidder binds such employees and third parties, by way of an undertaking/ agreements, to terms at least as restrictive as those stated in this confidentiality undertaking. . The Bidder shall be responsible for any breach of the confidentiality obligations by such persons to whom it shares the Confidential Information in accordance with this confidentiality undertaking;;
 - f) it shall ensure that all Confidential Information is kept safe and secured at all times and is protected from any unauthorised access, use, dissemination, copying, theft or leakage;
 - g) it shall immediately destroy and permanently erase all Confidential Information upon the completion of the sale process.
 - h) it shall take all necessary steps to safeguard the privacy and confidentiality of the information shared and shall ensure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information, including but not limited to the financial position of the Company, all information related to disputes by or against the Company and any other matter pertaining to the Company as may be specified in the information shared; and
 - i) it shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor of the Bidder) and shall indemnify and hold harmless the MC and its representatives, advisors and agents for any loss, damages and costs incurred by the MC or such representatives, advisors and agents of the MC due to such breach of obligations by the Bidder or any person acting on its behalf.

3. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information
 - a) information which, at the time of disclosure to the Bidder was already in the public domain without violation of any provisions of applicable laws;
 - b) information which, after disclosure to the Bidder becomes publicly available and accessible without violation of applicable laws or a breach of this confidentiality undertaking;
 - c) information which was, lawfully and without any breach of this confidentiality undertaking, in the possession of the Bidder prior to its disclosure, as evidenced by the records of the Bidder;
 - d) information that is received by the Bidder from a third party , who to the knowledge of the Bidder after having conducted reasonable enquiry into the authority of such third party to possess and divulge the same,is not in breach of its confidentiality obligations. Provided that upon the Bidder obtaining knowledge of a breach or the possibility of a breach by such third party of its confidentiality obligations, the Bidder shall promptly notify the MC of such breach or potential breach and refrain from any usage or dissemination of such information; and; and

- e) information that is required to be disclosed by the Bidder (and to the extent required to be disclosed) pursuant to the requirements of applicable laws, or order of a judicial authority or the guidelines of a regulatory authority or the stock exchange, provided however the Bidder must provide prior intimation of such disclosure to the MC. Without prejudice to the aforementioned, in the event such disclosure cannot be avoided on account of requirement under applicable law, the disclosure must be limited strictly to the extent required for compliance with the aforementioned law, rules, direction or order.
4. No representation or warranty has been provided by the MC in relation to the authenticity or adequacy of the information provided to the Bidder, including Confidential Information, and the Bidder would not have any claim against the MC or any person acting on its behalf or the Company in relation to any information provided.
5. Nothing in this confidentiality undertaking shall have the effect of limiting or restricting any liability arising as a result of fraud or wilful default.
6. Damages may not be an adequate remedy for a breach of this confidentiality undertaking and the MC shall be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this confidentiality undertaking.
7. The Bidder hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this undertaking.
8. The terms of this confidentiality undertaking may be modified or waived only by a separate instrument in writing signed by the Bidder with the prior written consent of the MC that expressly modifies or waives any such term.
9. This confidentiality undertaking and any dispute, claim or obligation arising out of or in connection with it shall be governed by and construed in accordance with Indian laws and the courts at Mumbai shall have exclusive jurisdiction over matters arising out of or relating to this confidentiality undertaking.
10. The confidentiality undertaking shall be in conjunction to any other undertakings provided by the Bidder to the MC.

Encl: Board resolution / Power of Attorney authorising the execution of the undertaking³.

Signed on behalf of

(Name of Bidder)

By

(Name and Designation)

Authorised Signatory

³ Note: This is applicable in the case of corporate persons.

ANNEXURE-IV

Format of Bank Guarantee

[To be executed on non-judicial stamp paper of appropriate stamp duty value (INR 600) relevant to the place of execution]

<Beneficiary Name>

1. In consideration of[*Insert name of the bidder with address*] (hereinafter called the “**Bidder**”) agreeing to undertake the obligations under the request for proposal (hereinafter called “**RFP**”) dated [●] issued by the monitoring committee of Aircel Cellular Limited (hereinafter called the “**Company**”) the [*Insert name and address of the bank issuing the guarantee and address of the head office*] (hereinafter called the “**Guarantor Bank**”) hereby agrees unequivocally, irrevocably and unconditionally to pay to the Company, forthwith on demand in writing from the Company (hereinafter referred to as “**the Beneficiary**”) or any officer authorized by it in this behalf, any amount up to and not exceeding _____[Rupees _____only] on behalf of [*Insert name of the Bidder*] (hereinafter called “**Financial Guarantee**”).
2. We, [*Insert name of bank*] do hereby undertake to pay the amounts due and payable under this Financial Guarantee without any demur, merely on a demand from the Beneficiary including from any officer authorized by it in this behalf. Any such demand made on the Guarantor Bank, shall be conclusive as regards the amount due and payable by the Guarantor Bank under this Financial Guarantee. However, our liability under this Bank Guarantee shall be restricted to an amount not exceeding Rs..... (Rupees only). This Financial Guarantee shall be valid and binding on the Guarantor Bank up to and including[*Insert date of validity of the Financial Guarantee*] and shall in no event be terminable by notice or any change in the constitution of the Guarantor Bank or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between [*Insert name of the Bidder*] and the Beneficiary (acting on the instructions of / under authorisation of the monitoring committee of the Company).
3. This Financial Guarantee shall not be affected in any manner by reason of merger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the Guarantor Bank. Our liability under this Financial Guarantee is restricted to [●] only.
4. We undertake to pay to the Beneficiary any money so demanded notwithstanding any dispute or disputes raised by the Bidder in any suit or proceeding pending before any court or tribunal relating thereto our liability under this present being absolute and unequivocal. The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand from the Beneficiary, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the Beneficiary.
5. The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by,..... [*Insert name of Bidder*] and/or any other person. The Guarantor Bank shall not require the Beneficiary to justify the invocation of this Financial Guarantee, nor shall the Guarantor Bank have any recourse against the Beneficiary, any member of the

monitoring committee, the Company or any of their representatives and/or advisors in respect of any payment made hereunder.

6. We, the Guarantor Bank further agree that the guarantee herein contained shall remain in full force and effect up to and including[*Insert date of validity of the Financial Guarantee*] . The Beneficiary shall be entitled to invoke this Financial Guarantee up to 12 (twelve) months from the last date of the validity of this Financial Guarantee by issuance of a written demand to invoke this Financial Guarantee.
7. We, the Guarantor Bank, further agree that the Beneficiary shall have the fullest liberty without our consent to vary any of the terms and conditions of the RFP or to extend time of performance by the said Bidder from time to time or to postpone for any time or from time to time any of the powers exercisable by the Beneficiary against the said Bidder and to forbear or enforce any of the terms and conditions relating to the RFP. We shall not be relieved from our liability by any reason of any such variation or extension being granted to the said Bidder 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.
8. This Financial Guarantee shall be interpreted in accordance with the laws of India and the courts and tribunals of Mumbai shall have exclusive jurisdiction. The Guarantor Bank represents that this Financial Guarantee has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.
9. The Guarantor Bank hereby agrees and acknowledges that the Beneficiary shall have a right to invoke this Financial Guarantee either in part or in full, as it may deem fit.
10. This Financial Guarantee shall be a primary obligation of the Guarantor Bank and accordingly the Beneficiary shall not be obliged before enforcing this Financial Guarantee to take any action in any court or arbitral proceedings against the Bidder, to make any claim against or any demand on the Bidder or to give any notice to the Bidder or to exercise, levy or enforce any distress, diligence or other process against the Bidder.
11. We, [●], lastly unconditionally and irrevocably undertake not to revoke this Financial Guarantee during its currency.

NOTWITHSTANDING anything contained herein:

1. This Financial Guarantee shall be valid till 6 (six) months from the date of issuance of this Financial Guarantee with an additional claim period of 12 (twelve) months thereafter; and
2. We are liable to pay the guaranteed amount or any part thereof under this Financial Guarantee only and only if you serve upon us a written claim or demand on or before the expiry of the claim period set out above.

3. This Financial Guarantee shall be extended from time to time for such period, as may be desired by the Beneficiary. We are liable to pay the guaranteed amount or any part thereof under this Financial Guarantee only if the Beneficiary serves upon us a written claim or demand.

All claims under this Financial Guarantee shall be payable at Gurugram.

In witness whereof the Guarantor Bank, through its authorized officer, has set its hand and stamp on this day of at

Witness:

1. Signature Name and Address. Name:
2. Designation with Bank Stamp Name and Address

Attorney as per power of attorney No

For:

..... [Insert Name of the Bank] Banker's Stamp and Full Address:

Dated this day of 20..... Notes:

THE STAMP PAPER SHOULD BE IN THE NAME OF THE GUARANTOR BANK.