AN ACT GRANTING THE MERIDIAN TELEKOMS, INC., A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS THROUGHOUT...

REPUBLIC ACT NO. 8337, July 14, 1997

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Nature and Scope of Franchise. – Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to the Meridian Telekoms, Inc., hereunder referred to as the grantee, its successors or assigns, a franchise to construct, establish, install, maintain and operate for commercial purposes and in the public interest, the business of providing telecommunications services throughout the Philippines and between the Philippines and other countries and territories, including mobile, cellular, wired or wireless telecommunications systems and their value-added services such as, but not limited to, transmission of voice, data, facsimile, control signs, audio and video, information and service bureau, and all other telecommunications systems technologies as are at present available or will be made available through technological advances or innovations in the future, and construct, acquire, lease and operate or manage transmitting and receiving stations, lines, cables or systems, as is, or are, convenient or essential to efficiently carry out the purpose of this franchise.

SEC. 2. Manner of Operation of Stations or Facilities. – The stations or facilities of the grantee shall be constructed and operated in a manner as will, at most, result only in the minimum interference on the wavelengths or frequencies of the existing stations or other stations which may be established by law, without in any way diminishing its own right to use its selected wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or the availability thereof.

SEC. 3. Authority of the National Telecommunications Commission. – The grantee shall secure from the National Telecommunications Commission, hereinafter referred to as the Commission, a certificate of public convenience or the appropriate permits and licenses for the location, construction, installation and operation of its telecommunications systems. In issuing the certificate, the Commission shall have the power to impose such conditions relative to the construction, operation, maintenance, or service level of the telecommunications system. The Commission shall have the authority to regulate the construction and operation of its telecommunications systems. The grantee shall not use any frequency in the radio spectrum without having been authorized by the Commission. Such certificate shall state the areas covered and date the grantee shall commence the service. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority, permits or licenses.

SEC. 4. Responsibility to the Public. – The grantee shall conform to the ethics of honest enterprise and shall not use its stations for obscene or indecent transmission or for dissemination of deliberately false information or willful misrepresentation, or assist in subversive or treasonable acts. The grantee shall provide basic or enhanced telephone service in any municipality in the Philippines where it has an approved certificate of public convenience for the establishment, operation, and maintenance of a local exchange service, without discrimination to any

applicant therefore, in the order of the date of their applications, up to the limit of the capacity of its local telephone exchange, and should the demand for the telephone service at any time increase beyond the capacity thereof, the grantee shall increase the same to meet such demand: Provided, That in case the total demand to be satisfied by the expansion is less than the smallest viable local exchange available in the market as determined by the Commission, the grantee shall not be obliged to furnish said service, unless the applicant for telephone service defrays the actual expenses for the installation of the telecommunication apparatus necessary for such services and in such case the Commission may extend the time within which the grantee shall furnish such service.

The grantee shall operate and maintain all its stations, lines, cables, systems and equipment for the transmission and reception of messages, signals and pulses in a satisfactory manner at all times, and as far as economical and practicable, modify, improve or change such stations, lines, cables, systems and equipment to keep abreast with the advances in science and technology.

SEC. 5. Rates for Services. – The charges and rates for telecommunications services of the grantee, except the rates and charges on those that may hereafter be declared or considered as non-regulated services, whether flat rates or measured rates or variation thereof, shall be subject to the approval of the Commission or its legal successors. The rates to be charged by the grantee shall be unbundled, separable and distinct among the services offered and shall be determined in such a manner that regulated services do not subsidize the unregulated ones.

SEC. 6. Right of Government. – A special right is hereby reserved to the President of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order, to temporarily take over and operate the stations, transmitters, facilities or equipment of the grantee, to temporarily suspend the operation of any station, transmitter, facility or equipment in the interest of public safety, security and public welfare, or to authorize the temporary use and operation thereof by any agency of the government, upon due compensation to the grantee for the use of said stations, transmitters, facilities or equipment during the period when they shall be so operated.

The radio spectrum is a finite resource that is a part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the state and may be withdrawn anytime, after due process.

SEC. 7. Term of Franchise. – This franchise shall be for a term of twenty-five (25) years from the date of effectivity of this Act, unless sooner revoked or cancelled. This franchise shall be deemed ipso facto revoked, in the event the grantee fails to comply with any of the following conditions:

- Commence operations within three (3) years from the approval of its permit by the National Telecommunications Commission;

- Operate continuously for two (2) years; and

- Commence operations within five (5) years from the effectivity of this Act.

SEC. 8. Acceptance and Compliance. – Acceptance of this franchise shall be given in writing within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Non-acceptance shall render the franchise void.

SEC. 9. Bond. – The grantee shall file a bond issued in favor of the National Telecommunications Commission, which shall determine the amount, to guarantee the compliance with the fulfillment of the conditions under which this franchise is granted. If after five (5) years from the date of the approval of its permit by the Commission, the grantee shall have fulfilled the same, the bond shall be cancelled by the Commission. Otherwise the bond shall be forfeited in favor of the government and the franchise ipso facto revoked.

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SEC. 10. Right of Interconnection. – The grantee is hereby authorized to connect or demand connection of its telecommunications systems to any other telecommunications systems installed, operated and maintained by any other duly-authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunications services to the public under such terms and conditions mutually agreed upon by the parties concerned and the same shall be subject to the review or modification of the Commission.

SEC. 11. Tax Provisions. – The grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other persons or corporations are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns, shall pay the value-added tax under Republic Act No. 7716 or a franchise tax of three percent (3%) per annum or at such percentage as may be prescribed by law, on all gross receipts of its telecommunications business transacted under this franchise, whichever is higher: Provided, That the grantee, its successors or assigns, shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72, unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.

The grantee shall file the return with, and pay the taxes due thereon to the Commissioner of Internal Revenue or his duly authorized representatives in accordance with the National Internal Revenue Code and the return shall be subject to audit by the Bureau of Internal Revenue.

SEC. 12. Gross Receipts. – The grantee, its successors or assigns, shall keep a separate account of the gross receipts of the business transacted by it and shall furnish the Commission on Audit and the National Treasury a copy of such account not later than the thirty-first day of January of each year, for the preceding twelve (12) months.

SEC. 13. Books and Accounts. – The books and accounts of the grantee, its successors or assigns, shall always be open to the inspection of the Commissioner on Audit or his authorized representatives, and it shall be the duty of the grantee to submit to the Commission on Audit, two (2) copies of the quarterly reports on the gross receipts, the net profits and the general condition of the business.

SEC. 14. Warranty in Favor of National and Local Governments. – The grantee shall hold the national, provincial, city and municipal governments of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations, transmitters, facilities and equipment of the grantee.

SEC. 15. Sale, Lease, Transfer, Usufruct, etc. – The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any corporation or entity, nor shall the controlling interest in the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. Any person or entity to which this franchise is sold, transferred or assigned, shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

SEC. 16. Dispersal of Ownership. – In accordance with the constitutional provisions to encourage public participation in the public utilities, the grantee shall offer at least thirty per centum (30%) of its outstanding capital stock or a higher percentage that may hereafter be provided by law in any securities exchange in the Philippines within five (5) years from the commencement of its operations. Noncompliance therewith shall render the franchise ipso facto revoked.

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SEC. 17. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all the other provisions not affected thereby shall remain valid.

SEC. 18. Repealability and Nonexclusivity Clause. – This franchise shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privileges herein provided for.

SEC. 19. Reportorial Requirement. – The grantee shall submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of its franchise and on its operations within sixty (60) days from the end of every year.

SEC. 20. Effectivity Clause. – This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general publication.

Approved, Lapsed into law on July 14, 1997, without the signature of the President, in accordance with Article VI, Section 27 (1) of the Constitution.

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