

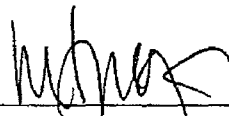
**INDEPENDENT COMMUNICATIONS AUTHORITY OF
SOUTH AFRICA**

**NATIONAL MOBILE DATA
TELECOMMUNICATIONS LICENCE**

Issued to

**WIRELESS BUSINESS SOLUTION (PROPRIETARY)
LIMITED
(REGISTRATION NO. 96/13739/07)**

Signed at Sandton, Johannesburg, on this 30 April 2004



**MANDLA LANGA
CHAIRPERSON
ICASA**

NATIONAL MOBILE DATA TELECOMMUNICATIONS LICENCE

Issued to **Wireless Business Solutions (Proprietary) Limited** Registration No: 96/13739/07, of 15th Floor, Radiopark Building, Henley Road, Auckland Park, JOHANNESBURG (the Licensee) in respect of the Territory in terms of Section 78 of the Post Office Act, read with the radio licence issued in terms of the Radio Act.

DEFINITIONS

For the purposes of this licence -

- (a) any reference to the singular includes the plural and vice versa;
- (b) any reference to natural persons includes legal persons; and
- (c) any reference to one gender shall include the other gender.

In this licence:

- (a) all words and expressions used shall, unless the context otherwise requires, have the same meanings as ascribed thereto in terms of the Telecommunications Act or, if no definition is provided in that Act, the repealed Post Office Act.
- (b) the following words and expressions shall have the meanings ascribed to them hereunder:

“Applicable Interest Rate” means a rate of 3% above the prime interest rate as published from time to time of the South African Reserve Bank established by section 9 of the Currency and Banking, No 31 of 1920, and operating in terms of the South African Reserve bank Act, No 90 of 1989.

... in terms of paragraph 4.1 of this licence for commercial purposes, which shall not be later than 1 January 1998 or such other date as may be determined by the Authority by written notice to the Licensee;

"**Customer**" means any person who has applied in writing to enter into a contract for the provision of the Service with the Licensee or a Service Provider or has entered into and not in breach of such a contract;

"**Frequency Band Plan**" means the table setting out the allocations of various frequency bands for use by one or more radio communications service under specified conditions, as published from time to time in the Government Gazette in terms of section 29 of the Telecommunications Act;

"**Interconnection Agreement**" means the agreement between the Licensee and any person referred to in paragraph 6.1 of this licence defining the commercial and technical arrangements for:

- (a) the transfer of Messages in either direction between such person and the Licensee;
- (b) the use of Leased Connections; and
- (c) the provision of related services; and
- (d) the charging and payment of any fees tariff or charge by such person to the Licensee and *vice versa*;

"**Interconnection Fees**" means all the charges payable by or to the Licensee for the use of Leased Connections, including call charges, and any other charges and fees payable in connection with the provision of services in terms of an Interconnection Agreement;

"**ITU-R**" means the Radio communication Section of the International Telecommunications Union previously known as CCIR;

Telecommunications Commission previously known as CCHT;

"Leased Connection" means a Telecommunication Facility connecting two points neither of which is Terminal Equipment and complying with ITU-T recommendations, including but not limited to X.25 connections, leased from any PSTS licensee or other person permitted to provide a fixed line in terms of section 37(2) of the Telecommunications Act by the Licensee used between MDN elements and required for the provision of the Service;


"Licensed Line" means a Telecommunication Facility or any part thereof, including Radio Links, which the Licensee is authorised to construct, maintain and operate in terms of this Licence;

"MAN" means Mobile Access Number, the subscription number used to identify local, regional and world-wide Customers;

"MDN" means the Mobile Data Network operated and maintained by the Licensee in terms of this Licence in order to provide the Service, described as follows:

- (a) containing switching capability allowing for the routing of calls between subscribers of the network; and
- (b) allowing for hand-over of continuously maintained calls between base stations; and
- (c) allowing for wide-area radio coverage by means of several cells provided for from base stations and allowing for ordered reuse of frequencies between such cells;

"Message" means any data signal sent, or to be sent, for conveyance by means of a Licensed Line;



telecommunications service of the nature described in section 34(2)(a) or 40A of the Telecommunications Act;

"Own Connection" means a Telecommunication Facility connecting two points neither of which is Terminal Equipment and complying with ITU-T recommendations, not provided by a PSTS licensee or other person permitted to provide a fixed line in terms of section 37(2) of the Telecommunications Act and used by the Licensee for the provision of the Service;

"Post Office Act" means the Post Office Act, Act No 44 of 1 958;

"Price Cap" means $CPI - X$; where CPI is the Consumer Price Index for all goods as published by Statistics South Africa from time to time;

X is a figure to be determined every two years by the Authority after consultation with the Licensee;

"PSDN" means the Public Switched Data Network operated by a PSTS licensee;

"PSTN" means the Public Switched Telecommunications Network operated by a PSTS licensee;

"PSTS" means the service described in Section 36A of the Telecommunications Act;

"Radio Act" means the Radio Act, Act No 3 of 1952;

"Radio Licence" means the licence granted by the Director-General, or Authority as the case may be, to the Licensee in terms of the Radio Act or the Telecommunications Act, as the case may be, for provision of the Service.

"Radio Link" means the radio communications path established for the purposes of linking Radio Terminals with Base Stations, in accordance with the conditions of this Licence and the relevant Radio Licence;

Telecommunications Act or section 18 of the Radio Act, which were in force immediately prior to the commencement of the Telecommunications Act and are deemed to remain in force until amended or repealed under section 95(4) of the Telecommunications Act;

"Radio Terminal" means type approved radio equipment required by a Customer to access Radio Links of the Licensee;

"Service" means a national mobile data telecommunications service, using MDN topology and operating in the Frequency Bands allocated in the Frequency Band Plan for use by mobile telecommunication services, provided to Customers, consisting of:

- (a) the provision of any Licensed Line;
- (b) the conveyance of any Message by means of such Licensed Line; and
- (c) accessing the PSTN and PSDN;

together with any billing, data processing or other operation which is necessary to provide that service whether or not the Licensee charges a separate fee for it;

"Service Provider" means any person who is in the business of providing the Service to its Customers and which has a contract with the Licensee for such purpose;

"Telecommunications Act" means the Telecommunications Act No 103 of 1996 as amended;

"Terminal Equipment" means equipment forming part of a Radio Terminal, or equipment on the same or adjacent premises connected to a Radio Terminal, which may be used by a Customer to send and/or receive Messages which are to be or have been conveyed by means of the MDN and which has been approved by the Authority;

"Territory" means the geographical area of the Republic of South Africa;

"Turnover" means the total sales revenue of the business of the Licensee;

"Universal Service Agency" means the agency established in terms of section 58 of the Telecommunications Act;

"Universal Service Obligations" means the obligations as may be imposed by the Authority from time to time, to improve universal service and universal access;

"X.25" means the ITU-T telecommunications protocol standard for packet switching.

1. LICENCE AUTHORITY

- 1.1 The Licensee is authorised by this licence on a non-exclusive basis to construct, maintain and operate a national MDN for the Territory to:
- (a) provide the Service, and
 - (b) connect Terminal Equipment for the provision of Service, and
 - (c) interconnect with any Operator or any other telecommunications service provider licensed in terms of the Telecommunications Act,
- all of which subject to the provisions of paragraph 3.
- 1.2 The rights in terms of paragraph 1.1 may be exercised through agents, contractors or Service Providers of the Licensee, as applicable. The Licensee shall be responsible for their acts or omissions.
- 1.3 Nothing in this licence shall be construed or understood as to relieve the Licensee or any other party of the obligations to comply with any other applicable Statutory prohibition or obligation and in particular the

obligations to comply with the provisions of the Radio Regulations and the Telecommunications Act.

- 1.4 The licence shall not be transferable unless the prior written approval of the Authority has been obtained and then only on such conditions as the Authority may prescribe, including the payment of a fee.

2. LICENCE FEES AND UNIVERSAL SERVICE OBLIGATIONS

- 2.1 In consideration for the granting to the Licensee of the rights to construct, maintain and operate a MDN as provided for in paragraph 1, the Licensee shall pay to the Authority :

(a) an amount of R1 500 000 payable on date of issue of this licence, or at the instance of the Licensee the following amounts:

- i. R500 000 payable on date of issue of the licence; plus
- ii. R632 500 payable on the first anniversary of the Commercial Date; plus
- iii. R739 500 payable on the second anniversary of the Commercial Date;

but subject to a 15% pro-rata discount in the event of the early payment of any or all of the above amounts, calculated on the amount paid in advance.

(b)

- i. an amount constituting 0.2% of Turnover for the first two financial years payable within three months after the end of each financial year of the Licensee, and
- ii. thereafter an annual amount of 2% of Turnover, quarterly on assessed Turnover within 45 days of the end of such quarter, to be adjusted and accompanied by an audit

certificate within three months of the end of each financial year of the Licensee.

- (c) Periodical contributions to the Universal Service Fund in accordance with the Telecommunications Act.
 - (d) An annual frequency licence fee of R25 000,00 per assigned 12,5 kHz frequency pair and such other frequency licence fee as determined by the Minister or the Authority from time to time.
- 2.2 The Licensee shall comply with Universal Service Obligations as contained in Annexure A of this Licence and as may be imposed by the Authority from time to time.
- 2.3 Notwithstanding the provisions of paragraph 17.1 any amount in respect of paragraphs 2.1 and 2.2 above, outstanding for more than 30 days after the due date, will bear interest at the applicable interest rate calculated from the due date of the specific payment, to the date of actual payment.

3. LICENCE DETAILS

- 3.1 Subject to the provisions of the Telecommunications Act, including any regulations or guidelines issued in terms of the Act and paragraph 3.2 below, the Licensee shall be obliged to use Leased Connections for all connections other than Licensed Lines unless a PSTS licensee or other person permitted to provide a fixed line in terms of section 37(2) of the Telecommunications Act is unwilling or unable to provide such Leased Connections, in which instance any other such PSTS licensee or other such person may provide the Leased Connection or the Licensee may apply to the Authority to procure or construct and to use Own Connections.
- 3.2 The Licensee is hereby authorised to procure, construct, maintain and use Own Connections to connect its own MDN elements if these elements are

installed on the same or adjacent premises, both occupied by the Licensee.

3.3 All international calls originating within or destined for the MDN shall be routed via the international exchange(s) of an Operator duly authorised to provide an international telecommunication service or international gateway service in terms of the Telecommunications Act.

3.4 The Licensee shall undertake an implementation programme in accordance with schedule 1 attached hereto (Implementation Timetable) agreed to between the Licensee and the Authority and lodged with the Authority.

4. COMMENCEMENT AND PERIOD OF LICENCE

4.1 The licence does not authorise the use of any Licensed Line until after:

- (a) the amounts specified in paragraph 2.1 (a) and (d) have been paid;
- (b) the date when the Interconnection Agreement referred to in paragraph 6.1 has been approved by the Authority;
- (c) the date when the Joint Economic Development Plan Agreement has been agreed to; and
- (d) the provision of a Performance Guarantee in terms of paragraph 15.

4.2 Subject to the conditions of this licence, and any other authoritative instrument applicable either to this licence or to the operations of the Licensee the validity period of this licence shall be 10 years from the Commercial Date provided that either party may terminate this licence upon 1 (one) years written notice to the other, provided further that no such notice may be given by the Authority within 9 (nine) years after the Commercial Date

mobile cellular operator, provider of multimedia services, under-served area licensee, licensed value-added network service provider or provider of a private telecommunication network, after receiving a written request from any such Operator or service provider, unless the Authority determines that such request is unreasonable or is technically not feasible in accordance with section 43 of the Telecommunications Act and any regulations issued thereunder.

- 6.2 The Licensee shall conclude such an Interconnection Agreement within the period specified by the Authority which shall not be less than three months.
- 6.3 No Interconnection Agreement or amendment thereof may enter into force until approved by the Authority. The Authority shall give its decision within 30 working days after full particulars of the terms and conditions of that agreement or amendment thereof, together with an explanation of the purpose of the agreement or amendment thereof, have been furnished to the Authority.
- 6.4 If at any time the Licensee is requested to enter into negotiation with a view to the modification of an existing Interconnection Agreement, it shall, if so directed by the Authority in writing, enter into negotiations with any Operator or telecommunication service provider licensed in terms of the Telecommunications Act to reach agreement on such modification within the time stipulated by the Authority, which shall not be less than three months.
- 6.5 If for any reason there is failure to conclude an Interconnection Agreement with any Operator or telecommunication service provider licensed in terms of the Telecommunications Act in terms of paragraphs 6.1 and 6.2, or agree on a modification in terms of paragraph 6.4, and if so requested by the Operator or service provider or the Licensee, in writing:



- (a) the Authority may within 60 days determine either the terms and conditions of the Interconnection Agreement or that the terms and conditions of the Interconnection Agreement should be modified and, if the Authority does so determine, the form of the modification that is to be incorporated into the agreement; and
 - (b) if any such modification is incorporated into the Interconnection Agreement, the Licensee shall comply with the agreement incorporating such modifications as so determined as if that agreement as modified had been voluntarily entered into by it.
- 6.6 The Authority shall provide all necessary assistance as the Authority is lawfully able or entitled to give, as may be reasonably required of the Authority to the Licensee to give effect to paragraph 6.
- 6.7 The provisions of this paragraph 6 shall be subject to section 43 and 44 of the Telecommunications Act, including any applicable regulations or guidelines issued under the Telecommunications Act and, in the event of any inconsistency between the provisions of the Act and any Interconnection Agreement, the provisions of the Act shall prevail.

7. CUSTOMER PRIVACY

- 7.1 The Licensee shall use all reasonable endeavours to ensure that information obtained or received in the performance of the Service by itself or its Service Providers is kept confidential, not disclosed or made accessible to third parties or used otherwise than for the purposes or furtherance of the Service.
- 7.2 The Licensee shall not directly or indirectly communicate any information about a Customer otherwise than in the normal course or conduct of the business of the Licensee to any other business of the Licensee or any other person.



8. FAIR TRADING

- 8.1 The Licensee and its agents, contractors and Service Providers shall not show any undue preference to or exercise undue discrimination against any person or class or description of persons in respect of the provision of any Service or in respect of the construction or maintenance of Licensed Lines.
- 8.2 The Licensee shall include a provision in its contracts with its Service Providers requiring that they comply with a code of practice for consumer affairs to be established by the Licensee containing at least the following:
- (a) guidance to Customers in respect of disputes or complaints relating to the provision of the Service by them;
 - (b) advice to Customers on charging and billing and concerning such inquiries;
 - (c) advice and procedures on the proper use of the Service by Customers; and
 - (d) standards of conduct expected in the provision of the Service by Service Providers to Customers.
- 8.3 Notwithstanding the provisions of paragraph 8.1, the Licensee may provide the Service to a Customer or Service Provider on charges, terms and conditions which are preferential if the charge in question is in accordance with a tariff plan duly approved by the Authority.
- 8.4 The sharing of the Licensee's infrastructure and physical facilities with other similarly licensed persons and the terms and conditions thereof shall be subject to any applicable guidelines prescribed under section 44 of the Telecommunications Act and to the prior approval of the Authority.



8.5 The Licensee shall lodge with the Authority representative sample copies of all contracts relating to the Service or the provision of the Service entered into between the Licensee and any Customer, Service Provider and supplier of telecommunications facilities.

9. ACCOUNTING

9.1 The Licensee shall maintain proper accounting records in accordance with a Chart of Accounts and Cost Allocation Manual to be prescribed by the Authority. Until such time the Licensee shall maintain proper accounting records in accordance with Generally Accepted Accounting Practice in such form as is sufficient to show all the activities and explain the transactions of the Licensee and of each of the Licensee's businesses engaged in:

- (a) the construction of the Licensed Lines;
- (b) the maintenance of the Licensed Lines;
- (c) payment for construction of Leased Connections and Own Connections;
- (d) payment for rental/maintenance of Leased Connections and Own Connections;
- (e) its principal business;
- (f) the supply of Terminal Equipment;
- (g) the provision of supplementary services;
- (h) such other categories as the Authority may from time to time require separately from each other and from the other businesses or activities of the Licensee.



9.2 The Licensee shall record in such accounting records at full or market related cost any material transaction between:

- (a) it and any of the businesses of the Licensee;
- (b) one such business and another; and
- (c) it and any other juristic person in which the Licensee has shares; and
- (d) it and any other person who has shares in the Licensee or in the shareholders of the Licensee; and
- (e) it and a subsidiary company as defined in the Companies Act, Act No 61 of 1973 of such Licensee.

9.3 Within 3 months of the end of each financial year of the Licensee, the Licensee shall present to the Authority audited annual financial statements prepared in accordance with Generally Accepted Accounting Practice and as approved by the Licensee.

10. SERVICES, TARIFFS AND FEES

10.1 The Licensee shall not implement a service or charge any tariffs or fees for the Service and any other service whatsoever, until such services, tariffs and fees have been lodged by notice together with a tariff plan in writing with the Authority.

10.2 The notice lodged shall be in a form approved by the Authority. It must state the period (i.e. the term) for which it shall apply. The term must not begin before the tenth working day after the notice has been lodged with the Authority. In relation to each kind of service the Licensee proposes to offer during the term, the notice must set out:

- (a) a description of the service; and



- (b) details of the nature and amounts of charges payable for the service, also indicating which services are provided free of charge.
- 10.3 If the charges in a tariff plan vary in their nature, amount or both, the notice must set out the reasons why and how the charges vary.
- 10.4 The notice must be precise and detailed enough to be used to work out the nature and amounts of charges payable for the supply of the service.
- 10.5 The Licensee shall not without the approval of the Authority increase any existing tariff plan by an amount which is greater than the Price Cap, unless such a charge constitutes a special promotion for marketing or advertising purposes. If the Authority disallows or delays a proposed tariff increase, the Authority shall provide written reasons therefore to the Licensee.
- 10.6 The tariffs and fees which the Licensee may charge as from the Commercial Date are annexed hereto as Schedule 2.
- 10.7 The Licensee shall publish details of its tariffs and fees and any other terms and conditions on which its services are provided by:
- (a) making them available for inspection at its major places of business during normal business hours, and
 - (b) sending the appropriate parts thereof to any person who may request same.

11. FREQUENCIES

- 11.1 The Authority shall, in accordance with the Frequency Band Plan as amended from time to time allocate for purposes of the licence to the Licensee for the duration of the licence such frequencies as may be required to provide the Service. Such frequencies shall ultimately be available for assignment to the Licensee on a dedicated basis for use nationally pending the completion of the South African Band Re-planning



Exercise and the implementation thereof in a timescale yet to be determined by the Authority, but no longer than 3 years from the date of issue of the licence. In the interim the Authority shall assign those frequencies of the allocation required by the Licensee and available on a geographically co-ordinated co-primary basis with other users in the band.

11.2 Notwithstanding the provisions of the previous condition the Authority shall be entitled, at no cost to the Authority, to substitute a different frequency for any of the frequencies so assigned if this is necessary:

- (a) for the implementation of any international agreement entered into by the Government of the Republic of South Africa;
- (b) to ensure the proper management of the radio spectrum; or
- (c) for the avoidance of harmful interference.

11.3 In the event of substitution of any frequency the Authority shall give as much notice as is reasonably practicable and, before taking any such action, shall consult with the Licensee.

11.4 The Licensee shall only be entitled to utilise an assigned frequency after the issue by the Authority of a valid Radio Licence covering such frequency.

12 CUSTOMER SERVICE STANDARDS

12.1 The Licensee shall develop, publish and enforce guidelines for use by its personnel when handling enquiries and complaints from a Customer to whom it supplies telecommunications facilities and provide similarly in its contracts with Service Providers.

12.2 The guidelines relating to enquiries and complaints are to be published and be made available to Customers at the commencement of Service to such Customers.

12.3 The guidelines must address the following areas of the provision of customer services:



- (a) the procedures for the handling of complaints by Customers;
- (b) the time frame for handling complaints through this procedure;
- (c) further recourse available to a Customer who is dissatisfied with the Licensee's complaints handling procedure or outcome of a complaint;
- (d) procedures adopted by the Licensee to ensure the accuracy of a Customers account;
- (e) availability to Customers of quality of service information relating to the Licensee's network services.

12.4 The Licensee shall keep and maintain statistics on the quality of service of its Service and on complaints made to the Licensee by Customers with which the Licensee deals in accordance with the guidelines. The Licensee shall provide these statistics to the Authority as the case may be, as part of the report referred to in paragraph 16.

12.5 The Authority may after consultation with the Licensee publish the statistics kept in terms of paragraph 12.4 provided such publication shall relate to a period of not less than 3 months and shall be published together with similar information pertaining to any similarly licensed person.

13. RESTRICTION ON TRANSFER OF SHARES, DIRECTORSHIPS, ETC

13.1 Sixty percent (60%) of the issued voting share capital of the Licensee shall vest in a category of residents of the Republic of South Africa prescribed by the Minister, or the Authority as the case may be, for a minimum period of five years.

13.2 Without prejudice to the requirements of any regulations prescribed for the purposes of section 52 of the Telecommunications Act, any transfer of shares which would result in:



- (a) the direct or indirect ownership of 25 percent of the issued voting share capital of the Licensee changing hands; or
- (b) the direct or indirect ownership of the issued voting share capital referred to in paragraph 13.1 of the Licensee changing hands; or
- (c) vesting the direct or indirect ownership of 50 percent or more of the share Capital changing hands in the hands of any non-resident of the Republic of South Africa; or
- (d) a change in the ownership of the issued voting share capital that results in a change to the composition of one-quarter of the Board of Directors,

shall require prior written approval of the Authority .

- 13.3 The provisions of paragraphs 13.1 and 13.2 shall not preclude the shares of the Licensee from being listed on the Johannesburg Securities Exchange but only after the fifth anniversary of the Commercial Date.

14. AMENDMENT

- 14.1 The Licence shall be amended as provided for in the Telecommunications Act.

15. PERFORMANCE GUARANTEE

- 15.1 The Licensee shall procure a performance guarantee, appended as Schedule 3, acceptable to the Authority underwriting the obligations of the Licensee in terms of this Licence.

16. REPORTING

- 16.1 The Licensee shall report in writing to the Authority within 30 days of 30 September and 31 March of each year.



16.2 Each report shall include particulars of the Service provided by the Licensee in terms of this Licence. The format of the report may be specified by the Authority.

17. REVOCATION

17.1 If any amount payable in terms of paragraph 2 of this licence is unpaid on the due date, the Authority may notify the Licensee in writing thereof. If the Licensee does not make payment of such amounts within 30 days after receipt of such notice then the Authority may, with the approval of the Minister, revoke this licence by not less than 30 days written notice to the Licensee.

17.2 The Authority may, otherwise than is provided for in paragraph 17.1, and with the approval of the Minister, revoke this licence by written notice to the Licensee in the following circumstances:

- (a) where the Licensee agrees in writing to such cancellation;
- (b) if the Licensee is placed in liquidation, whether voluntary or compulsory or is placed under judicial management, either provisionally or finally;
- (c) a breach of paragraph 13.1 where prior written approval of the Authority had not been obtained;
- (d) if the Licensee takes steps to deregister itself or is deregistered.

18. HELP LINE

18.1 The Licensee shall provide a help line service whereby any Customer may receive:

- (a) assistance with the sending or reception of any Message; or
- (b) information about any aspect of the Licensee's Service.



19. NUMBERING ARRANGEMENTS

19.1

a). The addressing blocks, within the existing national addressing structure of the PSDN, to be allocated to the Licensee will be dealt with in the Interconnection Agreement with a PSTS Licensee .

b). Such allocation shall not be construed as limiting the Licensee to using the allocated addressing structure, and application may be made by the Licensee to the Authority for additional addressing blocks.

c). The Licensee shall manage its numbering in accordance with such regulations as may be applicable from time to time.

19.2 Allocation of Mobile Access Numbers by the Licensee to its Customers is under the Licensee's discretion and control.

20. METERING AND BILLING ARRANGEMENTS

20.1 The Licensee shall provide to any Customer detailed billing which accurately records the extent of the Service provided to such Customer for the relevant billing period, including the following information: name, address, MAN, account number, message size, charge per character and time of call.

20.2 The Licensee shall set out in any account or invoice sent to any Customer the true extent of the Service actually provided to that Customer in the period to which the account or invoice relates.

20.3 The Licensee shall:

- (a) open its metering and billing system for inspection by the Authority at any reasonable time and shall co-operate in facilitating any such inspection; and



(b) alter, adapt, modify or improve such system in accordance with any reasonable requirement which the Authority may specify, for the purposes indicated in paragraphs 20.1 and 20.2 above.

20.4 The Authority agrees that:

- (a) when inspecting the Licensee's metering and billing system in terms of paragraph 20.3 the Authority will give reasonable notice to the Licensee concerned except in any case where same would frustrate the purpose of the inspection; and
- (b) before specifying any alteration, adaptation, modification or improvement the Authority will:
 - (i) take account of the general state of development of the Licensee's networks and the availability of finance to the Licensee; and
 - (ii) consult the Licensee and take account of any representations made by the Licensee.

21. CONNECTION AND USE OF TERMINAL EQUIPMENT

21.1 The Licensee shall:

- (a) permit any Customer to connect Terminal Equipment to its Licensed Lines at any place in the Republic of South Africa where Service is offered;
- (b) permit any Customer to use Terminal Equipment when so connected to send and receive Messages by means of its Licensed Lines; and
- (c) not show any preference to or exercise any discrimination against any Customer or class of Customer when granting any such permission.

21.2 Nothing in this paragraph shall restrict the Licensee from:

- (a) disconnecting any Terminal Equipment from any of its Licensed Lines; or
- (b) disallowing continued use of any Terminal Equipment; or
- (c) refusing permission to a Customer to connect if:
 - (i) the Terminal Equipment in question ceases for any reason to be Terminal Equipment; or
 - (ii) the person using the Terminal Equipment is in arrears with payment of the Licensee's account

and the Authority has not determined otherwise in any particular case.

22. ENFORCEMENT

22.1 If the Authority is of the opinion that there has been a breach by the Licensee of one or more of the Licence conditions, the Authority shall provide to the Licensee a written notice containing the following information:

- (a) identification of the conditions that it is alleged have been breached;
- (b) particulars of the alleged breach;
- (c) notice to the Licensee indicating such time as may reasonably be required to respond and to remedy the alleged breach.

22.2 The Licensee, shall respond to the Authority within the time stipulated in the notice as follows:

- (a) that it either confirms or denies the alleged breach and, where applicable, the extent to which the alleged breach is only partly denied; or
- (b) giving details of the extent that it accepts the alleged breach:



- (i) advising the Authority how it intends the breach to be remedied and the time required therefore; and
- (ii) informing the Authority of the reasons for such breach and requesting an extension of time (if any) which is reasonably required to remedy the breach.

22.3 The Authority shall reasonably exercise its discretion in the granting of any such extension of time and shall in the event of his refusing an extension provide its reasons therefore in writing.

22.4 If the breach has not been remedied within the time stipulated in the relevant notice subject to paragraphs 22.2 and 22.3 the Authority shall be entitled without prejudice to its rights to demand specific performance, remedy such breach itself, or appoint another party to remedy such breach at the cost of the Licensee, provided that the aggregated liability of the Licensee in respect of any breach or breaches arising from the same cause of action, including any such costs shall be limited to the payment of R5 000 000 (five million Rand).

22.5 The provisions of this paragraph and paragraph 17 above shall be without prejudice to any other remedies or rights to which the Licensee or the Authority as the case may be, may be entitled in law, provided that in the exercise of such remedies or rights the Licensee or the Authority as the case may be, shall, insofar as it is possible, comply with the provisions of this paragraph 22.

23. EXERCISE OF POWERS

23.1 In exercising any power granted to the Authority in terms of this licence the Authority shall:

- (a) act reasonably having regard to all surrounding circumstances;

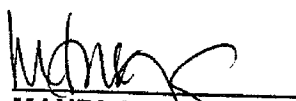


- (b) prior to exercising such power afford the Licensee every reasonable opportunity to make representations to the Authority in respect of all relevant issues; and
- (c) at the request of the Licensee furnish written reasons for any decision so made.

24. CONFIDENTIALITY

24.1 This licence shall be a public document. Information supplied in terms of this licence which the Authority and the Licensee agree to be confidential, may not be disclosed without the Licensee's written approval. This does not include information that the Authority is obliged to disclose in terms of an Act of Parliament or a court order.

Issued at SANDTON on 30 April 2004.



MANDLA LANGA
CHAIRPERSON

ANNEXURE A

"Effective Date" means the date on which the Licensee is granted a Radio Licence for access to other frequency bands, above and in addition to those already allocated to the Licensee, being the date from which the applicable Universal Service Obligations as per Annexure A shall apply.

- A.1 The Licensee shall provide Internet access to no less than 1000 (one thousand) rural and urban public schools by the year 2011 in accordance with the following implementation timetable, and shall within two 2 (two) months after the end of each roll-out period, as stated in A.1.1 to A.1.3 below, provide to the Authority with a compliance report, the format of which shall be determined by the Authority:
- A.1.1 Within 2 (two) years from the Effective Date, the Licensee shall have provided Internet access to 200 (two hundred) rural and urban public schools.
- A.1.2 Within 5 (five) years from the Effective Date, the Licensee shall have provided Internet access to 700 (seven hundred) rural and urban public schools.
- A.1.3 Within 7 (seven) years from the Effective Date, the Licensee shall have provided Internet access to 1000 (one thousand) rural and urban public schools.
- A.2 For the purposes of compliance with the obligations contained in A.1, Internet access shall be construed as the provisioning of Internet connectivity as a telecommunication service, which shall include the necessary telecommunications access link and bandwidth to connect all workstations in the rural and urban public schools to the global network of networks known as the Internet, but shall exclude any other necessary information technology support infrastructure, end-user equipment and facilities, such as power supply, personal computers and user terminals, on-premise servers network equipment and other related local area network infrastructure.
- A.3 For the purposes of compliance with the obligations contained in A.1 read together with A.2 above, the rural and urban public schools that shall qualify as schools to which the Licensee is required to provide Internet access, shall be schools in under-served and un-served areas, and/or any school or other registered further education and training institution that

may be listed and approved by the Department of Education as a school or registered education and training institution in need of Internet access.

A.4 For avoidance of doubt, the rural public schools to which Internet services are to be provided shall exclude those rural public schools which already have Internet access.

A.5 For the purposes of compliance with A.1 read together with A.2 above, the Licensee shall give due preference to the provision of internet access to schools in rural areas.

A.6

a). Within 180 days of Effective Date or such other reasonable date as the Authority may determine, the Licensee shall submit to the Authority the roll-out plan in respect of the Internet access to be provided for the first two years referred to in A.1.1, that specifies the urban and rural public schools where such Internet access will be provided. At least 2 (two) months prior to the end of the period referred to A.1.1 or within such other reasonable date as the Authority may determine, the Licensee shall submit to the Authority the roll-out plan in respect of the 5 year period referred to in A.1.2. At least 2 (two) months prior to the end of the period referred to A.1.2 or such other reasonable date as the Authority may determine, the Licensee shall submit to the Authority the roll-out plan in respect of the remaining period for the 7 years referred to in A.1.3. The approval of the roll-out plan is subject to the discretion of the Authority. Should the Licensee fail to produce a roll-out plan in any of the periods stipulated above, the Authority may impose a roll-out plan upon the Licensee.

b). The roll-out plan referred to in A.6 (a) above shall stipulate, amongst others, the technology to be used, operational details, cost-sharing between the Licensee and the relevant school involved, and specify location, name and the need for such internet access by the relevant school.

A.7 The roll-out plan as contemplated in A.6 above shall be co-ordinated in consultation with the Universal Service Agency, under the supervision of the Authority. Without derogating from the contents of A.2 to A.5 above, the implementation of the Licensee's obligations and commitments may further be co-ordinated between the Licensee, national and provincial Departments of Education and other entities working to achieve computer and Internet accessibility in public schools.

A.8

a). The provision of Internet access for the purposes of compliance with the obligations contained in A.1 read together with A.2 above, shall be made

available at the 50% discount rate applicable to all rural and urban public schools and further public education and training institutions referred to in section 45(3) of the Act or such other suitably discounted rates as the Authority may, in its reasonable discretion, approve from time to time.

- b). The Licensee shall be solely responsible for concluding all contractual arrangements necessary for the provision of the Internet access services to qualifying schools, whether concluded directly with such schools or otherwise on their behalf, including payment and levels of service, provided that the Licensee will use its reasonable endeavours to minimise any disruption of Internet access to such schools due to non-payment and will notify the Authority in the event that any Internet access service is discontinued for this reason. Upon good cause shown, disruption of any Internet access service shall not prejudice compliance by the Licensee with the obligations contained in this Annexure A.
- A.9 The contents of the roll-out plan contemplated in A.6 may be amended by agreement between the Licensee and the Authority to include any proposals made by the Authority or the Licensee within the 180 day or 2 (two) month period referred to in A.6 above. Such proposals may include community centres or community clinics and on such terms and conditions as the Authority may determine.
- A.10 Subject to and following co-ordination and consultation with the Universal Service Agency, the national and any provincial Departments of Education or any other entity referred to in A.7 above, the Licensee shall provide the Authority with statistical data in relation to the rural and urban public schools to which the roll-out plan relates, indicating the level to which the rural or urban public school is under-serviced or un-served, subject to the approval of the Authority. The statistical data shall be included in the roll-out plan.
- A.11 The Authority shall periodically assess the Licensee's level of compliance with its obligations to provide Internet access to rural and urban public schools. For the purposes of compliance with the obligations contained in this Annexure A, the Internet access to be provided by the Licensee, may be contracted or procured by the Licensee from any alternative suppliers using any suitable telecommunication facilities, subject to compliance with the general conditions of the Licence contained in clause 1.2 of the Licensee's National Mobile Data Telecommunications Licence.
- A.12 The Licensee agrees to the commitments and obligations set out in this Annexure A. Failure by the Licensee to comply with, or to discharge the commitments set out in Annexure A may result in the imposition on the Licensee of fines as may be levied by the Authority in terms of the Act.