

## SCHEDULE 2

### INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICES LICENCES

#### 1. INTERPRETATION

(1) In these regulations terms used have the same meaning as in the Electronic Communications Act, (No. 36 of 2005) unless otherwise defined in these regulations:

“Act” means the Electronic Communications Act, 2005 (Act No. 36 of 2005);

“ECN” means an electronic communications network;

“ECNS” means an electronic communications network service;

“effective date” means the date on which the Licence is issued;

“Licence” means the individual ECNS Licence issued to the Licensee in the form contained in Annexure B of these regulations;

“Licensee” means the person named in the Licence; and

“Schedule” means the schedule to the Licence containing the specific terms and conditions which the Authority has imposed upon the Licensee in terms of section 9(7) of the Act and the related legislation.

(2) Should any specific provision of these regulations become void or unenforceable as a result of a change in law, or final judgment of a court of competent jurisdiction, all other provisions hereof will continue to remain in force notwithstanding.

#### 2. COMPLIANCE

A Licensee must comply with the provisions of the Act and the related legislation.

#### 3. NOTIFICATION OF LICENSEE DETAILS AND INFORMATION

A Licensee must submit written notice to the Authority within seven (7) days of the occurrence of changes in respect of -

- (a) the board of directors of the Licensee;
- (b) the name of the Licensee; and
- (c) the shareholders' agreement or similar agreement governing the affairs of the Licensee.

#### **4. LICENCE AREA**

The licence area is as defined in the Licence issued to a Licensee.

#### **5. DURATION OF THE LICENCE**

The Licence is valid for twenty (20) years from the effective date.

#### **6. COMMENCEMENT AND OPERATION OF SERVICE**

(1) A Licensee must commence operation of the ECNS specified in the Licence within twelve (12) months from the effective date, unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the twelve (12) months.

(2) Where a Licensee cannot provide the licensed service due to circumstances beyond a Licensee's reasonable control, for a continuous period of twelve (12) hours or longer, a Licensee must notify the Authority in writing of such circumstances within twenty four (24) hours of the occurrence thereof.

#### **7. SERVICES TO BE PROVIDED BY THE LICENSEE**

A Licensee must construct, operate and maintain an ECN as well as provide ECNS in the licence area.

#### **8. SAFETY MEASURES**

A Licensee must, in respect of all apparatus, equipment and installations that it owns, leases or uses, take such safety measures as may be prescribed and in any event such reasonable and necessary safety measures to safeguard life or property, and limit exposure to electromagnetic emission, radiation and related risks.

#### **9. PROVISION OF INFORMATION**

(1) The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide information, so as to enable it to:

- (a) monitor and enforce consumer protection, quality of service, competition and other requirements of the Act and related legislation;
  - (b) allow for the assessment and allocation of applicable fees and related requirements;
  - (c) facilitate the efficient use of scarce resources; and
  - (d) collect and compile aggregate information to be used for the purposes of sectoral planning and reporting.
- (2) In respect of each information request referred to in sub-clause (1), except where otherwise addressed in applicable regulations, the Authority will provide, among other things, detailed specifications of its information request, applicable response times and identify a contact person to address queries to in the matter concerned.

## **10. PUBLICATIONS OF TARIFFS AND FEES**

- (1) A Licensee may not provide any service for a charge, fee or other compensation, unless the price(s) for the service and other terms and conditions of the provision of such service:
- (a) have been made known to the public by:
    - (i) making such prices and terms and conditions available for inspection at its offices during business hours;
    - (ii) providing such details to anyone who requests same at no charge; and
    - (iii) providing such details on its website, if any; and
  - (b) have been filed with the Authority at least seven (7) days prior to the provision of the said service. In making such a filing, a Licensee must utilise a format approved by the Authority in writing.
- (2) A Licensee must provide to the Authority on a bi-annual basis, a record of the actual services provided and the actual tariffs charged therefor during the previous six months.

## **11. METERING AND BILLING ARRANGEMENTS**

- (1) A Licensee shall install and operate metering and billing systems which accurately record the extent of the service(s) provided to any end-user.
- (2) A Licensee must provide a detailed and accurate invoice and/or statement of services rendered to any end-user at no charge, except where the end-user is either a Licensee or a provider of services under a licence exemption pursuant to Section 6 of the Act.

(3) The invoice and/or statement of services rendered must include information for the entire period covered by such invoice or statement as follows:

- (a) details of services rendered to the end-user; and
- (b) breakdown of charges associated with such services.

## **12. CONFIDENTIALITY**

Where a Licensee requests confidentiality in respect of the information provided in terms of these regulations, the provisions of section 4D of the ICASA Act shall apply.

## **13. SPECIFIC TERMS AND CONDITIONS**

The Authority may impose additional terms and conditions upon the Licensee in terms of section 9(7) of the Act and the ICASA Act. These specific terms and conditions will be contained in the Schedule and may include but are not limited to:

- (a) licence area;
- (b) ownership and control structures of the Licensee;
- (c) requirements for ownership and control by persons from historically disadvantaged groups in respect of the Licensee, in addition to any prescribed by the Authority;
- (d) industry human resources training and skills development requirements of the licensed ECNS;
- (e) service requirements and quality standards; and
- (f) universal service and access obligations, including without limitation, detailed roll-out obligations and incentives for the provision of ECNS in rural and under-served areas, imposed by the Authority in addition to the payment of the prescribed contribution to the Universal Service and Access Fund.

## **14. CONTRAVENTION AND FINES**

(1) In terms of section 17E(2)(b) of the ICASA Act, the Authority may impose on a Licensee a fine not exceeding 10% of revenue in the preceding financial year subject to a maximum of Ten Million Rands (R10 000 000) for each contravention of these regulations.

(2) Repeated contraventions of these regulations will be dealt with in terms of the other applicable provisions of the ICASA Act.

## 15. NOTICES AND ADDRESSES

(1) Any notice or certification given by the Authority or a Licensee shall be in writing and:

- (a) if delivered by hand to the recipient's address, it shall be deemed, until the contrary is proved, that it has been received at the time of delivery;
- (b) if posted by pre-paid registered post from an address within the Republic of South Africa, it shall be deemed, until the contrary is proved, to have been received on the 14<sup>th</sup> day after the date of posting; or
- (c) if sent by facsimile transmission during normal business hours, proof of successful transmission shall be deemed to be proof of receipt, unless the contrary is proved.

(2) A Licensee shall provide the Authority with an address where it will accept formal service of letters, documents and legal process in this regard as well as a fax and telephone number on which it can be contacted as set out in the Licence. A Licensee shall further notify the Authority in writing of any change in such address, fax and telephone numbers prior to the changes being effected.

**ANNEXURE B**



Independent Communications Authority of South Africa

**INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE LICENCE**

**No. ....**

**GRANTED**

**TO**

.....

**FOR THE PROVISION OF**

**ELECTRONIC COMMUNICATIONS NETWORK SERVICES**

**SIGNED FOR AND ON BEHALF OF THE INDEPENDENT COMMUNICATIONS AUTHORITY OF  
SOUTH AFRICA**

**AT .....ON THIS.....DAY OF .....**

\_\_\_\_\_  
**Chairperson**

**1. LICENSEE**

The Licence is issued to:

- 1.1. Name of Company/Entity:.....
- 1.2. Shareholders(*where applicable*):.....
- 1.3. Ownership held by persons from historically disadvantaged groups (*where applicable*):.....

**2. CONTACT DETAILS**

2.1. The contact person for the Licensee shall be:

- 2.1.1. Name:.....
- 2.1.2. Tel: .....
- 2.1.3. Fax:.....
- 2.1.4. Cell:.....
- 2.1.5. Email:.....

2.2. Should the Licensee propose to replace the person so designated, the Licensee shall notify the Authority in writing within seven (7) days after appointing the new designate person.

**3. NOTICES AND ADDRESSES**

The Licensee chooses the following addresses as its principal addresses:

Postal Address:..... and	Physical Address:.....
.....	.....
.....	.....
.....	.....
.....	.....

**SCHEDULE**

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## SCHEDULE 3

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“ECN” means an electronic communications network;

“ECNS” means an electronic communications network service;

“ECS” means an electronic communications service;

“effective date” means the date on which the Licence is issued;

“Licence” means the individual ECS Licence issued to the Licensee in the form contained in Annexure C of these regulations;

“Licensee” means the person named in the Licence;

“PECN” means a private electronic communications network; and

“Schedule” means the schedule to the Licence containing the specific terms and conditions which the Authority has imposed upon the Licensee in terms of section 9(7) of the Act and the related legislation.

(2) Should any specific provision of these regulations become void or unenforceable as a result of a change in law, or final judgment of a court of competent jurisdiction, all other provisions hereof will continue to remain in force notwithstanding.

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- (a) the board of directors of the Licensee;
- (b) the name of the Licensee; and