

(28 March 2023 – to date)

## **ELECTRONIC COMMUNICATIONS ACT 36 OF 2005**

*(Gazette No. 28743, Notice No.364 dated 18 April 2006. Commencement date: 19 July 2006) [Proc. No. R29, Gazette No. 29044]*

### **INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**

#### **REGULATIONS REGARDING STANDARD TERMS AND CONDITIONS FOR INDIVIDUAL LICENCES UNDER CHAPTER 3 OF THE ELECTRONIC COMMUNICATIONS ACT, 2005 (NO. 36 OF 2005)**

*Government Notice R523 in Government Gazette 33294 dated 14 June 2010. Commencement date: 12 September 2011 [General Notice 623, Government Gazette 34594 dated 9 September 2011].*

#### **As amended by:**

*General Notice 158 in Government Gazette 39875 dated 30 March 2016. Commencement date:  
30 March 2016.*

*General Notice 699 in Government Gazette 40372 dated 26 October 2016. Commencement date:  
26 October 2016.*

*General Notice 1717 in Government Gazette 48317 dated 28 March 2023. Commencement date:  
28 March 2023.*

The Independent Communications Authority of South Africa, in terms of section 8 read with section 4 of the Electronic communications [sic] Act, 2005 (No.36 of 2005) and 17E(2)(b) of the ICASA Act, 2000 (NO. 13 of 2000), hereby prescribes regulations in the schedules.

(Signed)

**PARIS MASHILE**  
**CHAIRPERSON**  
**ICASA**

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### SCHEDULE 1

#### INDIVIDUAL BROADCASTING SERVICES LICENCES

##### 1. DEFINITIONS

In these regulations, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned:

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

**“BS”** means a broadcasting service; as defined in the Electronic Communications Act 2005 (Act No. 36 of 2005)

**“days”** means as defined in the Act;

*(Definition of “days” inserted by regulation 2.1 of Schedule 1 of GenN 1717 of 2023)*

**“Effective Date”** means the date on which the licence comes or came into effect which may be different from the date on which the licence is issued or signed by the Authority;

*(Definition of “Effective Date” substituted by regulation 2.2 of Schedule 1 of GenN 1717 of 2023)*

**“Licence”** means the Individual Broadcasting Service Licence issued to the Licensee in the form contained in Annexure A of these regulations;

**“Licensee”** means a person named in the Licence and issued with a licence to provide services in terms of Chapter 3 of the Act;

**“News”** means programming that is not current affairs by a broadcaster in which it reports on news events of immediate social, political or economic relevance and on matters of international, national and local significance;

*(Definition of “News” inserted by regulation 2.3 of Schedule 1 of GenN 1717 of 2023)*

**“Public Service Announcement”** means an announcement broadcast by a broadcasting service licensee aimed at providing information concerning a disaster or immediate grave danger to the public or in the interests of public welfare; and

*(Definition of “Public Service Announcement” substituted by regulation 2.4 of Schedule 1 of GenN 1717 of 2023)*

**“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. NOTIFICATION OF CHANGE IN LICENSEE DETAILS AND INFORMATION**

- (1) A Licensee must submit written notice to the Authority within fourteen (14) days of occurrence of the following changes:
  - (a) the name of the Licensee;
  - (b) contact details including the contact persons (e.g. telephone, cell number and email);
  - (c) Shareholding;
  - (d) Principal place of business; and
  - (e) Postal address.

*(Regulation 2 amended by regulation 2.3 of Schedule 1 of GenN 158 of 2016)*

*(Regulation 2 substituted by regulation 3 of Schedule 1 of GenN 1717 of 2023)*

## **3. LICENCE AREA**

The licence area is as specified in the Schedule.

## **4. DURATION OF THE LICENCE**

The following Licences are valid for the following periods from the effective date:

- (a) Public or commercial free to air television BS: fifteen (15) years;
- (b) Subscription BS: fifteen (15) years; and

- (c) Public or commercial free to air sound BS: ten (10) years.

## **5. COMMENCEMENT OF OPERATIONS**

- (1) A Licensee must commence operation of the BS specified in the Licence, within the periods mentioned in the paragraphs below, unless the Authority grants, on good cause shown, an extended commencement period:
  - (a) twelve (12) months from the date of issue in respect of free to air sound BS;
  - (b) twenty-four (24) months from the date of issue in respect of free to air television BS; or
  - (c) twenty-four (24) months from the date of issue in respect of subscription BS;
- (2) A request for an extension of the commencement period, in terms of sub regulation (1), must be brought to the Authority six (6) months prior to the expiry of the commencement of operations.
- (3) An extension for the commencement of operations shall only be granted once for a period that does not exceed the period stipulated in sub regulation (1)
- (4) Where a licensee has not commenced operations, it must provide the Authority with a letter from external auditors confirming that it has not generated any revenue from the licensed service.
- (5) Where a Licensee is not legally required to have audited financial statements ("AFS"), it must submit a letter from an Independent Accounting Officer and must submit a clearance certificate from South African Revenue Services ("SARS") as proof that it did not generate any revenue from the licensed service.

*(Regulation 5 substituted by regulation 3 of Schedule 1 of GenN 158 of 2016)*

## **6. HOURS OF OPERATIONS**

- (1) A Licensee must provide broadcast services for twenty four (24) hours per day unless the Authority has approved a shorter schedule of daily broadcast operations as specified in the Schedule.
- (2) Where a Licensee cannot provide the licensed service due to circumstance beyond its control, for a continuous period of six (6) hours or longer, the Licensee must notify the Authority in writing of such circumstances within twenty four (24) hours of being aware of such an occurrence.

*(Regulation 6(2) substituted by regulation 4.1 of Schedule 1 of GenN 1717 of 2023)*

- (3) Wherein the Licensee cannot provide licensed services for a continuous period of more than seven (7) days, a request for an exemption to comply with the licence terms and conditions and applicable

regulations should be submitted to the Authority within forty-eight (48) hours of being aware of such an occurrence.

*(Regulation 6(3) added by regulation 4.2 of Schedule 1 of GenN 1717 of 2023)*

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

A Licensee must in terms of these regulations provide one of the following BS:

- (a) Public free to air television BS;
- (b) Commercial free to television BS;
- (c) Public free to air sound BS;
- (d) Commercial free to air sound BS; or
- (e) Subscription (sound and/or television) BS.

## **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 to 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 any information including documents or books not ordinarily required, so as to enable it to:
  - (a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions 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 radio frequency spectrum; and
  - (d) collect and compile information to be used for research purposes, planning, reporting and conducting inquiries.
- (2) In respect of each information request referred to in sub regulation (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 a contact person to whom queries may be addressed.

- (3) Submission of information for the annual compliance report must be in line with the relevant guidelines and Licence Terms and Conditions.
- (4) Further to the above, the Licensee must provide information or report on to their syndication/network of programmes. Programme syndication must not exceed 20% of the licensee's programming.
- (5) In the event that the Licensee or its representative refuses or fails to provide the Authority with the requested information in terms of subregulation (1), the Authority may, after three (3) attempts, refer the matter to the CCC.

*(Regulation 9(5) substituted by regulation 5 of Schedule 1 of GenN 1717 of 2023)*

*(Regulation 9 substituted by regulation 4 of Schedule 1 of GenN 158 of 2016)*

## **10. PUBLIC SERVICE ANNOUNCEMENTS**

- (1) The Licensee must broadcast public service announcements in the public interest as may be requested by the Authority in writing.
- (2) The Licensee may broadcast public service announcements in the public interest as may be requested by a Public Service Institution in writing.

## **11. GENERAL OBLIGATIONS OF LICENSEES**

- (1) A Licensee shall inform the Authority, in writing, within fourteen (14) days of:
  - (a) any judgement or judgements given in a court of law against it; and
  - (b) any conviction in respect of an offence involving dishonesty of any of its directors or senior managers.

- (2) .....

*(Regulation 11(2) deleted by regulation 6 of Schedule 1 of GenN 1717 of 2023)*

- (3) A station must clearly identify itself at intervals of not more than thirty (30) minutes.

## **12. SPECIFIC TERMS AND CONDITIONS**



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

- (a) geographic coverage area of the licensed BS setting out the scope of coverage (regional or national) and universal service and access targets, if any;
- (b) technology platform to be used in providing the licensed BS (e.g. terrestrial analogue, terrestrial digital, cable, satellite etc);
- (c) language(s) of the licensed BS;
- (d) format of the licensed BS, including but not limited to the content and presentation type of the sound and/or television BS e.g. full service, adult contemporary, talk radio etc;
- (e) local content obligations of the licensed BS in addition to those prescribed by the Authority;
- (f) other general programming obligations of the licensed BS, including without limitation, obligations in respect of news, actuality programming, political issues of public interest, educational programming and programming to meet the needs of children, the youth, women and disabled persons etc;
- (g) ownership and control structure of the Licensee;
- (h) obligations in respect of ownership and control by persons from historically disadvantaged groups in respect of the Licensee, in addition to those prescribed by the Authority;
- (i) human resources training and skills development undertaken by the licensee;
- (j) community-related obligations of the licensed BS;
- (k) broadcast hours of the licensed BS if fewer than twenty four (24) hours per day; and
- (l) in relation to the South African Broadcasting Corporation:
  - (i) its obligations in respect of publicising the Television Licence fee;
  - (ii) cross-subsidisation issues as between its public commercial and public services; and
  - (iii) the provision of audited financial statements to the Authority

### **13. OBLIGATIONS THAT APPLY IN RESPECT OF SUBSCRIPTION BROADCASTING SERVICES ONLY**

- (1) A subscription BS Licensee may not provide a subscription service, unless the price(s) for the service and other terms and conditions of the provision of such service have been made known to the public by:
  - (a) making such prices and terms and conditions available for inspection at its offices during business hours;
  - (b) providing such details to anyone who requests same at no charge; and
  - (c) providing such details on its website; if any
- (2) A subscription BS Licensee must submit to the Authority:
  - (a) details of the price(s), including any temporary or permanent adjustment to existing prices, for its service and related terms and conditions of the provision of such service at least seven (7) days prior to the provision of the said services; and
  - (b) On bi-annual basis, a record of the actual services provided and related tariffs charged during the previous six months by 31 July.  
*(Regulation 13(2) substituted by regulation 5 of Schedule 1 of GenN 158 of 2016)*
- (3) Billing Obligations of Subscriptions BS Licensees:
  - (a) The Licensee must at no charge provide an accurate invoice with a detailed statement of services rendered to any subscriber.
  - (b) Such invoice must include, among other things, the following information for the entire period covered by such invoice or statement:
    - (i) detail of all services rendered to the customer or subscriber;
    - (ii) the breakdown of the different charges associated with such services; and
    - (iii) the applicable service pricing for the period of use covered by such invoice or statement.

### **14. CONTRAVENTIONS AND PENALTIES**

- (1) Any person that contravenes regulations 6, 7, 9, 10 and 12 is liable to a fine not less than R100 000, 00 (One hundred thousand Rand) but not exceeding R5 000 000, 00 (Five million Rand) or 10% of the

Licensee's annual turnover – whichever is the greater - for every day or part thereof during which the offence is continued.

- (2) Any person that contravenes any other regulation, not specified in sub regulation (1), except regulation 5, is liable to a fine not less than R10 000, 00 (Ten thousand Rand) but not exceeding R100 000, 00 (One hundred thousand Rand).
- (3) A person found guilty of a contravention in terms of sub regulations (1) and (2) is liable for an additional fine of R100 000, 00 for every repeated contravention of a regulation in these Regulations.
- (4) Failure to commence with operations in terms of regulation 5 will result in the revocation of a licence.  
*(Regulation 14 substituted by regulation 6 of Schedule 1 of GenN 158 of 2016)*

## 15. NOTICES AND ADDRESSES

- (1) Any notice or certification given by the Authority or the Licensee shall be in writing and:
  - (a) if delivered by hand to the recipient's address, it shall be deemed, until the contrary is proven, 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 proven, to have been received on the 14th 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 proven.
- (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.

## 16. SHORT TITLE AND COMMENCEMENT

These regulations are called the Standard Terms and Conditions for Individual Broadcasting Services, 2010 and will come into operation by notice in the *gazette*.

## 17. REPEAL OF REGULATIONS

These regulations repeal **Government Gazette No. 30530** containing the Standard Terms and Conditions for Individual licences published 30 November 2007, in its entirety.

**ANNEXURE A**

**INDIVIDUAL BROADCASTING SERVICES**



**INDIVIDUAL BROADCASTING SERVICE LICENCE**

**No .....**

**GRANTED AND ISSUED**

**TO**

**.....**

**FOR THE PROVISION OF**

**.....**

**Effective from [Year:Month:Day]**

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

**AT \_\_\_\_\_ ON THIS XX DAY OF MONTH 20XX**

\_\_\_\_\_  
**CHAIRPERSON**

## PART 1

### 1. LICENSEE

The Licence is issued to:

1.1. Name of Entity: .....

1.2 Shareholders: (where applicable): .....

1.3 Ownership held by persons from historically disadvantage[sic] groups: .....

### 2. LICENCE PERIOD

2.1 The Effective Date of the licence is XX XXX 20XX.

2.2 The licence shall expire on XX XXX 20XX.

### 3. GENERAL LICENCE TERMS

*(May vary, this is dependent on the Licence)*

## PART 2

### 4. TRADING NAME OF LICENSEE

The Trading Name of the Licensee is: .....

### 5. CONTACT DETAILS

5.1 The contact person for the Licensee shall be:

5.1.1 Name:.....

5.1.2 Tel:.....

5.1.3 Cell:.....

5.1.4 Email:.....

### 6. NOTICES AND ADDRESSES

Prepared by:

6.1 The Licensee chooses the following as its principal addresses:

6.1.1 Principal place of business : .....

6.1.2 Postal address : .....

*(Annexure A substituted by regulation 8 of Schedule 1 of GenN 1717 of 2023)*

## SCHEDULE 2

### INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICES

#### 1. DEFINITION

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) as amended;

**“days”** means as defined in the Act;

*(Definition of “days” inserted by regulation 2.1 of Schedule 2 of GenN 1717 of 2023)*

**“ECN”** means an Electronic Communications Network;

**“ECNS”** means an Electronic Communications Network Service;

**“Effective Date”** means the date on which the licence comes or came into effect which may be different from the date on which the licence is issued or signed by the Authority;

*(Definition of “Effective Date” substituted by regulation 2.2 of Schedule 2 of GenN 1717 of 2023)*

**“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 Licence and issued with a licence to provide services in terms of Chapter 3 of the Act;

**“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. NOTIFICATION OF CHANGE IN LICENSEE DETAILS AND INFORMATION

- (1) A Licensee must submit written notice to the Authority within fourteen (14) days of the occurrence of the following changes:
  - (a) the name of the Licensee;
  - (b) contact details including the contact persons (e.g. telephone, cell number and email);
  - (c) shareholding;

(d) Principal place of business; and

(e) Postal address.

*(Regulation 2 amended by regulation 2.1 of Schedule 2 of GenN 158 of 2016)*

*(Regulation 2 amended by regulation 2 of GenN 699 of 2016)*

*(Regulation 2 substituted by regulation 3 of Schedule 2 of GenN 1717 of 2023)*

### **3. LICENCE AREA**

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

### **4. DURATION OF THE LICENCE**

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

### **5. COMMENCEMENT OF OPERATIONS**

- (1) A Licensee must commence operation of the ECNS specified in the Licence within twenty-four (24) months from the date of issue, unless the Authority grants, on good cause shown, an extended commencement period on written application.
- (2) A request for an extension of the commencement period, in terms of sub regulation (1), must be brought to the Authority twelve (12) months prior to the expiry of the commencement of operations.
- (3) An extension for the commencement of operations shall only be granted once for a period that does not exceed the period stipulated in sub regulation (1).
- (4) Where a licensee fails to adhere to the extension, this will constitute non-compliance and will be referred to the CCC to take a decision on cancelling the licence in terms of section 14 of the Act and section 17D of the ICASA Act.
- (5) Where a licensee has not commenced operations, it must provide the Authority with a letter from external auditors confirming that it did not generate any revenue from the licensed service.
- (6) Where a Licensee is not legally required to have audited financial statements ("AFS"), it must submit a letter from an Independent Accounting Officer and must submit a clearance certificate from South African Revenue Services ("SARS") as proof that it did not generate any revenue from the licensed service.

*(Regulation 5 substituted by regulation 3 of Schedule 2 of GenN 158 of 2016)*

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

Prepared by:



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

## **7. 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 to limit exposure to electromagnetic emission, radiation and related risks.

## **8. PROVISION OF INFORMATION**

- (1) The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide any information including documents or books not ordinarily required, so as to enable it to:
  - (a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions 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 radio frequency spectrum; and
  - (d) collect and compile information to be used for research purposes, planning, reporting and conducting inquiries.
- (2) In respect of each information request referred to in sub regulation (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 a contact person to whom queries may be addressed.
- (3) A licensee must submit all the required information as required by the Authority in terms of subsection (1).
- (4) In the event that the Licensee or its representative refuses or fails to provide the Authority with the requested information in terms of subregulation (1), the Authority may, after three (3) attempts, refer the matter to the CCC.

*(Regulation 8(4) substituted by regulation 4 of Schedule 2 of GenN 1717 of 2023)*

*(Regulation 8 substituted by regulation 4 of Schedule 2 of GenN 158 of 2016)*

## **9. ....**

*(Regulation 9 repealed by regulation 5 of Schedule 2 of GenN 158 of 2016)*

## 10. 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 an accurate invoice with a detailed statement of services rendered to any end- user at no charge.
- (3) The invoice must include information for the entire period covered by such invoice as follows:
  - (a) details of services rendered to the end-user;
  - (b) breakdown of charges associated with services, and
  - (c) such other relevant information associated with the end-user's account.
- (4) Upon request by an end-user, the Licensee must provide an itemised bill, which contains a sufficient level of detail to allow verification of charges incurred in using the services provided by the licensee.
  - (a) Each detailed itemised bill shall contain at least the following information in relation to each individual transaction (voice or data call) charge incurred by the subscriber during the relevant billing period:
    - (1) destination,
    - (2) dialled number,
    - (3) date,
    - (4) time,
    - (5) duration, and
    - (6) charge for each individual transaction.
  - (b) The detailed itemised bill must be provided:
    - (i) via post or in an electronic format; and
    - (ii) at such a price that takes into account the difference in the mode of delivery

## 11. 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) human resources training and skills development undertaken by the licensee;
- (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.

## 12. CONTRAVENTIONS AND PENALTIES

- (1) Any person that contravenes regulations 7, 8, 9 and 10 is liable to a fine not less than R100 000, 00 (One hundred thousand Rand) but not exceeding R5 000 000, 00 (Five million Rand) or 10% of the Licensee's annual turnover – whichever is the greater - for every day or part thereof during which the offence is continued.
- (2) Any person that contravenes any other regulation not specified in sub regulation (1) is liable to a fine not less than R10 000, 00 (Ten thousand Rand) but not exceeding R100 000, 00 (One hundred thousand Rand).
- (3) A person found guilty of a contravention in terms of sub regulations (1) and (2) is liable for an additional fine of R100 000, 00 for every repeated contravention of a regulation in these Regulations.
- (4) Failure to commence with operations in terms of regulation 5 will result in the revocation of the licence.  
*(Regulation 12 substituted by regulation 6 of Schedule 2 of GenN 158 of 2016)*

## 13. NOTICES AND ADDRESSES

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

Prepared by:

- (a) if delivered by hand to the recipient's address, it shall be deemed, until the contrary is proven, 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 proven, to have been received on the 14th 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 proven.
- (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 fax and telephone numbers on which it can be contacted as set out in the Licence.

#### 14. SHORT TITLE AND COMMENCEMENT

These regulations are called the Standard Terms and Conditions for Individual Electronic Communications Network Services, 2010, and will come into operation by notice in the *gazette*.

#### 15. REPEAL OF REGULATIONS

These regulations repeal **Government Gazette No. 30530** containing the Standard Terms and Conditions for Individual licences published in Notice 1138 of 30 November 2007 in its entirety.

**ANNEXURE B**  
**INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICES**



**INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE LICENCE**

No.....

**GRANTED AND ISSUED**

**TO**

.....

**FOR THE PROVISION OF**

.....

Effective from [Year:Month:Day]

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

**AT \_\_\_\_\_ ON THIS XX DAY OF MONTH 20XX**

\_\_\_\_\_  
**CHAIRPERSON**

## PART 1

### 1. LICENSEE

The Licence is issued to:

1.1. Name of Entity: .....

1.2 Shareholders: (where applicable): .....

1.3 Ownership held by persons from historically disadvantage[*sic*] groups: .....

### 2. LICENCE PERIOD

2.1 The Effective Date of the licence is XX XXX 20XX.

2.2 The licence shall expire on XX XXX 20XX.

### 3. GENERAL LICENCE TERMS

*(May vary, this is dependent on the Licence)*

## PART 2

### 4. TRADING NAME OF LICENSEE

The Trading Name of the Licensee is: .....

### 5. CONTACT DETAILS

5.1 The contact person for the Licensee shall be:

5.1.1 Name : .....

5.1.2 Tel : .....

5.1.3 Cell : .....

5.1.4 Email : .....

### 6. NOTICES AND ADDRESSES

Prepared by:

6.1 The Licensee chooses the following as its principal addresses:

6.1.1 Principal place of business : .....

6.1.2 Postal address : .....

*(Annexure B substituted by regulation 6 of Schedule 2 of GenN 1717 of 2023)*

## SCHEDULE 3

### INDIVIDUAL ELECTRONIC COMMUNICATIONS SERVICES

#### 1. DEFINITIONS

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) as amended;

**“days”** means as defined in the Act;

*(Definition of “days” substituted by regulation 2.1 of Schedule 3 of GenN 1717 of 2023)*

**“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 comes or came into effect which may be different from the date on which the licence is issued or signed by the Authority;

*(Definition of “Effective Date” substituted by regulation 2.2 of Schedule 3 of GenN 1717 of 2023)*

**“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 [sic] Licence and issued with a licence to provide services in terms of Chapter 3 of the Act.

**“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. NOTIFICATION OF CHANGE IN LICENSEE DETAILS AND INFORMATION

- (1) A Licensee must submit a written notice to the Authority within fourteen (14) days of the occurrence of the following changes:

- (a) the name of the Licensee;



- (b) contact details including the contact persons (e.g. telephone, cell number and email);
- (c) shareholding;
- (d) Principal place of business; and
- (e) Postal address.

*(Regulation 2 amended by regulation 2 of Schedule 3 of GenN 158 of 2016)*

*(Regulation 2 of Schedule 3 amended by regulation 3 of GenN 699 of 2016)*

*(Regulation 2 substituted by regulation 3 of Schedule 3 of GenN 1717 of 2023)*

### **3. LICENCE AREA**

The licence area for operations under this Licence is the Republic or any part thereof.

### **4. DURATION OF THE LICENCE**

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

*(Regulation 4 substituted by regulation 3 of Schedule 3 of GenN 158 of 2016)*

### **5. COMMENCEMENT OF OPERATIONS**

- (1) A Licensee must commence operation of the service specified in the licence within twenty-four (24) months from the Effective Date, unless the Authority grants, on good cause shown, an extended commencement period on written application.

*(Regulation 5(1) substituted by regulation 4 of Schedule 3 of GenN 1717 of 2023)*

- (2) A request for an extension of the commencement period, in terms of sub regulation (1), must be brought to the Authority twelve (12) months prior to the expiry of the commencement of operations.
- (3) An extension for the commencement of operations shall only be granted once for a period that does not exceed the period stipulated in sub regulation (1).
- (4) Where a licensee fails to adhere to the extension, this will constitute non-compliance and will be referred to the CCC to take a decision on cancelling the licence in terms of section 14 of the Act and section 17D of the ICASA Act.
- (5) Where a licensee has not commenced operations, it must provide the Authority with a letter from external auditors confirming that it did not generate any revenue from the licensed service.

- (6) Where a Licensee is not legally required to have audited financial statements (“AFS”), it must submit a letter from an Independent Accounting Officer and must submit a clearance certificate from South African Revenue Services (“SARS”) as proof that it did not generate any revenue from the licensed service.

*(Regulation 5 substituted by regulation 4 of Schedule 3 of GenN 158 of 2016)*

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

A Licensee must provide ECS by means of an ECN operated by ECNS Licensee or a licence-exempt PECN operator.

## **7. 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 to limit exposure to electromagnetic emission, radiation and related risks.

## **8. PROVISION OF INFORMATION.**

- (1) The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide any information including documents not ordinarily required, so as to enable it to:
- (a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions 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 radio frequency spectrum; and
  - (d) collect and compile information to be used for research purposes, planning, reporting and conducting inquiries.
- (2) In respect of each information request referred to in sub regulation (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 a contact person to whom queries may be addressed.
- (3) A licensee must submit all the required information as required by the Authority in terms of subsection (1).

- (4) In the event that the Licensee or its representative refuses or fails to provide the Authority with requested information in terms of sub-regulation (1), the Authority may, after three (3) attempts, refer the matter to the CCC.

*(Regulation 8(4) substituted by regulation 5 of Schedule 3 of GenN 1717 of 2023)*

*(Regulation 8 substituted by regulation 5 of Schedule 3 of GenN 158 of 2016)*

## **9. PUBLICATION OF TARIFFS AND FEES**

- (1) A Licensee may not provide any service for a charge, fee or other compensation unless the price(s) and terms and conditions, which must include all fees (non-recurring, recurring, OOB rates and billing increments):

(a) have been made known to the end-user by:

- (i) making such prices and terms and conditions available for inspection at the Licensee's principal place of business during business hours and on the website; and
- (ii) providing such details to anyone who requests same at no charge;

(b) have been filed with the Authority at least five (5) days prior to the provision of the said service in a format prescribed by the Authority and must include, amongst others:

- (i) The name of the new product/service, amendment or termination being notified to the Authority;
- (ii) The objective and reason(s) of launching a new product/service, amendment or termination of a product/service;
- (iii) The effective date of the new product/service, amendment or termination of a product/service; and
- (iv) The price(s), and all other fees applicable to the product/service.

*(Regulation 9(1) substituted by regulation 6.1 of Schedule 3 of GenN 1717 of 2023)*

- (1A) A Licensee must notify the Authority of the termination of an existing service(s) at least five (5) days prior to the termination of the said service in a format prescribed by the Authority and must include, amongst others:

- (i) The name of the product/service being terminated;
- (ii) The objective and reason(s) of termination of a product/service; and

- (iii) The effective date of termination of a product/service.

*(Regulation 9(1A) inserted by regulation 6.2 of Schedule 3 of GenN 1717 of 2023)*

- (2) A Licensee must submit to the Authority, on a bi-annual basis, a record of the actual services provided and the actual tariffs charged therefore during the previous six months.

## **10. 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 an accurate invoice with a detailed statement of services rendered to any end-user at no charge.
- (3) The invoice must include information for the entire period covered by such invoice as follows:
  - (a) details of services rendered to the end-user;
  - (b) breakdown of charges associated with services, and
  - (c) such other relevant information associated with the end-user's account.
- (4) Upon request by an end-user, the Licensee must provide an itemised bill, which contains a sufficient level of detail to allow verification of charges incurred in using the services provided by the licensee.
  - (a) Each detailed itemised bill shall contain at least the following information in relation to each individual transaction (voice or data call) charge incurred by the subscriber during the relevant billing period:
    - (1) destination,
    - (2) dialled number,
    - (3) date,
    - (4) time,
    - (5) duration, and
    - (6) charge for each individual transaction.

- (b) The detailed itemised bill must be provided:
  - (i) via post or in an electronic format;
  - (ii) at such a price that takes into account the difference in the mode of delivery.

## 11. 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.

## 12. CONTRAVENTIONS AND PENALTIES

- (1) Any person that contravenes regulations 7, 8, 9 and 10 is liable to a fine not less than R100 000, 00 (One hundred thousand Rand) but not exceeding R5 000 000, 00 (Five million Rand) or 10% of the Licensee's annual turnover – whichever is the greater – for every day or part thereof during which the offence is continued.
- (2) Any person that contravenes any other regulation not specified in sub regulation (1) is liable to a fine not less than R10 000, 00 (Ten thousand Rand) but not exceeding R100 000, 00 (One hundred thousand Rand).
- (3) A person found guilty of a contravention in terms of sub regulations (1) and (2) is liable for an additional fine of R100 000, 00 for every repeated contravention of a regulation in these Regulations.
- (4) Failure to commence with operations in terms of regulation 5 will result in the revocation of the licence.  
*(Regulation 12 substituted by regulation 6 of Schedule 3 of GenN 158 of 2016)*

## 13. NOTICES AND ADDRESSES

- (1) Any notice or certification given by the Authority or the Licensee shall be in writing and:
  - (a) if delivered by hand to the recipient's address, it shall be deemed, until the contrary is proven, 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 proven, to have been received on the 14th 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 proven.

- (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.

#### **14. SHORT TITLE AND COMMENCEMENT**

These regulations are called the Standard Terms and Conditions for Individual Electronic Communication Services 2010, and will come into operation by notice in the *gazette*.

#### **15. REPEAL OF REGULATIONS**

These regulations repeal *Government Gazette* No. 30530 containing the Standard Terms and Conditions for Individual licences published in Notice 1138 of 30 November 2007 in its entirety.

**ANNEXURE C**  
**INDIVIDUAL ELECTRONIC COMMUNICATIONS SERVICES**



**INDIVIDUAL ELECTRONIC COMMUNICATIONS SERVICE LICENCE**

No .....

**GRANTED AND ISSUED**

**TO**

.....

**FOR THE PROVISION OF**

.....

**Effective from [Year:Month:Day]**

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

\_\_\_\_\_  
**CHAIRPERSON**

## PART 1

### 1. LICENSEE

The Licence is issued to:

1.1. Name of Entity: .....

1.2 Shareholders: (where applicable): .....

1.3 Ownership held by persons from historically disadvantage[sic] groups:.....

### 2. LICENCE PERIOD

2.1 The Effective Date of the licence is XX XXX 20XX.

2.2 The licence shall expire on XX XXX 20XX.

### 3. GENERAL LICENCE TERMS

*(May vary, this is dependent on the Licence)*

## PART 2

### 4. TRADING NAME OF LICENSEE

The Trading Name of the Licensee is: .....

### 5. CONTACT DETAILS

5.1 The contact person for the Licensee shall be:

5.1.1 Name : .....

5.1.2 Tel : .....

5.1.3 Cell : .....

5.1.4 Email : .....

### 6. NOTICES AND ADDRESSES

Prepared by:



6.1 The Licensee chooses the following as its principal addresses:

6.1.1 Principal place of business : .....

6.1.2 Postal address : .....

*(Annexure C substituted by regulation 8 of Schedule 3 of GenN 1717 of 2023)*