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SOUTH AFRICA



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GENERAL NOTICES

NOTICE 293 OF 1997

DEPARTMENT OF COMMUNICATIONS

NOTICES IN TERMS OF THE TELECOMMUNICATIONS ACT, 1996 (ACT No. 103 OF 1996), INVITING REPRESENTATIONS IN RELATION TO TELKOM SA LIMITED'S APPLICATION TO PROVIDE PUBLIC SWITCHED TELECOMMUNICATIONS SERVICES; TO USE RADIO FREQUENCY SPECTRUM AND RADIO STATIONS AND TO PROVIDE VALUE ADDED NETWORK SERVICES IN THE REPUBLIC OF SOUTH AFRICA

1. In terms of sections 36 (1), 30 (3) (a) and 40 (1) (a) of the Telecommunications Act, No. 103 of 1996 (the "Act"), Telkom is deemed to have applied for Licences to provide public switched telecommunications services, to use radio frequency spectrum and radio stations and to provide value added network services, respectively.
2. The terms and conditions on which the Licences contemplated in sections 36, 30 and 40 of the Act will be issued, are published herewith.
3. Interested persons are invited to lodge written representations in relation to Telkom's application and the proposed Licences to the Minister for Posts, Telecommunications and Broadcasting, for the attention of Willem Pruis at the Department of Communications, 14th Floor, Mutual & Federal Building, 220 Vermeulen Street, Pretoria, or by fax (012) 319-8311 **not later than 12:00 on 19 February 1997.**

4. All representations and documents lodged with the Minister pursuant to this notice shall be open for public inspection by interested parties during the normal office hours of the Minister from 20 February 1997.
5. Representations and documents which the Minister considers to be confidential will not be available for public inspection. Persons submitting representations that they believe are confidential should so indicate clearly, together with their reasons. The Minister may, on receiving such requests, determine that such documents shall not be open for public inspection. If a request for confidentiality is refused, the person making the request will be allowed to withdraw the document in question.
6. Persons who submit written representations should, when submitting their representations, indicate whether they wish to make oral representations at a public hearing to be held from 10:00 on 24 and 25 February 1997 at the Parktonian Hotel (Braamfontein Conference Centre), De Korte Street, Braamfontein, Johannesburg, and indicate the estimated duration of their oral presentation.
7. Persons in paragraph 6 above should be available, at their own cost, on 24 and 25 February 1997 at the above venue for the purpose of making such oral representations.
8. A preliminary time schedule for oral presentations will be available on 21 February 1997 from Willem Pruis at the Department of Communications [Tel. (012) 319-8000].

J. NAIDOO

Minister for Posts, Telecommunications and Broadcasting

LICENCE ISSUED TO TELKOM SA LIMITED TO PROVIDE TELECOMMUNICATION
SERVICES UNDER SECTION 36 OF THE TELECOMMUNICATIONS ACT, 1996

THE LICENCE

The Minister, in exercise of the powers conferred on him by section 36 of the Telecommunications Act, 1996 (hereinafter referred to as the "Act"), and of all other powers exercisable by him for that purpose, hereby issues to Telkom SA Limited a licence, for the purpose of providing telecommunication services, subject to the provisions set forth in such licence and in favour of the licensee, for the condition 12 and the Act, to provide the telecommunication services specified in condition 2.

This licence shall confer on the Minister, the Authority and the Licensee the rights, subject to the conditions set forth herein.

J. NADOD

Minister for Posts, Telecommunications and Broadcasting

(DATE)

**Licence issued by the Minister for Posts, Telecommunications and
Broadcasting to Telkom SA Limited under section 36 of the
Telecommunications Act, 1996**

**LICENCE ISSUED TO TELKOM SA LIMITED TO PROVIDE TELECOMMUNICATION
SERVICES UNDER SECTION 36 OF THE TELECOMMUNICATIONS ACT, 1996**

THE LICENCE

The Minister, in exercise of the powers conferred on him by section 36 of the Telecommunications Act, 1996 (hereinafter referred to as the "Act") and of all other powers exercisable by him for that purpose, hereby issues to Telkom SA Limited a licence, for the period specified in condition 13.1, subject to the provisions set forth in such licence and to revocation as provided for in condition 12 and the Act, to provide the telecommunication services specified in condition 2.

This licence shall confer on the Minister, the Authority and the Licensee the rights, subject to the obligations, set forth herein.

J. NAIDOO

Minister for Posts, Telecommunications and Broadcasting

[DATE]

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"Existing Waiting List" means a register of applications maintained from time to time by the Licensee identifying customers who have requested and were awaiting the telecommunication services referred to in condition 4.1.1 (a) on or before 28 January 1997 but for whom the Licensee is unable to provide such telecommunication services because of the unavailability of an Exchange Line whereby such customer can be connected to the Local Exchange Network.

"financial year" means the period of twelve (12) months in respect of which the Licensee is required to make up its accounts under the Companies Act.

"Hospital" means an institution—

- (a) registered as such in terms of any law; or
- (b) that, in the Authority's opinion, offers regular medical attention and nursing services as an integral part of the amenities available for the care of the sick or infirm.

"Intellectual Property Right" has the meaning assigned to such term in condition 9.4.

"Interconnection Service" means a telecommunication service which an Operator has requested from the Licensee and which the Licensee is obliged to enter into an agreement to provide in accordance with section 43 of the Act and the guidelines contemplated thereunder.

"International Call" means a call which originates in a telecommunication system in the Republic and terminates in a telecommunication system in a country other than the Republic or vice versa.

"International Network" means the telecommunication systems which are installed or otherwise provided, maintained and operated by the Licensee for the purpose of providing the International Telecommunication Service.

"International Telecommunication Service" means a telecommunication service comprising the conveyance of an International Call via a Network Connection Point in the International Network, which call:

- (a) is received from, or sent to, the National Long-distance Telecommunication Network; or
- (b) is received from or sent to a Network Connection Point comprised in the national long-distance telecommunication system of an Operator;

together with the installation, bringing into service, maintenance and repair of that part of the Public Switched Telecommunication Network which is provided, maintained and operated by the Licensee for the purpose of providing the relevant telecommunication service.

"Internet" means an integrated international computer network through which users are connected to each other by means of the TCP/IP family of protocols.

"ITU" means the International Telecommunications Union.

"Library" means a fixed or permanent public facility that, in the Authority's opinion, is established for the primary purpose of lending or making books available to the community.

"Licence" means this licence issued by the Minister to the Licensee under section 36 of the Act.

“Licensee” means Telkom SA Limited, a company incorporated under the laws of the Republic and contemplated in section 3 (1) of the Post Office Act.

“Local Access Network” means the telecommunication systems which are installed or otherwise provided, maintained and operated by the Licensee for the purpose of providing the Local Access Telecommunication Service in one or more Local Exchange Areas.

“Local Access Telecommunication Service” means a telecommunication service comprising the conveyance of signals—

- (a) in the case of switched services, between a Terminal Connection Point, or a Network Connection Point giving access to the national long-distance network of an Operator, as the case may be, and the Local Exchange in the same Local Exchange Area to and from which the telecommunication service is provided to that Terminal Connection Point or Network Connection Point, as the case may be; and
- (b) in the case of Private Circuits, between a Terminal Connection Point and—
 - (i) an access point to and from the National Long-distance Network; or
 - (ii) another Terminal Connection Point in the same Local Exchange Area;

together with the installation, bringing into service, maintenance and repair of that part of the Public Switched Telecommunication Network which is provided, maintained and operated by the Licensee for the purpose of providing the relevant telecommunication service.

“Local Authority” means any institution or body defined as a “local Government Body” in section 1 of the Local Government Transition Act, 1993 (Act No. 209 of 1993).

“Local Exchange” means that part of the telecommunication system comprised in the Local Access Network installed in a Local Exchange Area to provide switched Local Access Telecommunication Services to customers connected to Local Lines comprised in that Local Exchange Area.

“Local Exchange Area” means a geographically defined area, as defined from time to time by the Licensee, within which all Exchange Lines are connected to, and served by, the same Local Exchange.

“Local Line” means a telecommunication facility in the Local Access Network comprised within a Local Exchange Area which is installed for the purposes of connecting a Terminal Connection Point to:

- (a) another Terminal Connection Point in the same Local Exchange Area;
- (b) the Local Exchange in that Local Exchange Area; or
- (c) other elements of the Public Switched Telecommunication Network which are not comprised in the Local Access Network.

“Maritime Service” means an International Telecommunication Service consisting of two-way telecommunication (including, without limitation, manually and automatically switched voice and data services) between the International Network and seagoing vessels or other floating structures, which are compliant with the relevant Radio Regulations of the ITU.

"Mobile Telecommunication Service" means a mobile cellular telecommunication service as contemplated in section 37 (1) of the Act.

"National Long-distance Network" means the telecommunication systems which are installed or otherwise provided, maintained and operated by the Licensee for the purpose of providing the National Long-distance Telecommunication Service.

"National Long-distance Telecommunication Service" means a telecommunication service comprising the conveyance of signals to or from—

- (a) a Local Access Network;
- (b) the International Network; or
- (c) the telecommunication system of another operator via a Network Connection Point in the Public Switched Telecommunication Network; together with the installation, bringing into service, maintenance and repair of that part of the Public Switched Telecommunication Network which is provided, maintained and operated by the Licensee for the purposes of providing the relevant telecommunication service.

"National Revenue Fund" means the National Revenue Fund established under section 185 of the Constitution.

"Network Connection Equipment" means, in relation to any telecommunication system, an item of telecommunication apparatus comprised in that telecommunication system which is not Terminal Connection Equipment and which is used, or is meant to be used, to provide an interconnection with another telecommunication system.

"Network Connection Point" means any point within an item of Network Connection Equipment comprised in one telecommunication system at which signals are conveyed to or from a corresponding point in another item of Network Connection Equipment comprised in another telecommunication system.

"New Line Roll-out Targets" means the Priority Customer Target, the Public Pay-telephone Target, the Total Line Target, the Under-Served Line Target and the Village Target.

"New Waiting List" means a register of applications maintained by the Licensee from time to time identifying customers who have requested and are awaiting the telecommunication services referred to in condition 4.1.1 (a) on or after 29 January 1997 but for whom the Licensee is unable to provide such services because of the unavailability of an Exchange Line whereby such customer can be connected to the Local Exchange Network but shall not include the Existing Waiting List.

"Number" means any identifier which would need to be used in conjunction with any telecommunication service for the purposes of establishing a connection with any Terminal Connection Point, user or telecommunication apparatus connected to any telecommunication system providing a telecommunication service, but not including any identifier which is not accessible to the generality of users of a telecommunication service.

"Numbering Plan" means a plan, which (except for the purpose of the definition of Initial Numbering Plan set forth in condition 10.1) may be prescribed by the Authority in accordance with section 89 of the Act, describing the method adopted or to be adopted for allocating and re-allocating a Number to any Terminal Connection Point, user, telecommunication apparatus or particular telecommunication service.

"Numbering Proposals" has the meaning assigned to such term in condition 10.3.

"Operator" means any person licensed to provide a telecommunication service pursuant to a licence of a type referred to in section 34 (2) of the Act.

"Outstanding Demand" means the sum total of the Customer Pipeline and the Waiting List.

"Overdue Interest Rate" means the prime interest rate from time to time of the South African Reserve Bank *plus* 3%.

"Point of Connection" means a fixed point between—

- (a) a Network Connection Point comprised in one telecommunication system and a Network Connection Point comprised in another telecommunication system; or
- (b) A Terminal Connection Point and Customer Premises Equipment, in each case through which a signal is conveyed.

"Post Office" means any facility defined or described as such in the Post Office Act.

"Post Office Act" means the Post Office Act, 1958 (Act No. 44 of 1958) as that act existed immediately before its amendment by the Act.

"Priority Customer" means a Hospital, Library, Local Authority, Post Office or School.

"Priority Customer Target" means the total number of new Exchange Lines to be brought into service, including the provision, if requested, of Internet access, for Priority Customers as specified for the relevant financial year in Schedule A.

"Private Circuit" means a telecommunication facility which provides for transmission capacity between fixed points within a telecommunication system and does not enable the customer to control the switching functions.

"Private Telecommunication Network" means a telecommunication network licensed under section 41 of the Act.

"Public Emergency Call Service" means the services described in condition 4.3.1.

"Public Pay-telephone" means apparatus (including any kiosk, booth, acoustic hood, shelter or similar structure in which that apparatus may be installed) at which Public Pay-telephone Services are made available to the public or segments of the public, and which contains a device to accept payment for those services.

"Public Pay-telephone Service" means all or any of—

- (a) the installation, repair and maintenance of Public Pay-telephones;
- (b) the conveyance of voice telephony messages to and from Public Pay-telephones;

(c) the provision of Directory Information Services from Public Pay-telephones; and

(d) the provision of Public Emergency Call Services from Public Pay-telephones;

together with the installation, bringing into service, maintenance and repair of that part of the Public Switched Telecommunication Network which is provided, maintained and operated by the Licensee for the purposes of providing the relevant telecommunication service; *provided, however*, Public Pay-telephone Service shall not include the provision of community service telephones as contemplated in the licences issued under section 37 of the Act.

"Public Pay-telephone Target" means the total of all new Public Pay-telephones to be brought into service in accordance with condition 4.2 as specified for the relevant financial year in Schedule A.

"Public Switched Telecommunication Network" means, together the telecommunication systems which are installed or otherwise provided, maintained and operated by the Licensee for the purpose of providing the Public Switched Telecommunication Service, including, without limitation—

- (a) the Local Access Network;
- (b) the National Long-distance Network; and
- (c) the International Network;

by whatever means provided, including, without limitation, copper cables, wireless loops, microwave links, optical fibre cables, satellite earth stations, space segments and satellite systems, by means of which signals can be conveyed between all or any of—

- (i) two or more Terminal Connection Points;
- (ii) two or more Network Connection Points;
- (iii) a Terminal Connection Point and a Network Connection Point;
- (iv) a Terminal Connection Point or a Network Connection Point, as the case may be, and a corresponding point in another country;
- (v) a Public Pay-telephone and any of a Terminal Connection Point, a Network Connection Point and a corresponding point in another country;

excluding, for the avoidance of doubt, any telecommunication apparatus connected to Terminal Connection Equipment, except for Public Pay-telephones and any telecommunication system used for the purposes of providing a Mobile Telecommunication Service which is not used for providing any other telecommunication service.

"Public Switched Telecommunication Service" means all those telecommunication services as contemplated under section 78 (1) of the Post Office Act, as that section existed immediately before its repeal by the Act, including, without limitation—

- (a) the National Long-distance Telecommunication Service;
- (b) the International Telecommunication Service;
- (c) the Local Access Telecommunication Service;
- (d) the Public Pay-telephone Service;

- (e) the Maritime Service;
- (f) a service comprising the provision of telegrams;
- (g) a service comprising supply of Customer Premises Equipment;
- (h) the installation, bringing into service, maintenance and repair of that part of the Public Telecommunication Network which is provided, maintained and operated by the Licensee for the purposes of providing any telecommunication service, including, without limitation, the telecommunication circuits provided for—
 - (i) Private Circuits;
 - (ii) links between sites of the same Operator;
 - (iii) circuits used for the provision of Private Telecommunication Networks;
 - (iv) circuits used for the provision of Value Added Network Services; and
- (i) any other service reasonably complementary to the provision of those services including, without limitation, the provision, repair and maintenance of Customer Premises Equipment and any other telecommunication apparatus of any kind;

but excluding the provision of Mobile Telecommunication Services and Value Added Network Services.

“Rand” or “R” means the lawful currency from time to time of the Republic.

“Rate Regime” has the meaning assigned to such term in condition 7.2.

“Regulatory Accounts” has the meaning assigned to such term in condition 8.1.

“Renter” means any Customer Premises Equipment and Exchange Line which are together rented by a person for the purpose of providing the whole or any part of a Public Pay-telephone Service, which person—

- (a) has entered into a contract with the Licensee to provide such Public Pay-telephone Service, and
- (b) is able to determine the location from which such service will be provided, who shall have access to such service, or when access to such service will be provided.

“Replacement Line Target” means the total number of new digitalised Exchange Lines to be brought into service in order to replace existing non-digitalised Exchange Lines as specified for the relevant financial year in Schedule A; for the avoidance of doubt, the Replacement Line Target shall not be included in calculating the New Line Roll-out Target.

“Republic” means the Republic of South Africa, including all of its territories and possessions and its territorial waters.

“Retail Activities” means those activities of the Licensee involving the provision of telecommunication services to customers, including, without limitation, all persons to whom the Licensee provides a Basic Telephone Service.

“Roll-out Targets” means the Priority Customer Target, the Public Pay-telephone Target, the Replacement Line Target, the Total Line Target, the Under-Served Line Target and the Village Target.

"School" means—

- (a) an institution registered as such in terms of any applicable law; or
- (b) an educational institution or part of an educational institution at which education is provided to pupils, whether such institution is public or private.

"Service Target" shall have the meaning assigned to such term in Schedule B.

"SOLAS Signatory" has the meaning assigned to such term in condition 4.3.4.

"Subscriber" has the meaning assigned to such term in condition 5.1.1

"Terminal Connection Equipment" means, in relation to any telecommunication system, an item of telecommunication apparatus comprised in that telecommunication system which is situated in a fixed position in a customer's premises and which enables—

- (a) Customer Premises Equipment to be connected to that telecommunication system;
- (b) signals to be conveyed in either direction between the Customer Premises Equipment and that telecommunication system; and
- (c) the proper functioning and operation of the Customer Premises Equipment and telecommunication system to be tested.

"Terminal Connection Point" means any point within an item of Terminal Connection Equipment at which signals are conveyed to or from one or more items of Customer Premises Equipment.

"Total Line Target" means the sum total of new Exchange Lines to be brought into service as specified for the relevant financial year in Schedule A.

"Township" means a piece of land or settlement, whether surveyed as such or established in any informal manner, predominantly inhabited by communities historically discriminated against on the basis of race.

"Under-serviced Area" means any area where the number of residential Exchange Lines as a percentage of households was less than or equal to fifty percent (50%) as at June 1996 or any Township. Without prejudice to the generality of the foregoing, Under-serviced Areas includes rural, suburban and urban areas which typically are inhabited by communities historically discriminated against on the basis of race.

"Under-serviced Line Target" means the total of new Exchange Lines to be brought into service in Under-serviced Areas as specified for the relevant financial year in accordance with Schedule A.

"Universal Service Fund" means the fund established in terms of section 40 of the Act.

"Value Added Network Service" means a service licensed in terms of section 40 of the Act.

"Village" means a community located in an Under-serviced Area with between 100 and 1,999 inhabitants which is without an Exchange Line as of the Effective Date.

"Village Target" means the total number of new Exchange Lines to be brought into service in Villages, adjusted in accordance with condition A.5.3, as specified for the relevant financial year in Schedule A.

"Waiting List" means the applications, which have been verified and confirmed by the Licensee, from the Existing Waiting List combined with the New Waiting List.

"Wholesale Activities" means those activities of the Licensee involving the provisions of telecommunication services to other Operators, including, without limitation, use of the Public Switched Telecommunication Network and the services that are incidental to such use.

"Wholly-owned Subsidiary" has the meaning assigned to such term in the Companies Act.

3. EXCLUSIVE RIGHTS

3.1 Subject to the Act and to the other provisions of this Licence, the Licensee is authorised to provide on an exclusive basis for a period of five (5) years from the Effective Date the following elements of the Public Switched Telecommunication Service:

- (a) the National Long-distance Telecommunication Service;
- (b) the International Telecommunication Service;
- (c) the Local Access Telecommunication Service;
- (d) the Public Pay-telephone Service;
- (e) all or any telecommunication facilities to be used by any person for the provision of Value Added Network Services;
- (f) all or any telecommunication facilities comprising fixed lines to be used by any Operator for the provision of Mobile Telecommunication Services; and
- (g) all or any telecommunication facilities to be used by any person for the provision of any Private Telecommunication Network, other than a Private Telecommunication Network referred to in section 41 (2) (b) of the Act.

3.2 Without prejudice to the terms of condition 3.1, the Exclusivity Period may be extended in respect of one or more elements of the Public Switched Telecommunication Service (as the Licensee may request) for a further and final year up to and including the sixth anniversary of the Effective Date in accordance with condition A.2 in Schedule A.

4. PROVISION OF UNIVERSAL ACCESS AND SERVICE

4.1 Basic Service Provision

4.1.1 Subject to the other provisions of this Licence, the Licensee shall provide over the Public Switched Telecommunication Network the following telecommunication services:

(a) Subject to condition 4.5, to every person in the Republic who requests it, any of the following:

(i) a basic Telephone Service;

(ii) the installation and connection to an item of Terminal Connection Equipment of an item of Customer Premises Equipment capable of making use of the Basic Telephone Services; and

(iii) the maintenance or repair of that item of Customer Premises Equipment supplied by the Licensee; *provided, however*, that Customer Premises Equipment supplied by a person other than the Licensee may be maintained and repaired by the Licensee pursuant to the terms and conditions of any agreement entered into between the Licensee and such user on terms satisfactory to the Licensee;

(b) a Public Pay-telephone Service which satisfies the requirements referred to in condition 4.2; and

(c) access to the Public Emergency Call Service and the Directory Information Service by means of either the telecommunication services referred to in paragraph (a) (i) or (b);

except to the extent that, in the Authority's opinion, any demand for such telecommunication services is, or can be met, without prejudice to any of the Roll-out Targets, by other means and that, accordingly, it would be unduly burdensome in the circumstances for the Licensee to provide the telecommunication service requested.

4.1.2 The obligation to provide the telecommunication service referred to in condition 4.1.1

(a) to any person who so qualifies in accordance with condition 4.5.1 shall be subject to the exceptions set forth in condition 4.1.3 and 13.4.3.

4.1.3 The Licensee shall be treated as being in compliance with condition 4.1.1 where, at the relevant time, the Licensee is in compliance with its obligations under Schedule A in an area in which, in accordance with the Roll-Out Targets and the provisions of this Licence relating thereto, any telecommunication apparatus or telecommunication facility necessary to provide the relevant telecommunication service in that area has not been installed and become operational.

4.2 Public Pay-telephone Service

4.2.1 The Licensee shall consult periodically with the Authority on guidelines, which shall be prepared by the Licensee, for determining where new Public pay-telephones should be installed. After expiration of the Exclusivity Period such guidelines shall have regard to the published plans and obligations of Operators who may be licensed to provide similar services.

- 4.2.2 Notwithstanding the Exclusivity Period in respect of the provision of the Public Pay-telephone Service, the Licensee may use third parties to provide the whole or any part of a Public Pay-telephone Service.
- 4.2.3 Public Pay-telephones provided via third parties in terms of condition 4.2.2 (including, without limitation, Renters) shall be treated as satisfying the obligations of the Licensee with respect to the provision of Public Pay-telephones in accordance with the Public Pay-telephone Target.
- 4.2.4 The Licensee shall ensure that the Public Pay-telephone Service is provided in accordance with the Service Targets set forth in Schedule B and it shall enforce equivalent requirements on the third parties providing any Public Pay-telephone Service in accordance with condition 4.2.2 and it shall be fully liable for any failure by any such third party to provide Public Pay-telephone Service in accordance with the Service Targets set forth in Schedule B.
- 4.2.5 The Licensee shall not withdraw or permit the withdrawal from service of any Public Pay-telephone that it has provided other than in accordance with this condition—
- (a) the Licensee may cease to provide Public Pay-telephone Services at any Public Pay-telephone only if—
 - (i) revenues from the Public Pay-telephone Services provided from that Public Pay-telephone in any period of twelve (12) consecutive months have fallen below the Licensee's fully allocated costs of providing Public Pay-telephone Services from that Public Pay-telephone, provided that—
 - (aa) the Licensee has posted prominently a notice on such Public Pay-telephone specifying that the Licensee is ceasing to provide Public Pay-telephone Services there, the reasons for the proposal, the address of the Licensee's office to which representations and objections with respect to the proposal may be made during normal business hours and the period within which such representations and objections may be made;
 - (bb) the Licensee has sent to the Local Authority for the area in which such Public Pay-telephone is located by registered post or by hand a copy of that notice;
 - (cc) the Licensee has sent to the Authority by registered post or by hand a copy of that notice together with copies of any representations and objections that the Licensee has received with respect to the proposal and its comments and conclusions thereon; and
 - (dd) thirty (30) days have elapsed after the material has been sent to the Authority;
 - (ii) the Licensee has agreed with the Authority that it shall provide or, after expiration of the Exclusivity Period, an Operator shall continue to provide, Public Pay-telephone Services at another Public Pay-telephone installed or to be installed near to, and readily accessible from, the place where the Public Pay-telephone is situated at which Public Pay-telephone Services shall no longer be provided;

- (iii) the Authority, or any other person with lawful authority, requires the Licensee to remove the Public Pay-telephone in question for any other reason;
- (iv) the Authority agrees that Public Pay-telephone Services are no longer to be provided at the Public Pay-telephone in question for any reason;
- (v) continued provision of Public Pay-telephone Services to that Public Pay-telephone is, in the Authority's opinion, unduly burdensome;
- (b) the restrictions on the withdrawal from service of any Public Pay-telephone set forth in condition 4.2.5 shall not apply to temporary discontinuance of service due to maintenance, replacement of lines, outages due to natural forces or any other occurrence requiring only a temporary discontinuance of service. Any discontinuance of service of up to a maximum of forty-five (45) days shall be treated as a temporary discontinuance of service unless the Licensee provides notice, in accordance with the requirements set forth in paragraphs (aa) through (dd), of its intent to discontinue service permanently;
- (c) where the Licensee intends to withdraw from service a Public Pay-telephone in accordance with condition 4.5.2 (a) (i) to (v), it shall give the Authority three (3) months prior notice, or such shorter period as may be consented to by the Authority, in writing of its intention to do so;
- (d) any Public Pay-telephone withdrawn from service in accordance with condition 4.2.5 (a) [other than condition 4.2.5 (a) (iii)] shall cease to be treated as satisfying the obligations of the Licensee with respect to the provision of Public Pay-telephones in accordance with the Public Pay-telephone Target.

The provisions of this condition 4.2.5 shall not apply to any Renter.

4.3 Emergency Services

4.3.1 Public Emergency Call Service:

- (a) The Licensee shall provide a Public Emergency Call Service by means of which any member of the public may, at any time and free of charge, by means of any Customer Premises Equipment capable of voice telephony or by any Public Pay-telephone, communicate as swiftly as practicable with any of the Emergency Organisations for the purposes of notifying them of an Emergency.
- (b) The Licensee may restrict the telecommunication services provided to any of the Emergency Organisations, to the extent agreed to by the authority responsible for the relevant Emergency Organisation or, in the absence of agreement between the Licensee and that authority, to the extent as may be authorised by the Authority.

4.3.2 Services provided to Emergency Organisations:

The Licensee shall provide to Emergency Organisations anywhere in the Republic, in circumstances where telephone numbers cannot be dialled directly, operator-assisted voice telephony, to assist officials of the Emergency Organisations to send priority communications over the Public Switched Telecommunication Network.

4.3.3 Special Arrangements for Emergencies:

- (a) The Licensee shall, in consultation with the Emergency Organisations, make arrangements for the provisions or, as the case may be, rapid restoration of telecommunication services that may reasonably be required in Emergencies occurring in the Republic and that may be practically provided.
- (b) The Licensee shall be entitled—
 - (i) to recover from the relevant Emergency Organisation the cost that it incurs in implementing the arrangements in accordance with condition 4.3.3. (a); and
 - (ii) to make the implementation of those arrangements conditional on the relevant Emergency Organisation indemnifying the Licensee for all reasonable costs incurred as a consequence of that implementation.

4.3.4 Maritime Emergency Services:

The Licensee shall, on request of the South African signatory for the time being of the international convention for the Safety of Life at Sea (the "SOLAS Signatory"), enter into an agreement annually with the SOLAS Signatory to provide distress, emergency and safety services for shipping, in accordance with the Radio Regulations of the ITU to the extent that the SOLAS Signatory pays the Licensee's reasonable costs in providing those services, in terms of this annual agreement.

4.4 Services for Users with Special Needs

4.4.1 The Licensee shall consult with the Authority from time to time about the arrangements relating to—

- (a) the supply of, and the provision of maintenance services in respect of, telecommunication apparatus designed or adapted to meet the reasonable demands of disabled people; and
- (b) the connection to the Public Switched Telecommunication Network of telecommunication apparatus referred to in paragraph (a),

and shall, at the request of the Authority, participate in any advisory group established to address the needs of persons who are disabled.

4.4.2 The Licensee shall use its reasonable endeavours to ensure that there are available for supply in such a way as to meet all reasonable demands for Customer Premises Equipment of the following descriptions:

- (a) Customer Premises Equipment capable of being inductively coupled to hearing aids which have been designed to be so coupled to Customer Premises Equipment; and
- (b) Customer Premises Equipment incorporating sound amplification facilities, provided that this condition shall be deemed to be satisfied if the Licensee uses its reasonable endeavours to ensure that there is available for supply either one type of Customer Premises Equipment which meets both descriptions or two types of Customer Premises Equipment each of which meets one of the requirements set forth in paragraphs (a) or (b).

- 4.4.3 The Licensee shall take all reasonable steps to install and keep installed in at least fifty per cent (50%) of Public Pay-telephones at which it provides Public Pay-telephone Services apparatus enabling persons using hearing aids designed for use in conjunction with Public Pay-telephones to use such hearing aids in connection with voice telephony services. The target specified in the immediately preceding sentence shall be achieved as soon as practicable but in any event no later than the fifth anniversary of the Effective Date. On the fifth anniversary of the Effective Date the percentage of such Public Pay-Telephones at which the Licensee shall be obligated to install and keep installed such apparatus shall be agreed between the Licensee and the Authority.

4.5 **Affordability**

- 4.5.1 The Licensee shall be obligated to provide the telecommunication service referred to in condition 4.1.1 (a) to every person in the Republic who requests it and who qualifies for such telecommunication service in a manner consistent with the guidelines set forth in Schedule C.

5. DIRECTORY SERVICES

5.1 Minimum Directory Services

- 5.1.1 The Licensee shall provide or make available, free of charge, printed directories to each person to whom it provides a Basic Telephone Service (the “**subscriber**”) in the Republic, the form and content of which shall be determined by the Licensee from time to time.
- 5.1.2 The directories referred to in condition 5.1.1 shall include, at a minimum, for each of the subscribers in the relevant areas, other than for those subscribers who have specifically asked not to be included, their name, addresses and telephone numbers and a list of national and international dialling codes. The Licensee may not make any charge for publishing the relevant data about a subscriber in a directory but may charge for advertising and for providing enhanced directory listings.
- 5.1.3 In addition to the directories referred to in condition 5.1.1, the Licensee shall provide or make available to subscribers, free of charge, printed directories, the form and content of which shall be agreed between the Licensee and the Authority, providing a listing of national, provincial and local governmental authorities, institutions and offices. The Authority shall coordinate with Telkom and such governmental entities so that Telkom is provided with the information necessary to compile and update such directories on a regular basis.
- 5.1.4 The Licensee shall provide, at a reasonable charge, directory information other than in the form of printed directories that duly takes account of the predominant regional languages through which callers may receive information concerning the telephone numbers of the subscribers listed in the directories and a separate directory information service dedicated to enquiries concerning national, provincial and local governmental authorities, institutions and offices. Such directory information shall be free from Public Pay-telephones.
- 5.1.5 The directory information services provided by the Licensee shall include a service or information, as the case may be, whereby directory information is made available in a form which is appropriate to meet the needs of persons who are blind or otherwise disabled as to be unable to use a telephone directory in a form in which it is generally available to persons to whom the Licensee provides the telecommunication service referred to in condition 4.1.1 (a), and the service so provided to such persons shall from a date to be agreed between the Licensee and the Authority be provided free of charge or, if the Authority is satisfied that that is not practicable, the Licensee shall provide, in accordance with arrangements agreed with the Authority, appropriate reasonable compensation in respect of charges that are paid.

5.2 Other Operators

- 5.2.1 The Licensee shall ensure that subscribers can receive directory information about persons connected to the telecommunication system of Operators in the Republic to the extent that the Operators make directory information available to the Licensee.
- 5.2.2 The Licensee shall, to the fullest extent permitted by law, allow Operators access to its own directory information, by means determined by the Licensee, on reasonable and fair terms and on the basis of the cost methodology used in the provisions of Interconnection Services from time to time, provided that the Operator undertakes—
- (a) to use that directory information only for the purposes of providing directory information services or for routing calls;
 - (b) to allow the Licensee access to the Operator's own subscribers on a similar basis; and
 - (c) not to resell such directory information.

6. SERVICE STANDARDS

6.1 Quality of Service Targets

6.1.1 During the Exclusivity Period, the Licensee shall ensure that the telecommunication services to be provided by it as specified in condition 4.1 shall at least meet the Service Targets set forth in Schedule B. The exact method of calculating the indicators set forth in Schedule B shall be agreed between the Licensee and the Authority.

6.1.2 After the expiration of the Exclusivity Period, at five (5) year intervals the existing Service Targets and the corresponding monetary penalties for failure to achieve such Service Targets shall be reviewed by the Licensee and the Authority and new Service Targets and corresponding monetary penalties for failure to achieve the new Service Targets shall be agreed between the Licensee and the Authority. No monetary penalties shall be imposed on the Licensee for failure to achieve any Service Target with respect to a telecommunication service as of the date when, in the Authority's opinion, the telecommunications industry in the Republic is subject to sufficient competition with respect to that telecommunication service. The new Service Targets shall be implemented during the immediately succeeding five (5) year period.

6.2 Publication of Charges

6.2.1 The Licensee shall publish in the manner described in condition 6.2.2 a notice specifying the charges, or specifying the method which is to be adopted for determining those charges, and other terms and conditions on which it offers—

- (a) to provide each telecommunication service by means of the Public Switched Telecommunication Network, where those telecommunication services are required to be provided by the Licensee under this Licence;
- (b) to connect to the Public Switched Telecommunication Network any apparatus or any other telecommunication system which is not part of, and is not to be comprised in, the Public Switched Telecommunication Network, where the Licensee's consent to that connection is required by this Licence; and
- (c) to maintain, adjust or repair any apparatus forming a part of the Public Switched Telecommunication Network or any Customer Premises Equipment, in accordance with any obligation of the Licensee to provide that telecommunication service under this Licence;

except in respect of the terms and conditions of any Interconnection Service and except insofar as the Authority may otherwise agree.

6.2.2 Publication of the details referred to in condition 6.2.1 shall be made by—

- (a) sending a copy of the relevant details to the Authority;
- (b) placing the relevant details in every registered office of the Licensee so that it is available for inspection, free of charge, by members of the public, as soon as practicable after sending a copy of them to the Authority in accordance with paragraph (a); and
- (c) sending a copy of the relevant details (or extracts of them as may, in the circumstances, be appropriate) to any person in the Republic who requests a copy.

6.3 Customer Confidentiality

6.3.1 The Licensee shall use its reasonable endeavours to prevent information, other than directory information, about its customers that it receives in the course of providing telecommunication services to those customers from being disclosed to third parties or from being used otherwise than for the purpose of providing the telecommunication service, other than that information which may be published or made available pursuant to condition 6.3.2.

6.3.2 Information about customers may be disclosed by the Licensee to third parties to the extent that it is required—

- (a) in the process of collection of debts;
- (b) by the Licensee's auditors for the purpose of auditing the Licensee's accounts;
- (c) by the Licensee's attorneys in connection with any potential, threatened or actual litigation;
- (d) for the purposes of compiling, verifying or auditing any reports, accounts or other information required under this Licence or under any other licence issued to the Licensee under the Act to be made available by it to the Minister or the Authority, as the case may be; or
- (e) where this Licence or the law so permits or requires.

6.3.3 The Licensee shall not monitor or disclose the contents of any communication conveyed over the Public Switched Telecommunication Network except—

- (a) where it may be necessary for the purposes of maintaining or repairing any part of the Public Switched Telecommunication Network or monitoring the Licensee's quality of service; or
- (b) where requested to do so by a person authorised to make such request by applicable law.

6.4 Billing

6.4.1 The Licensee may determine the content and format of its bills to customers provided that—

- (a) as soon as practicable but in any event no later than the fifth anniversary of the Effective Date the bill reflects the types of service and the units for which charges are made, including, at a minimum, the starting time of each connection, the Number called and the duration and number of units for each call; and
- (b) the Licensee retains in its records information sufficient—
 - (i) to identify for customers the basis of the amount charged for use of its services; and
 - (ii) to provide the Authority with an independent quality assurance that the billing process complies with the requirements set forth in paragraph (i).

6.4.2 The Licensee shall maintain in operation Billing Processes to enable the Licensee to comply with the requirements of condition 6.4.1.

6.4.3 The Licensee shall allow, on reasonable notice from the Authority, qualified personnel appointed by the Authority, during the Licensee's normal business hours, to inspect its Billing Processes, including carrying out tests and trial runs with respect to the operation of such Billing Processes. The Licensee shall allow such personnel access to such of its premises, plant or equipment as may be reasonably required for the purposes of carrying out any such inspections.

6.5 Assistance and Customer Complaints

The Licensee shall establish efficient procedures that duly take account of the predominant regional languages so that customers can receive assistance from its personnel during normal business hours. These procedures shall be included in the Licensee's standard terms and conditions for the provision of telecommunication services. These procedures shall also include procedures for dealing with customer complaints, including, without limitation, a procedure for referring any dispute relating to any such complaints to an affordable independent arbitration procedure, instead of to a court, to the extent that such dispute does not involve a complicated issue of law or a sum greater than such sum as the Authority may from time to time determine. The Licensee's arbitration procedure, including, without limitation, appointment of arbitrators, shall be subject to consultation between the Licensee and the Authority not less than every five (5) years.

6.6 Code of Practice for Consumer Affairs

The Licensee shall, in consultation with the Authority, prepare and publish not later than six (6) months after the Effective Date, a code of practice (the "Code of Practice") that duly takes account of the predominant regional languages giving guidance to the Licensee's customers in respect of any disputes with, and complaints from, those customers relating to the provision of telecommunication services. The Licensee shall consult with the Authority not less frequently than once every three (3) years about the operation of the Code of Practice.

7. PRICE REGULATION

7.1 Rate Filing

The Licensee shall file the rates as well as the relevant terms and conditions with the Authority pursuant to which the Licensee proposes to offer Public Switched Telecommunication Services that are subject to the rate regime determined pursuant to section 45 (2) of the Act (the "Rate Regime"). Such rates shall be filed at least thirty (30) Business Days before the proposed date on which such rates are to become effective in a form specified by the Authority. The Authority may disapprove the proposed rates only if—

- (a) the calculations contain mathematical errors; or
- (b) the terms and conditions violate applicable laws, including, without limitation, policy directions, regulations and the Rate Regime, in a material respect.

Disapproval of the rates by the Authority shall be in writing and subject to the provisions of conditions 13.5. If the Authority does not deliver to the Licensee a notice in writing of disapproval at least fifteen (15) Business Days before the proposed effective date of the rates, the rates shall be deemed approved.

7.2 Extraordinary Tariff Formula Review

During the period of three (3) years following the Effective Date, the Licensee shall monitor and analyse the effects of the Rate Regime and compare actual financial results with a reasonable forecast prepared on the basis of the Rate Regime. If the Licensee can demonstrate, based on its actual results up to the period of three (3) years following the Effective Date and its forecasted results for the remainder of the Exclusivity Period, that the existing Rate Regime or any new Rate Regime is reasonably likely to have a materially adverse impact on the Licensee or on the Licensee's ability to fulfil its obligation under this Licence, the Licensee shall have the right to request, only once during the remainder of the Exclusivity Period, that the Authority commence a review of the Rate Regime within thirty (30) days of the request of the Licensee. If such review is instituted, the results of such review shall be published and delivered to the Licensee together with the Authority's proposals and modifications, if any, not later than ninety (90) days of the request of the Licensee. Thirty (30) days shall be allowed for interested parties, including the Licensee, to respond to the Authority in writing. Following receipt and due consideration of the written responses, the Authority shall render its decisions with respect to any modifications of the Rate Regime. Such modifications shall reflect a reasonable balancing of the interests of the Licensee's customers, the Licensee and the shareholders of the Licensee and will not prevent the Licensee from earning revenues sufficient for it to fulfil its obligations under this Licence, including, without limitation, achievement of the Roll-out Targets and the New Line Roll-out Targets, and provided that the Licensee demonstrates that it is operated in a reasonably efficient manner, due consideration shall be given to the overall financial condition of the Licensee and the reasonable expectations of its shareholders. Such modification shall become effective on the first January 1 or July 1 following the Authority's decision, whichever date is earlier.

8. PREPARATION OF ACCOUNTS

8.1. Subject to condition 8.4, the Licensee shall prepare, in respect of each of its financial years, accounts on an historic and a current cost basis in respect of—

- (a) the Licensee's Retail Activities; and
 - (b) the Licensee's Wholesale Activities,
- (together the "Regulatory Accounts").

8.2 The Licensee shall establish the Regulatory Accounts in accordance with the Chart of Accounts and the Cost Allocation Manual.

8.3 The Licensee shall prepare sufficient accounting and reporting arrangements to enable it to comply with this condition.

8.4 The Licensee shall not be required to prepare Regulatory Accounts in accordance with this condition until it has put in place the necessary accounting and management information systems in place which will enable it to do so. The Licensee shall put such systems in place by the fifth anniversary of the Effective Date, provided that the Licensee shall not be required to do anything under this condition which would put an undue burden on the Licensee having regard to its obligations under the remaining conditions of this Licence.

8.5 The Licensee shall, if requested by the Authority to do so, procure in respect of each set of Regulatory Accounts an audit report by the Licensee's auditors in which they will state whether in their opinion the Regulatory Accounts comply with the Chart of Accounts and the Cost Allocation Manual, and fairly present the assets, liabilities, revenues, and expenses in respect of the Licensee's Retail Activities and Wholesale Activities.

8.6 The Licensee shall send a copy of each set of Regulatory Accounts to the Authority within twenty (20) Business Days of the completion of the audit referred to in condition 8.5 or, if no audit is requested by the Authority pursuant to that condition, within three (3) months of the end of the relevant financial year.

8.7 The Chart of Accounts and the Cost Allocation Manual may be changed as agreed from time to time by the Licensee and the Authority and the Licensee shall be entitled to a reasonable period within which to implement any such changes. Until such time as the initial Chart of Accounts and the Cost Allocation Manual are agreed between the Licensee and the Authority audited annual financial statements shall be prepared in accordance with generally accepted accounting principles, consistently applied.

9. FAIR TRADING

9.1 The Licensee shall not show undue preference to, or exercise undue discrimination against, particular persons or persons of any class or description in respect of—

- (a) the provision of any telecommunication services (including, without limitation, maintenance services) in accordance with any obligations imposed by this Licence;
- (b) the connection of Approved Equipment to the Public Switched Telecommunication Network;
- (c) the granting of permission to connect any Operator's telecommunication system with the Public Switched Telecommunication Network in accordance with section 43 of the Act and the guidelines contemplated thereunder; and
- (d) the quality of any Interconnection Services provided by the Licensee to an Operator under any agreement between them.

9.2 The Licensee may be deemed to have shown undue preference or discrimination as described in condition 9.1 if the Authority determines that it unfairly favours to a material extent any business carried on by it so as to place at a significant competitive disadvantage persons lawfully competing with that business.

9.3 The Licensee shall not, without the consent of the Authority, make—

- (a) the acquisition from any person in the Republic by the Licensee or any of its Wholly-owned Subsidiaries, or
 - (b) the provision of services by any person in the Republic to the Licensee or any of its Wholly-owned Subsidiaries,
- with respect to any telecommunication services or apparatus, conditional upon agreement that those services and apparatus shall be supplied exclusively to the Licensee.

9.4 Condition 9.3 shall not apply with respect to the supply of any telecommunication services or apparatus where—

- (a) the Licensee or any of its Wholly-owned Subsidiaries holds any Intellectual Property Right in that telecommunication service or apparatus; or
- (b) the telecommunication apparatus is distinguishable by its external appearance, or by any marking or similar feature, from other telecommunication apparatus of the same type, and is intended, by virtue of those distinguishing features, to be associated with the Licensee or its Wholly-owned Subsidiary;
- (c) the Licensee, or any of its Wholly-owned Subsidiaries, makes available research, design or development work, or agrees to finance that work on condition that the telecommunication service or apparatus concerned shall be exclusively supplied to it; or
- (d) the Licensee has an exclusive right to supply the telecommunication service or apparatus concerned.

For the purpose of this condition, "Intellectual Property Right" includes, without limitation, patents, trademarks, designs, know-how, copyright and other trade secrets, and all right or forms of protection of a similar nature.

9.5 The Licensee shall not make it a condition of—

- (a) providing any telecommunication service in the Republic by means of the Public Switched Telecommunication Network;
- (b) supplying any telecommunication apparatus in the Republic for connection to the Public Switched Telecommunication Network; or
- (c) connecting any telecommunication apparatus or system in the Republic to the Public Telecommunication Network;

that any person requesting the telecommunication service, apparatus or connection concerned should acquire from the Licensee or any other person specified by it any telecommunication service other than the particular telecommunication service requested, except where the telecommunication service requested cannot otherwise be provided, or the telecommunication apparatus requested cannot otherwise reasonably be used.

9.6 This condition shall not prevent the Licensee from—

- (a) imposing any terms and conditions as are permitted under section 43 of the Act and the guidelines contemplated thereunder;
- (b) where it supplies as part of the same transaction, or related series of transactions, offering discounts based on term commitments or commitments for multiple services or for purchasing two or more telecommunication services which are of a similar type (or so related as to permit economies of scale where they are provided together), or for purchasing two or more items of telecommunication apparatus, offering quantity discounts or from offering more favourable terms and conditions in respect of those telecommunication services or apparatus; and
- (c) imposing any other conditions with respect to the provision or supply of the telecommunication services or apparatus, or connection of the telecommunication system or apparatus, referred to in condition 9.5 as are reasonably incidental to such provision, supply or connection or as may otherwise be agreed by the Authority.

9.7 The Licensee will not unfairly cross-subsidise its charges for any telecommunication services in respect of which the Licensee does not have an exclusive right to provide pursuant to condition 3. For the avoidance of doubt, nothing in this Licence shall prohibit the Licensee from investing in any services in respect of which the Licensee does not have an exclusive right to provide pursuant to condition 3, any net revenues or earnings received by it from any of its telecommunication services.

9.8 Nothing in this Licence shall prevent the Licensee from operating a system of differential charging for any of its telecommunication services or for any other activities carried on by it unless the Authority otherwise agrees. If the Licensee desires to operate such a system it shall inform the Authority in writing at least one (1) month before such a system becomes operative of the basis on which such a system may operate.

9.9 Any question relating to whether any act done or course of conduct pursued by the Licensee amounts to undue preference or undue discrimination as described in condition 9.1 shall be determined by the Authority, but nothing done in any matter by the Licensee shall be regarded as undue preference or undue discrimination for the purposes of this condition if, and to the extent that, the Licensee is required or permitted to do the relevant matter or thing in such manner by or under any provision of this Licence or the Act.

10. NUMBERING PLAN

- 10.1 The Licensee may continue to operate and apply any Numbering Plan operated and applied by it immediately before the Effective Date (the "Initial Numbering Plan"), unless and until the Authority prescribes a new Numbering Plan amending or replacing the Initial Numbering Plan.
- 10.2 Prior to any new Numbering Plan being prescribed by the Authority, the Licensee and the Authority shall from time to time consult with each other with respect to—
- (a) the arrangements for the allocation and re-allocation of Numbers within the Initial Numbering Plan (or existing Numbering Plan, as the case may be); and
 - (b) any developments of, additions to, or replacements of the Initial Numbering Plan (or existing Numbering Plan, as the case may be).
- 10.3 Before publishing any Numbering Plan which the Authority proposes to prescribe (or any regulations to prescribe any Numbering Plan) or making any changes with respect to any Numbering Plan (together the "Numbering Proposals") the Authority shall consult with the Licensee with respect to the Numbering Proposals so as to ensure that—
- (a) the Numbering Proposals will allow sufficient Numbers to be made available to the Licensee, having regard to the expected growth and demand for telecommunication services, for a Number to be allocated without undue delay;
 - (b) the Numbering Proposals will enable Numbers to include as few digits as practicable, and ensure that their allocation does not confer an undue disadvantage on any Operator;
 - (c) the cost of changing any of the Public Switched Telecommunication Network in order to accommodate the Number Proposals is kept within reasonable limits; and
 - (d) any inconvenience caused by implementation of the Numbering Proposals to the Licensee, and to persons using the Public Switched Telecommunication Network, in respect of which Numbers have previously been allocated, is, in the Authority's opinion, minimised.
- 10.4 The Licensee shall not charge any person for a Number which is allocated to that person (other than a Number allocated to a person who is not an Operator, at the request of such a person) but nothing in this condition shall preclude the Licensee from recovering from another Operator the reasonable cost of allocating a Number and carrying out any change to the Public Switched Telecommunication Network, that is necessary for the purpose of emitting messages to be sent to a Number allocated to that person, and any reasonable cost arising from that change.

11. PROVISION OF INFORMATION

- 11.1 The Licensee shall submit to the Authority within four (4) months after the end of each financial year a report, certified by an appropriately qualified independent auditor, which sets out the extent to which the Licensee has, during the financial year in relation to which the report is submitted, met the targets and requirements contained in the Roll-out Targets and in the Service Targets with respect to that financial year. If the Exclusivity Period is extended pursuant to condition A.2 such report shall be submitted within four (4) months after the end of the sixth month of Year 6 (as such term is defined in condition A.6.3 (e)).
- 11.2 The Authority shall, at the request of the Licensee, use its reasonable endeavours to ensure that all or any part of the report referred to in condition 11.1 reasonably justifying confidentiality, such as commercially sensitive or proprietary information relating to the financial capacity or business plans of the Licensee or trade secrets, shall not be open to public inspection or disclosed to third parties.

12. REVOCATION

This Licence may be revoked by the Authority at any time by ninety (90) days notice in writing given to the Licensee at its registered office in any of the following circumstances:

- (a) If the Licensee agrees in writing with the Authority that this Licence should be revoked;
- (b) if the Licensee repeatedly fails to comply with an order by the Authority under section 100 (3) of the Act (which order has not been set aside by, or is not the subject to proceeding before, a court as referred to in section 100 (4) of the Act) and such failure is not rectified within ninety (90) days after the Authority has notified the Licensee in writing; or
- (c) if the Licensee is placed in final liquidation or under a provisional or final judicial management order.

13. GENERAL CONDITIONS

13.1 Validity and Effective Term

- 13.1.1 This Licence shall come into effect on the Effective Date and shall remain valid for a period of twenty-five (25) years from that date unless revoked in terms of condition 12.

13.2 Transferability

- 13.2.1 The Licensee may not transfer or encumber any of its rights under this Licence without the prior written consent of the Authority.
- 13.2.2 The Licensee may not, through sale or pledge of assets, through contracts or otherwise, render itself incapable of performing its obligations under this Licence. The Licensee will be required to take all necessary action to ensure the continuous and uninterrupted right to use of any personal and real property which it uses as collateral for secured loans.
- 13.2.3 A substantial ownership interest in, or control (whether *de jure* or *de facto*) of, the Licensee shall not be transferred or assigned without prior notification to the Authority in writing.

13.3 Licence Fees

- The Licensee shall on each anniversary of the Effective Date pay to the Authority a licence fee equal to 0.1% of the Licensee's annual revenues generated from the provision of Public Switched Telecommunication Services.

13.4 Limitations

- 13.4.1 Nothing which the Licensee may do, or omit to do, after the Effective Date shall constitute a breach of any provision of this Licence, to the extent that the Licensee is obliged to do, or to omit to do so, as the case may be, that thing under the terms of any enactment, determination, guideline, rule, regulation or other legislation or any license held by it under the Act.
- 13.4.2 The Licensee shall have no liability for any failure or delay in complying with any provision of this Licence if, and to the extent and for so long as, that compliance is prevented or substantially hindered by any act of God, flood, fire, tempest, severe weather conditions, war (whether declared or not), civil disturbances, revolution, riot, insurrection, other natural disasters, act of terrorism, sabotage, other public emergencies or any other cause whatsoever which is substantially beyond the control of the Licensee.
- 13.4.3 The Licensee shall not have any obligation under this Licence to supply any apparatus, provide any telecommunication service, or permit any connection to the Public Switched Telecommunication Network, or to permit the continued connection to the Public Switched Telecommunication Network, of any telecommunication apparatus, or telecommunication system, if the person requesting the same—

- (a) has not entered into, or refused to enter into, a contract with the Licensee for those purposes (other than through the unreasonable refusal of the Licensee to agree the terms of that contract);

(b) is or is likely to become—

- (i) in breach of any contract with the Licensee for those purposes; or
- (ii) in default of any liability owed to the Licensee in respect of that contract;

(c) is using, or permitting the use of, telecommunication apparatus or telecommunication services so supplied or provided, for any illegal purpose, or has done so in the past and is likely, in the Authority's opinion, to do so again; or

(d) has obtained, or attempted to obtain, any telecommunication apparatus, telecommunication service from the Licensee by corrupt, dishonest or illegal means at any time.

13.5 Reconciliation Procedure

Before making—

- (a) an amendment to this Licence (to the extent permitted under this Licence or in accordance with the Act); or
- (b) any determination or decision, or giving or refusing to give its consent under the terms of this Licence, including without limitation, in respect of—
 - (i) any matter which is subject to the opinion or satisfaction of the Authority or the Minister, as the case may be; or
 - (ii) any matter for which the mutual agreement of the Authority and the Licensee is required but about which they are unable to agree;

the Authority or the Minister, as the case may be, shall consult with the Licensee. In each case, the Authority or the Minister, as the case may be, shall notify the Licensee of the proposed determination or decision or consent or refusal of consent, as the case may be, and its reasons for its proposal, and shall give the Licensee an opportunity to make representations, at a public hearing or otherwise. When making a determination or decision, or giving or refusing to give its consent, the Authority or the Minister, as the case may be, shall give reasons and supporting evidence where available in each case which are sufficient to give the Licensee a reasonable understanding of the proposed determination or decision, as the case may be. The Authority or the Minister, as the case may be, shall make every effort to conduct all reconciliation proceedings promptly.

13.6 Amendment of Certain Obligations

If a proposed amendment to this Licence relates to universal access or universal service obligations, including, without limitation, any of the Roll-out Targets or New Line Roll-out Targets, contemplated in section 36 (2) or section 48 (1) (a) of the Act, this Licence may be amended only with the concurrence of the Licensee.

SCHEDULE A**ROLL-OUT TARGETS**

A.1 Subject to the provisions of this Licence, including, without limitation, condition 4.5, the Licensee shall be required to meet the Roll-out Targets and New Line Roll-out Targets set forth in the tables contained in this Schedule A. The Roll-out Targets and New Line Roll-out Targets shall be measured in each case as at the end of the relevant financial year; *provided, however*, the Roll-out Targets and New Line Roll-out Targets for the first relevant financial year shall be pro-rated from the Effective Date. For the avoidance of doubt, any new Exchange Line brought into service in a relevant financial year in respect of the Roll-out Targets and the New Line Roll-out Targets, if disconnected in accordance with condition 13.4.3, shall not be discounted from the measurement referred to in this condition.

A.2 Total Target Incentive

A.2.1 If by the fourth anniversary of the Effective Date, the Licensee has exceeded ninety percent (90%) of the cumulative five (5) year Total Line Target and eighty percent (80%) of the cumulative five (5) year Underserved Line Target, the Licensee shall be entitled, on its request, to be made to the Authority in writing within ninety (90) days of the end of Year Four, to an extension of the Exclusivity Period for a further and final year up to and including the sixth anniversary of the Effective Date on the condition that the Licensee's cumulative five (5) year Total Line Target is increased to a total of three million (3 000 000) new Exchange Lines and the Licensee's cumulative five (5) year Under-served Line Target is increased in the same proportion that the Licensee's cumulative five (5) year Total Line Target is increased; *provided, however*, if the Licensee requests an additional six (6) month period within which to achieve the revised cumulative five (5) year Total Line Target and Underserved Line Target, any penalties that may be payable will be assessed only if the Licensee fails to achieve the revised cumulative five (5) year Total Line Target and Underserved Line Target by the end of the sixth month of Year 6 (as such term is defined in condition A.6.3 (e)).

A.2.2 Following the making of any such request by the Licensee in accordance with condition A.2.1, this Licence shall thereupon automatically be read and construed and take effect as if it had, with effect from the making of such request, been amended to the extent necessary to reflect both the extension and increases referred to in condition A.2.1. The Authority shall, as soon as is reasonably practicable following receipt of any such request, publish details of such amendments to this Licence in the *Gazette* and shall, on the request of the Licensee, cause an amended version of this Licence, which incorporates such amendments, to be duly issued to the Licensee.

A.3 Penalties for Failure to Achieve the Total Line Target and Under-served Line Target

A.3.1 Except as provided in condition A.5, if the Licensee fails to achieve the Total Line Target or Under-served Line Target in respect of a financial year, the Licensee shall pay the respective penalties specified in conditions A.3.2 and A.3.3

A.3.2 If the Licensee fails to achieve the Total Line Target, the Licensee shall pay a penalty of R450 for each of the first one hundred thousand (100 000) Exchange Lines missed and R900 for each additional Exchange Line missed.

- A.3.3 If the Licensee fails to achieve the Under-served Line Target, the Licensee shall pay a penalty of R225 for each of the first one hundred thousand (100 000) Exchange Lines required to be brought into service in Under-served Areas but missed and R450 for each additional Exchange Line missed.

A.4 Penalties for Failure to Achieve the Priority Customer Target, Public Pay-telephone Target and Village Target

- A.4.1 Except as provided in condition A.5, if the Licensee fails to achieve any of the cumulative three (3) year and cumulative five (5) year Priority Customer Targets, Public Pay-telephone Targets or Village Targets, the Licensee shall pay the respective penalties specified in conditions A.4.2, A.4.3 and A.4.4.

- A.4.2 If the Licensee fails to achieve the Priority Customer Target, the Licensee shall pay a penalty of R4 500 for each Exchange Line missed, except for Schools, for which the Licensee shall pay a penalty of R900 for each Exchange Line missed.

- A.4.3 If the Licensee fails to achieve the Public Pay-Telephone Target, the Licensee shall pay a penalty of R2 250 for each Public Pay-telephone missed.

- A.4.4 If the Licensee fails to achieve the Village Target, the Licensee shall pay a penalty of R1 125 for each Village missed.

A.5 Penalty Mitigation

- A.4.1 The penalties for failure to achieve the Total Line Target or the Under-served Line Target, as the case may be, in the relevant financial year shall be reduced, up to a maximum of eighty per cent (80%), by two per cent (2%) for each one per cent (1%) by which the sum of the number of Exchange Lines brought into service in order to achieve the Total Line Target or Under-served Line Target, as the case may be, *plus* the net increase or *minus* the net decrease in Outstanding Demand in that year, as the case may be, shall be less than such Total Line Target or Under-served Line Target, as the case may be.

- A.5.2 No penalty shall be payable in respect of the Total Line Target or the under-served Line Target, as the case may be, if in any relevant financial year if the number of missed Exchange Lines is fewer than ten thousand (10 000).

- A.5.3 If, when the Census Data becomes available, it evidences a lower number of any category of Priority Customers or Villages, as the case may be, than was presupposed in calculating the Priority Customer Target or the Village Target as set forth in Schedule D, the Licensee and the Authority shall agree to a proportionate decrease of the Priority Customer Target or Village Target, as the case may be, that is consistent with such Census Data. The Priority Customer Target or Village Target, as the case may be, shall not be increased if the Census Data evidences a higher number of any category or Priority Customers or Villages than was presupposed in calculating the Priority Customer Target or the Village Target.

A.6 Payment of Penalties

- A.6.1 Any and all monetary penalties, which shall be denominated in Rand, shall be adjusted annually for inflation by taking account of any increase in the Consumer Price Index over the immediately preceding calendar year.

- A.6.2 Any and all monetary fines shall be paid when due in immediately available funds to the National Revenue Fund.

A.6.3 Monetary penalties relating to the Total Line Target and the Underserved Line Target shall be calculated by the Authority for each financial year but such penalties, together with interest accrued at the Applicable Interest Rate as of 30 September of the year in which such failure was reported pursuant to condition 11, will only become due and payable as follows:

- (a) If the Licensee fails to achieve the Total Line Target or Under-Served Line Target, as the case may be, for Year One, such deficit shall be carried forward into Year Three and the applicable monetary penalty shall become payable at the end of Year Three only to the extent that such deficit has not been offset by an accumulated surplus created with respect to one or both of Year Two and Year Three;
- (b) If the Licensee fails to achieve the Total Line Target or Under-Served Line Target, as the case may be, for Year Two, such deficit shall be carried forward into Year Three and shall become payable at the end of Year Three only to the extent that such deficit has not been offset by a surplus created with respect to Year Three after deducting from any such surplus the number of Exchange Lines utilised to offset any deficit with respect to Year One;
- (c) If the Licensee fails to achieve the Total Line Target or Under-Served Line Target, as the case may be, for Year Three, such deficit shall be carried forward into Year Four and shall become payable at the end of Year Four only to the extent that such deficit has not been offset by a surplus created with respect to Year Four;
- (d) If the Licensee fails to achieve the Total Line Target or Under-Served Line Target, as the case may be, for Year Four, such deficit shall be carried forward into Year Five and shall become payable at the end of Year Five only to the extent that such deficit has not been offset by a surplus created with respect to Year Five;
- (e) If the Licensee fails to achieve the Total Line Target or Under-Served Line Target, at the case may be, for Year Five such deficit shall be payable at the end of Year Five to the extent of such deficit;
- (f) If the Licensee requests an extension of the Exclusivity Period pursuant to condition A.2.1, monetary penalties applicable to the revised cumulative five (5) year Total Line Target and Under-Served Line Target shall be calculated and become payable at the end of the sixth month of Year 6.
- (g) For the purposes of paragraphs (a) through (f) "Year One" shall mean the first financial year to follow, and pro rated from, the Effective Date and "Year Two", "Year Three", "Year Four", "Year Five" and "Year Six" shall refer to each subsequent financial year.

A.6.4 Any and all monetary penalties payable in accordance with A.6.3 shall be due six (6) months following the end of the relevant financial year in which such monetary penalties become payable, except that any or all monetary penalties payable in accordance with paragraph (f) shall be due at the end of the financial year in which such failure was reported pursuant to condition 11.

A.6.5 Any and all amounts that are not paid when due and owing shall be paid with interest at the Overdue Interest Rate.

(TABLES) **(ROLL-OUT TARGETS AND NEW LINE ROLL-OUT TARGETS)**

(a) If the licensee fails to achieve the Total Line Target or Under-Serviced Line Target, as the case may be, for Year One, such deficit shall be carried forward into Year Three and the applicable monetary penalty shall become payable at the end of Year Three only to the extent that such deficit has not been offset by an accumulated surplus created with respect to one or both of Year Two and Year Three.

(b) If the licensee fails to achieve the Total Line Target or Under-Serviced Line Target, as the case may be, for Year Two, such deficit shall be carried forward into Year Three and shall become payable at the end of Year Three only to the extent that such deficit has not been offset by a surplus created with respect to Year Three after deducting from any such surplus the number of Exchange Lines utilized to offset any deficit with respect to Year One.

(c) If the licensee fails to achieve the Total Line Target or Under-Serviced Line Target, as the case may be, for Year Three, such deficit shall be carried forward into Year Four and shall become payable at the end of Year Four only to the extent that such deficit has not been offset by a surplus created with respect to Year Four.

(d) If the licensee fails to achieve the Total Line Target or Under-Serviced Line Target, as the case may be, for Year Four, such deficit shall be carried forward into Year Five and shall become payable at the end of Year Five only to the extent that such deficit has not been offset by a surplus created with respect to Year Five.

(e) If the licensee fails to achieve the Total Line Target or Under-Serviced Line Target, as the case may be, for Year Five, such deficit shall be payable at the end of Year Five to the extent of such deficit.

(f) If the licensee requests an extension of the Exclusivity Period pursuant to condition A.2, monetary penalties applicable to the revised cumulative five (5) Year Total Line Target and Under-Serviced Line Target shall be calculated and become payable at the end of the sixth month of Year 6.

(g) For the purposes of paragraphs (a) through (f) "Year One" shall mean the first financial year to follow, and provided from the Effective Date and "Year Two", "Year Three", "Year Four", "Year Five" and "Year Six" shall refer to each subsequent financial year.

A.6.4 Any and all monetary penalties payable in accordance with A.6.3 shall be due six (6) months following the end of the relevant financial year in which such monetary penalties become payable, except that any or all monetary penalties payable in accordance with paragraph (f) shall be due at the end of the financial year in which such failure was reported pursuant to condition 14.

A.6.5 Any and all amounts that are not paid when due and owing shall be paid with interest at the Over-5% Interest Rate.

SCHEDULE B**SERVICE TARGETS**

B.1.1 Subject to the provisions of this Licence, the Licensee shall be required to meet the annual quality of service targets (each a "Service Target;" together the "Service Targets") set forth in Table II in this Schedule B. For the avoidance of doubt, failure to achieve a particular Service Target shall be measured as a percentage of the relevant number or percentage, as the case may be, specified in Table II.

B.2.1 Monetary Penalties for Failure to Achieve Service Targets (A to J inclusive)

B.2.1.1 Monetary penalties for failure to achieve the Service Targets (except for Service Targets relating to reduction of the Existing Waiting List) will be assessed annually by the Authority on the following basis:

TABLE I

Number of Service Targets Failed in Relevant Financial Year	Penalty for Failure to Achieve each Service Target by Margin of Failure		
	Margin of Failure		
	Category A ≤5%	Category B >5% and ≤10%	Category C >10%
1	0	R90,000	R300,000
2 to 3	0	R270,000	R700,000
4 to 6 (inclusive)	R270,000	R630,000	R1,500,000
>6	R360,000	R1,125,000	R2,500,000

B.2.1.2 For each relevant financial year, monetary penalties shall be calculated as the product of the number of Service Targets failed and the monetary penalty corresponding to (a) the number of Service Targets failed in the relevant financial year and (b) the category of margin of failure or, where the Service Targets are failed in more than one category of margin of failure, as the sum of such products.

B.2.2 Monetary Penalties for Failure to Achieve the Service Targets (K to M inclusive) relating to Reduction of the Existing Waiting List

B.2.2.1 Monetary penalties for failure to achieve the Service Targets relating to reduction of the Existing Waiting List will be assessed on the following basis:

- (a) if the Licensee fails by a margin of greater than ten percent (10%) to achieve any such Service Target by the date specified in Table II, the Licensee shall pay a monetary penalty of R1,125,000 for each Service Target missed.

B.3 Transfer from Waiting List to Customer Pipeline

- B.3.1 After the dates specified for reduction of the Existing Waiting List any remaining applicants shall be automatically and immediately transferred to the New Waiting List.
- B.3.2 After expiration of the Exclusivity Period any applicants remaining on the New Waiting List shall be automatically and immediately transferred to the Customer Pipeline.

B.4 Payment of Penalties

- B.4.1 Any and all monetary penalties, which shall be denominated in Rand, shall be adjusted annually for inflation by taking account of any change in the Consumer Price Index over the immediately preceding calendar year.
- B.4.2 Any and all monetary penalties, which shall be calculated by the Authority, shall be paid when due in immediately available funds to the Universal Service Fund. The Licensee shall be required to make payment of any and all monetary penalties in respect of the relevant financial year no later than the end of the relevant calendar year in which the end of the relevant financial year falls.
- B.4.3 Any and all amounts that are not paid when due and owing shall be paid with interest at the Overdue Interest Rate.
- B.4.4 If within twelve (12) months after the Effective Date the Licensee can demonstrate to the satisfaction of the Authority that the information presupposed in calculating the Service Targets set forth in this Schedule E was substantially inaccurate, the Licensee and the Authority, if requested by the Licensee, shall agree only once during the Exclusivity Period to a proportionate decrease of the Service Targets that is consistent with the information provided by the Licensee.

TABLE II

INDICATORS	1997/98	1998/99	1999/2000	2000/01	2001/02
I. Customer fault reports per 1 000 lines per annum (excluding faults to Customer Premises Equipment and internal wiring):					
A. Business customers.....	580	530	470	415	370
B. Residential customers	600	550	490	440	390
II. Percentage of faults cleared within 48 hours (excluding Faults due to Customer Premises Equipment and internal wiring):					
C. Business customers.....	87%	90%	92%	94%	97%
D. Residential customers	80%	83%	86%	88%	90%
III. Serviceability of Public Pay-telephones (excluding bureaus and Renters):					
E. Coin phones.....	90%	90%	90%	90%	90%
F. Card phones	95%	95%	95%	95%	95%

INDICATORS	1997/98	1998/99	1999/2000	2000/01	2001/02
IV. Customer Pipeline: Percentage of orders met within a specified number of days:					
<i>Business customers (commercial and corporate):</i>					
G. % orders met in 28 days.....	68%	75%	81%	86%	90%
H. % orders met in 90 days.....	92%	94%	96%	97%	98%
<i>Residential customers:</i>					
I. % orders met in 28 days.....	62%	68%	73%	77%	80%
J. % orders met in 120 days.....	92%	94%	96%	97%	98%
V. Percentage Reduction of Existing Waiting List:					
<i>Business customers:</i>					
K. 100% reduction.....		31/10/98			
<i>Residential customers:</i>					
L. 100% reduction.....			31/10/99		
<i>Pay-telephones (Renters):</i>					
M. 100% reduction.....		31/10/98			

SCHEDULE C**CREDIT REFERENCING GUIDELINES****C.1 Aims**

The aim of the credit referencing procedure is to provide an effective and efficient means of enabling the Licensee to manage, objectively, the risk of applicants for telephone service defaulting on payment of their telephone bills and to promote and facilitate the universal and affordable provision of telecommunication services.

C.2 General Principles

The Licensee's credit referencing procedure shall comply with the following general principles:

- (a) Be fit for purpose, effective and efficient;
- (b) conform to best international practice;
- (c) be applied in a non-discriminatory manner;
- (d) be applied uniformly and consistently across the Republic but in a manner that duly takes account of the needs and status of different economic and social groups
- (e) be managed and operated in a professional manner by appropriately trained personnel;
- (f) provide transparency in terms of its application and results;
- (g) not delay the processing of applicants' requests for service;
- (h) ensure that the data used is accurate and up-to-date;
- (i) be reviewed and, where appropriate, revised at least annually; and
- (j) ensure the adequate protection of the data used and derived.

C.3 Specific Principles**C.3.1 Principles of Operation:**

- (a) The Licensee should ensure that—
 - (i) training and operating procedures are fully and properly documented;
 - (ii) all staff using the procedures are appropriately trained;
 - (iii) care is exercised to ensure that all information is correctly entered (periodic monitoring of the input process should be carried out);
- (b) The Licensee should use control mechanisms appropriate to the assessment method to ensure that—
 - (i) the system is operating efficiently and accurately;
 - (ii) the system is achieving its objectives; and
 - (iii) the system complies with the principles set out in this document.
- (c) The Licensee should—
 - (i) periodically revalidate any generic scorecard system employed to ensure its on-going applicability to applicant groups; and
 - (ii) apply appropriate statistical techniques when adjustments are required to scorecards.

C.3.2 Principles of Decision-making:

- (a) The Licensee must ensure that—
 - (i) its procedures or decisions do not adversely discriminate on the grounds of sex, race, religion or colour. Any other factors considered should comply with all relevant legislation. Particular attention should be paid to (i) the common law right of privacy and (ii) the constitutional requirement for Parliament to pass legislation that will address historical discrimination on the ground, *inter alia*, of sex, race, religion and colour. In addition, attention should be paid to the following Acts of Parliament, or regulations made under these Acts by any bodies or commissions given statutory power by these Acts—
 - (aa) the Credit Agreement Act;
 - (bb) the Usuary Act; and
 - (cc) the Limitation on Penalty Provisions Act.

C.3.3 In addition to credit scoring, the factors taken into account may include—

- (i) verification of identity;
- (ii) validation of application details;
- (iii) applicants' income and existing commitments;
- (iv) credit reference agency information; and
- (v) the Licensee's own prior experience relevant to the application.

C.3.4 Information to Applicants:

- (a) The Licensee is encouraged to tell applicants, at the outset, that credit referencing/risk assessment techniques are being applied. If an applicant asks whether such techniques will be or are being used then they must be informed of that fact.
- (b) When an applicant enquires about credit referencing risk assessment, the Licensee should provide a simple explanation of how it works. Without jeopardising the security or integrity of their scoring systems or running the risk of fraud, the Licensee should provide the principle reasons for, say, requesting a deposit from an applicant, including—
 - (i) credit scoring;
 - (ii) credit reference agency information about specific factors, such as—
 - (aa) over-commitment by the applicant;
 - (bb) under age;
 - (cc) not employed;
 - (dd) existing account performance.

C.3.5 Handling Appeals:

- (a) The Licensee should implement, operate and regularly review an appeal procedure which—
 - (i) provides an efficient and effective means of handling requests from applicants to review a decision by the Licensee;
 - (ii) provides for designated managers, who have authority to change the original decision, to deal with appeals.

INFORMATION CONCERNING PRIORITY CUSTOMERS AND VILLAGES

SCHEDULE E

INFORMATION CONCERNING SERVICE TARGETS

NOTICE 294 OF 1987

Licence issued by the Minister for Posts, Telecommunications and
Broadcasting to Telkom SA Limited under section 40 of the
Telecommunications Act, 1996

SCHEDULE 3

INFORMATION CONTAINING SERVICE TARGETS

NOTICE 294 OF 1997

**Licence issued by the Minister for Posts, Telecommunications and
Broadcasting to Telkom SA Limited under section 40 of the
Telecommunications Act, 1996**

**LICENCE ISSUED TO TELKOM SA LIMITED TO PROVIDE
TELECOMMUNICATION SERVICES UNDER SECTION 40 OF THE
TELECOMMUNICATIONS ACT, 1996**

THE LICENCE

The Minister, in exercise of the powers conferred on him by section 40 of the Telecommunications Act, 1996 (hereinafter referred to as the "Act"), and of all other powers exercisable by him for that purpose, hereby issues to Telkom SA Limited a licence, for the period specified in condition 11.1, subject to the provisions set forth in such licence and to revocation as provided for in condition 10 and the Act, to provide the telecommunication services specified in condition 2.

This licence shall confer on the Minister, the Authority and the Licensee the rights, subject to the obligations, set forth herein.

J. NAIDOO

Minister for Posts, Telecommunications and Broadcasting

[DATE]

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1. DEFINITIONS AND INTERPRETATIONS

- 1.1 In this Licence, unless otherwise stated, words and terms used shall have the same meaning as defined in the Telecommunications Act, 1996 (Act No. 103 of 1996).
- 1.2 Words importing the singular shall include the plural and vice versa; words denoting persons shall include bodies corporate and unincorporated associations of persons and vice versa.
- 1.3 The headings in this Licence shall not affect its interpretation.
- 1.4 Any reference, express or implied, to an enactment includes references to—
- (a) that enactment as amended, extended, or applied by or under any other enactment before, on or after the date of this Licence;
 - (b) any enactment which that enactment re-enacts (with or without modification); and
 - (c) any subordinate legislation made (before, on or after the date of this Licence) under any enactment, including, without limitation, one within paragraphs (a) or (b) or both.
- 1.5 In this Licence the following terms shall have the meaning given herein:

“Act” means the Telecommunications Act, 1996 (Act No. 103 of 1996).

“Billing Processes” means the billing systems and metering systems taken together, where “billing system” means the totality of the equipment, data procedures and activities which the Licensee uses to determine the charges to be made for service usage; and where “metering system” means the equipment, data procedures and activities which the Licensee uses to determine the extent of any telecommunication services which it has provided.

“Business Day” means any day other than a Saturday, a Sunday or a public holiday in the Republic.

“Central Statistical Service” means the Central Statistical Service of the Republic.

“Code of Practice” has the meaning assigned to such term in condition 6.

“Companies Act” means the Companies Act, 1973 (Act No. 61 of 1973).

“Consumer Price Index” means the index of consumer prices applicable to all economic sectors compiled and published by the Central Statistical Service.

“Customer” means any person who has indicated a willingness in writing with the Licensee to receive Value Added Network Services from the Licensee on the Licensee's terms and conditions, or has in writing entered into, and is not in breach of, a contract with the Licensee for the provision of such services.

“Effective Date” means the date on which this Licence was issued by the Minister.

“financial year” means the period of twelve (12) months in respect of which the Licensee is required to make up its accounts under the Companies Act.

“Intellectual Property Right” has the meaning assigned to such term in condition 8.4.

"Internet" means an integrated international computer network through which users are connected to each other by means of the TCP/IP family of protocols.

"Licence" means the licence issued by the Minister to the Licensee under section 40 of the Act.

"Licensee" means Telkom SA Limited, a company incorporated under the laws of the Republic and contemplated in section 3 (1) of the Post Office Act.

"Mobile Telecommunication Service" means a mobile cellular telecommunication service as contemplated under section 37 (1) of the Act.

"Operator" means any person licensed to provide a telecommunication service pursuant to a licence of a type referred to in section 34 (2) of the Act.

"Post Office Act" means the Post Office Act, 1958 (Act No. 44 of 1958), as that act existed immediately before its amendment by the Act.

"Public Switched Telecommunication Network" has the meaning assigned to such term in the licence issued to the Licensee under section 36 of the Act.

"Public Switched Telecommunication Services" means all those telecommunication services which the Licensee is authorised or entitled to provide, whether or not exclusively, under the licence issued to it under section 36 (1) of the Act.

"Rand" or **"R"** means the lawful currency from time to time of the Republic.

"Republic" means the Republic of South Africa, including all of its territories and possessions and its territorial waters.

"Value Added Network Services" means all those value added services provided by the Licensee immediately before the commencement of the Act, including, without limitation—

- (a) electronic data interchange;
 - (b) electronic mail;
 - (c) protocol conversion;
 - (d) access to a data base or a managed data network service;
 - (e) voice mail;
 - (f) store-and-forward fax;
 - (g) videoconferencing;
 - (h) telecommunication related publishing and advertising services, whether electronic or print;
 - (i) electronic information services, including Internet service provision;
- and any other telecommunication service additional to Mobile Telecommunication Services and Public Switched Telecommunication Services and in respect of which conveyance of signals is no more than is incidental to, and necessary for, the provision of that service.

"Wholly-owner Subsidiary" has the meaning assigned to such term in the Companies Act.

"Subsidiary" has the meaning assigned to such term in the Companies Act.

2. RIGHTS TO PROVIDE VALUE ADDED NETWORK SERVICES

- 2.1** The Licensee shall be entitled to provide Value Added Network Services.
- 2.2** Subject to the other provisions in this Licence, the Licensee and any or all of its Subsidiaries shall be entitled by virtue of this Licence to provide all or any of the Value Added Network Services together with all or any other rights granted to it under this Licence.
- 2.3** This Licence shall not be construed as granting any exclusive rights to the Licensee in the provision of Value Added Network Services.
- 2.4** The Licensee may not—
- (a) resell any capacity on any telecommunication facilities; or
 - (b) permit any Value Added Network Services provided by it to be used for the carrying of voice messages;
- in each case until such time or times as may be determined pursuant to the Act.
- 2.5** Without prejudice to condition 2.4, nothing in this Licence shall prejudice any rights or privileges granted or afforded to the Licensee under all or any of the provisions of the Act and any other legislation or under any other licence issued to the Licensee under the Act.

3. CUSTOMER CONFIDENTIALITY

- 3.1 The Licensee shall use its reasonable endeavours to prevent information about its customers that it receives in the provision of telecommunication services to those customers from being disclosed to third parties or from being used otherwise than for the purpose of providing the telecommunication service, other than that information which may be published or made available pursuant to condition 3.2.
- 3.2 Information about customers may be disclosed by the Licensee to third parties to the extent that it is required—
- (a) in the process of collection of debts;
 - (b) by the Licensee's auditors for the purpose of auditing the Licensee's accounts;
 - (c) by the Licensee's attorneys in connection with any potential, threatened or actual litigation;
 - (d) for the purposes of compiling, verifying or auditing any reports, accounts or other information required under this Licence or under any other licence issued to the Licensee under the Act to be made available by it to the Minister or the Authority, as the case may be; or
 - (e) where this Licence or the law so permits or requires.
- 3.3 The Licensee shall not monitor or disclose the contents of any communication conveyed as part of any of its Value Added Network Services except—
- (a) where it may be necessary for the purposes of maintaining or repairing any part of any telecommunication facilities used to provide such Value Added Network Services; or
 - (b) where requested to do so by a person authorised to make such request by applicable law.

4. BILLING

4.1 The Licensee may determine the content and format of its bills to Customers provided that—

- (a) it accurately reflects the types of service, the units and the charge per unit for which charges are made; and
- (b) the Licensee retains in its records information sufficient—
 - (i) to identify for Customers the basis of the amount charged for use of its services; and
 - (ii) to provide the Authority with an independent quality assurance that the billing process complies with the requirements set forth in paragraph (i).

4.2 The Licensee shall maintain in operation Billing Processes to enable the Licensee to comply with the requirements of condition 4.1.

4.3 The Licensee shall allow, on reasonable notice from the Authority, qualified personnel appointed by the Authority, during the Licensee's normal business hours, to inspect its Billing Processes, including carrying out tests and trial runs with respect to the operation of such Billing Processes. The Licensee shall allow such personnel access to such of its premises, plant or equipment as may be reasonably required for the purpose of carrying out any such inspections.

4.4 Nothing in this condition 4 shall prevent the Licensee from making a reasonable charge to Customers for the services provided in accordance with this condition 4.

5. ASSISTANCE AND CUSTOMER COMPLAINTS

The Licensee shall establish efficient procedures so that Customers can receive assistance from its personnel during normal business hours. These procedures shall be included in the Licensee's standard terms and conditions for the provision of Value Added Network Services. These procedures shall also include procedures for dealing with Customer complaints.

6. CODE OF PRACTICE FOR CONSUMER AFFAIRS

The Licensee shall, in consultation with the Authority, prepare and publish not later than six (6) months after the Effective Date, a code of practice (the "Code of Practice") giving guidance to the Licensee's customers in respect of any disputes with, and complaints from, those Customers relating to the provision of Value Added Network Services by the Licensee to them. The Licensee shall consult with the Authority not less frequently than once every three (3) years about the operation of the Code of Practice.

7. PREPARATION OF ACCOUNTS

Except in so far as the Authority may otherwise consent in writing, the Licensee shall as soon as practicable maintain accounting records in such a form that its business for providing Value Added Network Services is separately identifiable or separately attributable in the books of the Licensee, being records sufficient to show and explain the transactions of that part of the Licensee's activities.

8. FAIR TRADING

- 8.1 The Licensee shall not show undue preference to, or exercise undue discrimination against, particular persons or persons of any class or description in respect of the provision of any Value Added Network Services:
- 8.2 The Licensee may be deemed to have shown such undue preference or discrimination if it unfairly favours to a material extent any business carried on by it with respect to the provision of Value Added Network Services so as to place at a significant competitive disadvantage persons lawfully competing with that business.
- 8.3 The Licensee shall not, without the consent of the Authority, make—
- (a) the acquisition from any person in the Republic by the Licensee or any of its Wholly-owned Subsidiaries, or
 - (b) the provision of services by any person in the Republic to it or any of its Wholly-owned Subsidiaries,
- with respect to any telecommunication services or apparatus to be used by the Licensee in the provision of any of its Value Added Network Services, conditional upon agreement that those services and apparatus shall be supplied exclusively to the Licensee.
- 8.4 Condition 8.3 shall not apply with respect to the supply of any telecommunication services or apparatus where—
- (a) the Licensee or any of its Wholly-owned Subsidiaries holds any Intellectual Property Right in that telecommunication service or apparatus;
 - (b) the telecommunication apparatus is distinguishable by its external appearance, or by any marking or similar feature, from other telecommunication apparatus of the same type, and is intended, by virtue of those distinguishing features, to be associated with the Licensee or its Wholly-owned Subsidiary; or
 - (c) the Licensee or any of its Wholly-owned Subsidiaries makes available research, design or development work, or agrees to finance that work on condition that the telecommunication service or apparatus concerned shall be exclusively supplied to it.

For the purposes of this condition, "Intellectual Property Right" includes, without limitation, patents, trademarks, designs, know-how, copyright and other trade secrets, and all rights or forms of protection of a similar nature.

- 8.5 The Licensee shall not make it a condition of—

- (a) providing any Value Added Network Service, or
- (b) supplying any telecommunication apparatus,

that any person requesting the Value Added Network Service or apparatus concerned should acquire from the Licensee or any other person specified by it any Value Added Network Service other than the particular Value Added Network Service requested, except where the Value Added Network Service requested cannot otherwise be provided, or the telecommunication apparatus requested cannot otherwise reasonably be used.

- 8.6 This condition shall not prevent the Licensee from—
- (a) imposing any terms and conditions as are permitted under section 43 and/or 44 of the Act and the guidelines contemplated thereunder;
 - (b) where it supplies as part of the same transaction, or related series of transactions, offering discounts based on term commitments or commitments for multiple services or for purchasing two or more Value Added Network Services which are of a similar type (or so related as to permit economies of scale where they are provided together), or for purchasing two or more items of telecommunication apparatus, or from offering quantity discounts or more favourable terms and conditions in respect of quantity in relation to those Value Added Network Services or apparatus; and
 - (c) imposing any other conditions with respect to the provision or supply of the Value Added Network Services or apparatus referred to in condition 8.4 as are reasonably incidental to such provision or supply or as may otherwise be agreed by the Authority.
- 8.7 The Licensee will not unfairly cross-subsidise its charges for any Value Added Network Service. For the avoidance of doubt, nothing in this Licence shall prohibit the Licensee from investing in any Value Added Network Service any net revenues or earnings received by it from any of its telecommunication services.
- 8.8 Nothing in this Licence shall prevent the Licensee from operating a system of differential charging for any of its Value Added Network Services, or for any other activities carried on by it unless the Authority otherwise agrees.
- 8.9 Any question relating to whether any act done or course of conduct pursued by the Licensee amounts to undue preference or undue discrimination as described in condition 8.1 shall be determined by the Authority, but nothing done in any manner by the Licensee shall be regarded as undue preference or undue discrimination for the purposes of this condition if, and to the extent that, the Licensee is required or permitted to do the relevant matter or thing in such manner by or under any provision of this Licence or the Act.

9. PROVISION OF INFORMATION

9.1 The Licensee shall provide to the Authority any relevant information or reports as are requested by the Authority for the purposes of exercising its powers, duties and functions under the Act.

9.2 The Authority shall, at the request of the Licensee, use its reasonable endeavours to ensure that any information or all or any part of any report referred to in condition 9.1 reasonably justifying confidentiality, such as commercially sensitive or proprietary information relating to the financial capacity or business plans of the Licensee or trade secrets, shall not be open to public inspection or disclosed to any third party.

10. REVOCATION

This Licence may be revoked by the Authority at any time by ninety (90) days notice in writing given to the Licensee at its registered office in any of the following circumstances:

- (a) If the Licensee agrees in writing with the Authority that this Licence should be revoked;
- (b) if the Licensee repeatedly fails to comply with an order by the Authority under section 100 (3) of the Act (which order has not been set aside by, or is not the subject of proceedings before, a court as referred to in section 100 (4) of the Act) and such failure is not rectified within ninety (90) days after the Authority has notified the Licensee in writing; or
- (c) if the Licensee is placed in final liquidation or under a provisional or final judicial management order.

11. GENERAL CONDITIONS**11.1 Validity and Effective Term**

This Licence shall come into effect on the Effective Date and shall remain valid for a period of 25 years from that date unless revoked in terms of condition 10.

11.2 Transferability

The Licensee may not transfer or assign any of its rights under this Licence without the prior written consent of the Authority.

11.3 Licence Fees

The Licensee shall on each anniversary of the Effective Date pay to the Authority a licence fee of R15,000, to be adjusted annually for inflation by taking into account changes in the Consumer Price Index for the immediately preceding calendar year.

11.4 Limitations

11.4.1 Nothing which the Licensee may do, or omit to do, after the Effective Date shall constitute a breach of any provision of this Licence, to the extent that the Licensee is obliged to do, or to omit to do, as the case may be, that thing under the terms of any enactment, determination, guideline, rule, regulation or other legislation or any licence held by it under the Act.

11.4.2 The Licensee shall have no liability for any failure or delay in complying with any provision of this Licence if, and to the extent and for so long as, that compliance is prevented or substantially hindered by any act of God, flood, fire, tempest, severe weather conditions, war (whether declared or not), civil disturbances, revolution, riot, insurrection, other natural disasters, act of terrorism, sabotage, other public emergencies or any other cause whatsoever which is substantially beyond the control of the Licensee.

11.5 Reconciliation Procedure

11.5.1 Before making—

- (a) an amendment to this Licence (to the extent permitted under this Licence or the Act); or
- (b) any determination or decision, or giving or refusing to give its consent under the terms of this Licence, including, without limitation, in respect of—
 - (i) any matter which is subject to opinion or satisfaction of the Authority or the Minister, as the case may be, or
 - (ii) any matter for which the mutual agreement of the Authority and the Licensee is required but about which they are unable to agree,

the Authority, or the Minister, as the case may be, shall consult with the Licensee. In each case, the Authority, or the Minister, as the case may be, shall notify the Licensee of the proposed determination or decision or consent or refusal of consent, as the case may be, and its reasons for its proposal, and shall give the Licensee an opportunity to make representations, at a public hearing or otherwise. When making a determination or decision, or giving or refusing to give its consent, the Authority, or the Minister, as the case may be, shall give reasons and supporting evidence where available in each case which are sufficient to give the Licensee a reasonable understanding of the proposed determination or decision, as the case may be. The Authority, or the Minister, as the case may be, shall make every effort to conduct all reconciliation proceedings promptly.

NOTICE 295 OF 1997

Licence issued by the Minister for Posts, Telecommunications and Broadcasting to Telkom SA Limited under section 30 of the Telecommunications Act, 1996

LICENCE ISSUED TO TELKOM SA LIMITED TO USE RADIO FREQUENCY SPECTRUM AND RADIO STATIONS UNDER SECTION 30 OF THE TELECOMMUNICATIONS ACT, 1996**THE LICENCE**

The Minister, in exercise of the powers conferred on him by section 30 of the Telecommunications Act, 1996 (hereinafter referred to as the "Act"), and of all other powers exercisable by him for that purpose, hereby issues to Telkom SA Limited a licence, for the period specified in condition 9.1, subject to the provisions set forth in such licence and to revocation as provided for in condition 8.1 and the Act, to use the radio frequency spectrum and radio stations specified in condition 2.

This licence shall confer on the Minister, the Authority and the Licensee the rights, subject to the obligations, set forth herein.

J. NAIDOO**Minister for Posts, Telecommunications and Broadcasting**

[DATE]

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1. DEFINITIONS AND INTERPRETATIONS

- 1.1 In this Licence, unless otherwise stated, words and terms used shall have the same meaning as defined in the Telecommunications Act, 1996 (Act No. 103 of 1996).
- 1.2 Words importing the singular shall include the plural and vice versa; words denoting persons shall include bodies corporate and unincorporated associations of persons and vice versa.
- 1.3 The headings in this Licence shall not affect its interpretation.
- 1.4 Any reference, express or implied, to an enactment includes references to—
- (a) that enactment as amended, extended or applied by or under any other enactment before, on or after the date of this Licence;
 - (b) any enactment which that enactment re-enacts (with or without modification); and
 - (c) any subordinate legislation made (before, on or after the date of this Licence) under any enactment, including, without limitation, one within paragraphs (a) or (b) or both.
- 1.5 The schedule to this Licence shall form part of it.
- 1.6 In this Licence the following terms shall have the meanings given herein:
- "Act"** means the Telecommunications Act, 1996 (Act No. 103 of 1996).
- "Central Statistical Service"** means the Central Statistical Service of the Republic.
- "Consumer Price Index"** means the Consumer Price Index applicable to all economic sectors compiled and published by the Central Statistical Service.
- "Effective Date"** means the date on which this Licence was issued by the Minister.
- "Licence"** means this licence issued by the Minister to the Licensee under section 30 of the Act.
- "Licensee"** means Telkom SA Limited, a company incorporated under the laws of the Republic and contemplated in section 3 (1) of the Post Office Act.
- "Post Office Act"** means the Post Office Act, 1958 (Act No. 44 of 1958), as that act existed immediately before its amendment by the Act.
- "Public Switched Telecommunication Services"** means all those telecommunication services as contemplated under section 36 (1) of the Act.
- "Rand"** means the lawful currency from time to time of the Republic.
- "Register of Assignments"** means the record of authorisations from time to time maintained by the Authority for all radio stations to use radio frequencies or radio frequency channels or both under specified conditions.
- "Republic"** means the Republic of South Africa, including all of its territories and possessions and its territorial waters.
- "Spectrum"** has the meaning assigned to such term in condition 2.1
- "Value Added Network Services"** means all those value added services as contemplated under section 40 (1) of the Act.
- "WLL Regulation"** means the [Regulation on the Implementation of Migration within the Wireless Local Loop (WLL) Bands], adopted by the [Minister] on [] 1997.

2. RIGHTS TO USE OF RADIO FREQUENCY SPECTRUM AND RADIO STATIONS

- 2.1 The Licensee shall be entitled, subject to the conditions contained in this Licence, any regulations issued by the Authority and other laws and regulations in force in the Republic, to use the bands of radio frequency spectrum (the "Spectrum") and to use the radio stations (each a "Station"), each as set forth in the Register of Assignments, for the purposes specified in this Licence. The Register of Assignments shall be open to inspection by the Licensee during normal business hours.
- 2.2 The Licensee and all persons permitted by the Licensee to operate any Station which the Licensee is authorised by this Licence to establish and use shall observe and comply with the relevant provisions of any International Telecommunications Conventions and the Radio Regulations of the International Telecommunication Union which have from time to time or at any time been agreed to or adopted by the Republic.
- 2.3 This Licence is non-exclusive; *provided, however*, the Authority shall exercise prudence so as to ensure, and shall ensure, that subsequent licences do not create any unnecessary or materially prejudicial interference to the Licensee as that term is defined from time to time under the Radio Regulations of the International Telecommunication Union.

3. RADIO FREQUENCY SPECTRUM

- 3.1 Without prejudice to condition 2, the Licensee is licensed to use the Spectrum subject to limitations relating to the classes and power, aerial and other characteristics set forth for the time being and from time to time in the Register of Assignments in accordance with the provisions of this Licence. Such use is licensed solely for the purpose of providing any of the telecommunication services described in, or authorised to be provided under, a validly issued licence for the provision of Public Switched Telecommunication Services and Value Added Network Services pursuant to Chapter V of the Act or any licence which may from time to time replace such licences. The Licensee shall use the Spectrum in a manner which does not cause unnecessary or materially prejudicial interference with radio communications authorised or permitted to be carried on in accordance with the Act and any other applicable laws and regulations in force in the Republic.
- 3.2 In the event that the Authority makes a block allocation of Spectrum to the Licensee, whereby the Licensee is permitted to make its own individual assignments within such block allocation, the Licensee shall notify the Authority within thirty (30) days, or such other time period as the Licensee and the Authority may from time to time agree, of all new assignments for the purpose of updating the Register of Assignments.
- 3.3 In those bands where the Authority makes individual assignments to the Licensee such assignment shall immediately be recorded in the Register of Assignments by the Authority whenever such an assignment is made.
- 3.4 If the Licensee requires any Spectrum at a time which is earlier than that required by any frequency band plan prepared and adopted by the Authority in accordance with the Act, the Licensee shall approach the Authority with such request. If such request is feasible from a planning point of view, the Authority shall approve and facilitate this migration by liaison between the parties. No direct contact is permitted between the Licensee and such user with respect to the migration of that user to different frequencies without the authorisation and knowledge of the Authority. This condition shall apply, with the necessary changes, if the Licensee is required to vacate any spectrum in order to permit other users to be licensed to use such Spectrum at a time which is earlier than that required by any frequency band plan prepared and adopted by the Authority in accordance with the Act.
- 3.5 Subject to condition 3.4, where the Licensee requests that an existing authorised user of any Spectrum licensed hereunder make available such Spectrum to the Licensee at a time which is earlier than that required by any frequency band plan prepared and adopted by the Authority in accordance with the Act and such user agrees to make available to the Licensee such Spectrum in accordance with such request, the Licensee shall offer to provide to such user an indemnity, to be negotiated in good faith between the Licensee and such user, for such user's costs of migrating to a different frequency. Such indemnity shall be limited to costs necessarily and directly incurred by such user in order to effect migration by the time or times requested by the Licensee and, for the avoidance of doubt, shall not include additional expenses incurred as a result of such user upgrading or otherwise modifying its equipment subsequent to the Effective Date. Notwithstanding the foregoing, this condition shall not apply in the case of wireless local loop bands, which shall be vacated in accordance with the WLL Regulation.

- 3.6 Subject to condition 3.4, where the Licensee is requested to vacate any Spectrum in order to permit other uses to be licensed to use such Spectrum at a time which is earlier than that required by any frequency band plan prepared and adopted by the Authority in accordance with the Act, the Licensee shall be entitled to an indemnity, to be negotiated in good faith between the Licensee and such user, for the Licensee's costs of migrating to a different frequency. Such indemnity shall be limited to costs necessarily and directly incurred by the Licensee in order to effect migration by the time or times requested by such user and, for the avoidance of doubt, shall not include additional expenses incurred as a result of the Licensee upgrading or otherwise modifying its equipment subsequent to the Effective Date. Notwithstanding the foregoing, this condition shall not apply in the case of wireless local loop bands, which shall be vacated in accordance with the WLL Regulation.

4. RADIO STATIONS

4.1 Without prejudice to condition 2, the Licensee shall be licensed to possess, establish, maintain and use the transmitting and receiving Stations for radiotelephony set forth for the time being and from time to time in the Register of Assignments in accordance with the provisions of this Licence.

4.2 The apparatus comprised in any Station shall at all times comply with the same technical standards as may be prescribed by the Authority from time to time and shall be so designed, constructed, maintained and operated that its use shall not cause any unnecessary or materially prejudicial interference to any radio communication authorised or permitted to be carried on in accordance with the Act and any other applicable laws and regulations in force in the Republic.

4.3 Any Station shall be operated only by the Licensee or by persons authorised by the Licensee on its behalf. The Licensee shall not permit or suffer any unauthorised person to have access to the apparatus comprised in any Station. The Licensee shall ensure that persons operating any Station shall at all times observe the conditions of this Licence.

The Register of Assignments shall contain detailed technical parameters for the operation of every assignment, including the area of operation and location of each Station, bandwidth of operation, frequency of operation, modulation, nominal and effective radiated powers (including antenna gain). Any additional Stations and assignments shall be recorded in the Register of Assignments as may be agreed from time to time by the Licensee and the Authority.

4.4 Subject to the provisions of this Licence, the Licensee shall give prior notification in writing to the Authority of any change which affects the technical parameters of any Station, including the change of location of any Station. Notwithstanding the foregoing, the Licensee shall not be required to give prior notification in writing to the Authority of any change which does not affect the technical parameters of any Station.

4.5 Any Station or Stations shall be closed down or, as the case may be, operation shall be restricted at any time on the demand of a person lawfully acting under the authority of the Authority; *provided, however*, the Authority must always act in a way which is not unreasonable and, except where the Station or Stations concerned are being used by the Licensee in breach of the provisions of this Licence in circumstances justifying the immediate restriction of its/their use or its/their close down without prior warning, only where in the reasonable opinion of the Authority circumstances substantially beyond the control of the Licensee have arisen causing the Station or Stations concerned to cause unnecessarily or materially prejudicial interference to other authorised radio communication such as to justify the immediate restriction of its/their use or its/their close down. The Licensee shall cure the interference or demonstrate that its activities are not the cause of the interference to the reasonable satisfaction of the Authority. The Licensee shall be entitled to resume operation immediately subsequent to satisfying either of these conditions.

4.6 If any Station or radio communication antenna crosses above or may fall or might reasonably be expected to be capable of being blown onto any overhead power wire or power apparatus, it shall be constructed and maintained so as to avoid contact with the power wire or power apparatus concerned.

5. EMERGENCIES

The Authority, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order may take over the Spectrum and operate any Station in the interest of public safety, security and public welfare, or authorise the temporary use and operation thereof by any agency of the Government, upon due compensation to the Licensee for such use during the period when they shall be so taken over and/or operated. The Licensee shall not have any liability in respect of any such use or operation and shall be fully indemnified by the Government in connection with any action, proceeding or claim brought against it in respect thereof. The Licensee shall be entitled to resume operation immediately subsequent to the termination of the event giving rise to the temporary emergency takeover. Within twelve (12) months of the Effective Date the Licensee and the Authority shall develop a plan to implement this condition 5.

6. CONFIDENTIALITY

6.1 The Licensee shall not monitor or disclose the contents of any radio communications except—

- (a) where it may be necessary for the purposes of maintaining or repairing any Station;
- (b) where requested to do so by a person authorised to make such a request by applicable law; or
- (c) where required to fulfill its obligations to avoid or resolve interference with other licensees.

7. PROVISION OF INFORMATION

- 7.1 The Licensee shall provide to the Authority any relevant information or reports as are requested by the Authority for the purposes of exercising its powers, duties and functions under the Act.
- 7.2 The Authority shall, at the request of the Licensee, use its reasonable endeavours to ensure that any information or all or any part or any report referred to in condition 7.1 reasonably justifying confidentiality, such as commercially sensitive or proprietary information relating to the financial capacity or business plans of the Licensee or trade secrets, shall not be open to public inspection or disclosed to third parties.
- 7.3 Any Station and this Licence shall be available for inspection at all reasonable times by duly authorised person in the service of the Authority.

8. REVOCATION

8.1 Revocation of this Licence

8.1.1 This Licence may be revoked by the Authority at any time by ninety (90) days notice in writing given to the Licensee at its registered office in any of the following circumstances:

- (a) If the Licensee agrees in writing with the Authority that the Licence should be revoked;
- (b) if the Licensee repeatedly fails to comply with an order by the Authority under section 100 (3) of the Act (which order has not been set aside by, or is not the subject to proceedings before, a court as referred to in section 100 (4) of the Act) and such failure is not rectified within ninety (90) days after the Authority has notified the Licensee in writing; or
- (c) if the Licensee is placed in final liquidation or under a provisional or final judicial management order.

8.2 Revocation of Existing Licences

8.2.1 Any radio frequency spectrum or radio station licence however described which has previously been issued to the Licensee is hereby revoked (other than any licence issued to the Licensee for the purposes of providing two-way communication facilities for use by its personnel in carrying on any business of the Licensee).

9. GENERAL CONDITIONS**9.1 Validity and Term**

9.1.1 This Licence shall come into effect on the Effective Date and shall remain valid for a period of twenty-five (25) years unless revoked in terms of condition 8.

9.2 Limitations on Transfer and Assignment

9.2.1 The Licensee may not transfer, assign or encumber any of its rights under this Licence without the prior written consent of the Authority.

9.2.2 The Licensee may not, through sale or pledge of assets, through contracts or otherwise, render itself incapable of performing its obligations under this Licence. The Licensee will be required to take all necessary action to ensure the continuous and uninterrupted right to use of any personal and real property which it uses as collateral for secured loans.

9.2.3 A substantial ownership interest in, or control (whether *de jure* or *de facto*) of, the Licensee shall not be transferred or assigned without prior notification in writing to the Authority.

9.3 Licence Fees

9.3.1 The Licensee shall on each anniversary of the Effective Date pay to the Authority a licensee fee, which shall be payable in Rands, as set forth on Schedule A, to be adjusted annually for inflation by taking into account changes in the Consumer Price Index for the immediately preceding calendar year.

9.4 Limitations

9.4.1 Nothing which the Licensee may do, or omit to do, after the Effective Date shall constitute a breach of any provision of this Licence, to the extent that the Licensee is obliged to do, or omit to do, as the case may be, that under the terms of any enactment, determination, guideline, rule, regulation or other legislation or any licence held by it under the Act.

9.4.2 The Licensee shall have no liability for any failure or delay in complying with any provision of this Licence if, and to the extent and for so long as, that compliance is prevented or substantially hindered by any act of God, flood, tempest, severe weather conditions, war (whether declared or not), civil disturbances, revolution, riot, insurrection, other natural disasters, act of terrorism, sabotage, other public emergencies or any other cause whatsoever which is substantially beyond the control of the Licensee.

9.5 Health and Safety

9.5.1 The Licensee shall take proper and adequate safety measures for the safeguarding of life and property in connection with all installations, equipment and apparatus operated or used, including safeguarding against exposure to any electrical or radiation hazard emanating from the installations, equipment or apparatus used or operated under this Licence as required by the laws of the Republic.

9.6 Amendment

9.6.1 The Authority may amend this Licence—

- (a) if the Licensee agrees in writing with the Authority that the Licence should be amended;
- (b) to implement any frequency band plan prepared and adopted by the Authority in accordance with the Act or in the interest of orderly frequency management if the amendment will not cause substantial prejudice to the Licensee; or
- (c) in accordance with applicable law.

9.7 Reconciliation Procedure**9.7.1 Before making—**

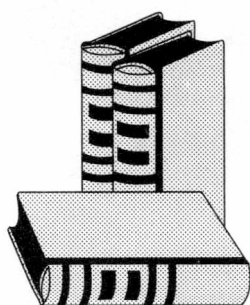
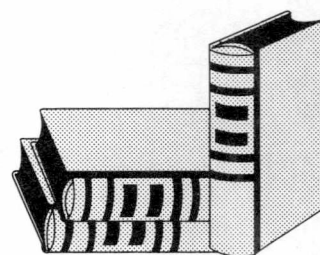
- (a) an amendment to this Licence (to the extent permitted under this Licence or the Act);
- (b) any determination or decision, or giving or refusing to give its consent under the terms of this Licence, including, without limitation, in respect of—
 - (i) any matter which is subject to the opinion or satisfaction of the Authority or the Minister, as the case may be; or
 - (ii) any matter for which the mutual agreement of the Authority and the Licensee is required but about which they are unable to agree;

the Authority or Minister, as the case may be, shall consult with the Licensee. In each case the Authority or the Minister, as the case may be, shall notify the Licensee of the proposed determination or decision or consent or refusal of consent, as the case may be, and its reason for its proposal, and shall give the Licensee an opportunity to make representations, at a public hearing or otherwise. When making a determination or decision, or giving or refusing to give its consent, the Authority or the Minister, as the case may be, shall give reasons and supporting evidence where available in each case which are sufficient to give the Licensee a reasonable understanding of the proposed decision or decision, as the case may be. The Authority or the Minister, as the case may be, shall make every effort to conduct all reconciliation proceedings promptly.

SCHEDULE A**LICENCE FEES**

A.1	Per MHz Frequency spectrum.....	R1,540
A.2	Per MHz of duplex pair wireless local loop frequency spectrum	R650,000

Where is the largest amount of meteorological information in the whole of South Africa available?



Waar is die meeste weerkundige inligting in die hele Suid-Afrika beskikbaar?

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