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**GOVERNMENT NOTICE
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INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

No. R. 525

14 June 2010



Pinmill Farm, 164 Katherine Street, Sandton
Private Bag X10002, Sandton, 2146

ELECTRONIC COMMUNICATIONS ACT, 2005 (NO. 36 OF 2005): REGULATIONS

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

The Independent Communications Authority of South Africa, in terms of section 8 read with section 4 of the Electronic Communications Act, 2005(Act No.36 of 2005), hereby prescribes regulations in the schedules.



**PARIS MASHILE
CHAIRPERSON
ICASA**

SCHEDULE 1

CLASS BROADCASTING LICENCES

1. DEFINITIONS

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

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

"Authority" means the Independent Communications Authority of South Africa established by section 3 of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000);

"BS" means a broadcasting service as defined in section 1 of the Electronic Communications Act 2005 (Act No. 36 of 2005);

"Effective date" means the date on which the Licence is issued;

"Public Service Announcement" means an announcement broadcast by a broadcasting service licensee aimed at imparting knowledge or information concerning a disaster or immediate grave danger to the public or in the interests of public welfare;

"Licence" means the Class Broadcasting Service licence issued to the Licensee in the form contained in Annexure A of these regulations;

"Licensee" means a person named in the licence and issued with a licence to provide services in terms of Chapter 3 of the Act.

2. NOTIFICATION OF CHANGE IN LICENSEE DETAILS AND INFORMATION

(1) A Licensee must submit written notice to the Authority within seven (7) days of the occurrence of the following changes in its licence:-

(a) the name of the Licensee;

(b) board of directors;

(c) shareholders; and

(d) contact details.

(2) Any change or transfers of shares undertaken in terms of 2(1)(c) above must comply with all licence terms and conditions and the Act.

3. LICENCE AREA

- (1) The Licence area for a Community Sound Broadcasting Service is the maximum possible area covered by the frequency/ies and power level allocated to a Licensee in terms of the Radio Frequency Spectrum Licence, which area may not exceed a District Municipality as defined in the Local Government Municipal Structures Act, No 117 of 1998. The specific licence area will be as defined by the Licence issued to a Licensee.
- (2) The Licence area for a Community Television Broadcasting Service is the maximum possible area covered by the frequency/ies and power level allocated to a Licensee, which area may not exceed a Province as defined in the Constitution of the Republic of South Africa, Act 108 of 1996,
- (3) The specific licence area will be defined by the licence issued to a licensee.

4. DURATION OF THE LICENCE

- (1) The following Licences are valid for five (5) years from the effective date:
 - (a) Community Sound BS;
 - (b) Community Low Power Sound BS;
 - (c) Commercial Low Power Sound BS; or
 - (d) any other Low Power Service.
- (2) The Licence for Community Television BS is valid for seven (7) years from the effective date.
- (3) Special event licences are valid for a maximum period not exceeding 45 days for Community Sound Broadcasting and Low Power Services.

5. COMMENCEMENT OF OPERATIONS

A Licensee must commence operation of the BS specified in the Licence within six (6) months from the effective date, unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the six (6) months period.

6. HOURS OF OPERATIONS

- (1) A Licensee must provide broadcast services for twenty four (24) hours per day unless the Authority has been notified of a shorter schedule of daily broadcast operations.

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

7. SERVICES TO BE PROVIDED BY THE LICENSEE

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

- (a) Community Sound BS;
- (b) Community Television BS;
- (c) Community Low Power Sound BS; or
- (d) Special Event Community Sound BS;
- (e) Commercial Low Power Sound BS;
- (f) Any other Low Power Service.

8. SAFETY MEASURES

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

9. PROVISION OF INFORMATION

- (1) The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide information, so as to enable it to:
- (a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions and other requirements of the Act and related legislation;
 - (b) facilitate the efficient use of scarce resources; and
 - (c) collect and compile information to be used for the purposes of sectoral analysis, planning, reporting and conducting inquiries.
- (2) In respect of each information request referred to in sub-clause(1), except where otherwise addressed in applicable regulations, the Authority will provide, among other things, detailed specifications of its information request, applicable response times and a contact person to whom queries may be addressed.
- (3) The licensee must provide the information in accordance with such format as may be prescribed by the Authority.

10. PUBLIC SERVICE ANNOUNCEMENTS

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

11. CONTRAVENTIONS AND PENALTIES

- (1) Upon a determination of non-compliance by the Complaint and Compliance Committee in terms of the ICASA Act, the Authority may impose a fine not exceeding:
 - (a) One Hundred Thousand Rands (R100000) for contravention of regulations 3(1),3(2) 4, 5(, 6, 7,8 9, and 10;),
 - (b) Fifty Thousand Rands (R50000) for contravention of all the regulations not specified in the regulation 11(1)(a); and
 - (c) Additional One Hundred Thousand Rands (R100000) for repeated contravention of the regulations.

12. SHORT TITLE AND COMMENCEMENT

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

13. REPEAL OF REGULATIONS

These regulations repeal **Government Gazette No. 30512** containing the Standard Terms and Conditions for Class licences published 30 November 2007.

SCHEDULE 2

CLASS ELECTRONIC COMMUNICATIONS NETWORK SERVICES

1. DEFINITIONS

In these regulations unless the context indicated otherwise:

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

"Authority" means the Independent Communications Authority of South Africa established by section 3 of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000);

"ECNS" means an Electronic Communications Network Service as defined in the Electronic Communications Act; 2005 (Act No. 36 of 2005);

"ECN" means an Electronic Communications Network as defined in the Electronic Communications Act; 2005 (Act No. 36 of 2005);

"Effective date" means the date on which the Licence is issued;

"Licence" means the class Electronic Communications Network Service Licence issued to the Licensee in the form contained in Annexure B of these regulations;

"Licensee" means the person named in Licence and issued with a licence to provide services in terms of Chapter 3 of the Act.

2. NOTIFICATION OF CHANGE IN LICENSEE DETAILS AND INFORMATION

(1) A Licensee must submit written notice to the Authority within seven (7) days of the occurrence of the following changes in its licence:-

(a) the name of the Licensee;

(b) shareholders; and

(c) contact details.

(2) Any change or transfers of shares undertaken in terms of 2(1)(c) above must comply with all licence terms and conditions and the ECA.

3. LICENCE AREA

- (1) The licence area is a district or local Municipality as defined in the Local Government Municipal Structures Act, No 117 of 1998.
- (2) All electronic communications equipment and facilities, as well as radio apparatus are to be situated entirely within the licence area.
- (3) The specific licence will be as defined by the licence issued to a licensee.

4. DURATION OF THE LICENCE

The Licence is valid for ten (10) years from the effective date.

5. COMMENCEMENT OF OPERATIONS

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

6. HOURS OF OPERATIONS

- (1) A licensee must provide electronic communication network services for twenty four (24) hours per day unless the Authority has been notified of a shorter schedule of daily broadcast operations.
- (2) Where a licensee cannot provide the licensed service due to circumstances beyond its control, for a continuous period of twelve (12) hours or longer, the licensee must notify the Authority in writing of such circumstances within twenty four (24) hours.

7. SERVICES TO BE PROVIDED BY THE LICENSEE

The licensee must construct, operate and maintain an ECN as well as provide ECNS in the licensed service area.

8. SAFETY MEASURES

The licensee must, in respect of all apparatus, equipment and installations that it owns, leases or uses, take reasonable and necessary safety measures to safeguard life or property, and to limit exposure to electromagnetic emission, radiation and related risks.

9. PROVISION OF INFORMATION

- (1) The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide information, so as to enable it to:
 - (a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions and other requirements of the Act and related legislation;
 - (b) facilitate the efficient use of scarce resources; and
 - (c) collect and compile information to be used for the purposes of sectoral analysis, planning, reporting and conducting inquiries.

- (2) In respect of each information request referred to in sub-clause(1), except where otherwise addressed in applicable regulations, the Authority will provide, among other things, detailed specifications of its information request, applicable response times and a contact person to whom queries may be addressed.

- (3) The licensee must provide the information in accordance with such format as may be prescribed by the Authority.

10. PUBLICATION OF TARIFFS AND FEES

A Licensee must provide to the Authority on a bi-annual basis, a record of the actual services provided and the actual tariffs charged thereof during the previous six months.

11. METERING AND BILLING ARRANGEMENTS

- (1) A Licensee must install and operate metering and billing systems which accurately record the extent of the service(s) provided to any end-user.

- (2) A Licensee must provide an accurate invoice with a detailed statement of services rendered to any end-user at no charge, except where the end-user obtains services exclusively on a prepaid basis and the prices and terms of such prepaid service have been disclosed at the time of purchase.

- (3) The invoice must include information for the entire period covered by such invoice as follows:
 - (a) details of services rendered to the end-user; and
 - (b) breakdown of charges associated with such services.

- (4) Upon request by an end-user, the Licensee must provide an itemised bill, meaning an invoice which contains a sufficient level of detail to allow verification of charges incurred in using the services provided by the licensee. Each detailed itemised bill shall contain at least the following information in relation to each individual transaction (voice or data call) charge incurred by the

subscriber during the relevant billing period: destination, dialed number, date, time, duration and charge for each individual transaction:

- (a) via post or in an electronic format; and
- (b) at such a price that takes into account the difference in the mode of delivery.

12. OFFENCES AND PENALTIES

(1) Upon a determination of non-compliance by the Complaint and Compliance Committee in terms of the ICASA Act, the Authority may impose a fine not exceeding:

- (a) One Hundred Thousand Rands (R100000) for contravention of regulations 3(1), 4,5(3),6,7,8,9,10 and 11.
- (b) Fifty Thousand Rands (R50000) for contravention of all the regulations not specified in 12(1)(a), and
- (c) Additional Hundred Thousand Rands (R100000) for repeated contravention of the regulations.

13. SHORT TITLE AND COMMENCEMENT

The regulations are called the standard terms and conditions for Class Electronic Communications Network Services Regulations 2010, and will come into operation by notice in the Gazette.

SCHEDULE 3

CLASS ELECTRONIC COMMUNICATIONS SERVICE LICENCES

1. DEFINITIONS

In these regulations unless the context indicated otherwise:

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

"Authority" means the Independent Communications Authority of South Africa established by section 3 of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000);

"ECS" means an Electronic Communications Services as defined in the Electronic Communications Act; 2005 (Act No. 36 of 2005);

"ECN" means an Electronic Communications Network as defined in the Electronic Communications Act; 2005 (Act No. 36 of 2005);

"ECNS" means an Electronic Communications Network Service as defined in the Electronic Communications Act; 2005 (Act No. 36 of 2005);

"Effective date" means the date on which the Licence is issued;

"Licence" means the Class Electronic Communications Network Service Licence issued to the Licensee in the form contained in Annexure C of these regulations;

"Licensee" means the person named in the Licence and issued with a licence to provide services in terms of Chapter 3 of the Act.

2. NOTIFICATION OF CHANGE IN LICENSEE DETAILS AND INFORMATION

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

(a) the name of the Licensee;

(b) contact details; and

(c) shareholders

3. LICENCE AREA

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

4. DURATION OF THE LICENCE

The Licence is valid for ten (10) years from the effective date.

5. COMMENCEMENT OF OPERATIONS

A Licensee must commence operation of the ECS specified in the Licence within six (6) months from the effective date, unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the six (6) months period.

6. HOURS OF OPERATIONS

(1) A Licensee must provide electronic communication services for twenty four (24) hours per day unless the Authority has been notified of a shorter schedule of daily broadcast operations.

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

7. SERVICES TO BE PROVIDED BY THE LICENSEE

The licensee must provide ECS by means of an ECN operated by an ECNS licensee.

8. SAFETY MEASURES

The Licensee must, in respect of all apparatus, equipment and installations that it owns, leases or uses, take reasonable and necessary safety measures to safeguard life or property, and limit exposure to electromagnetic emission, radiation and related risks.

9. PROVISION OF INFORMATION TO THE AUTHORITY

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

(a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions and other requirements of the Act and related legislation;

(b) allow for the assessment and allocation of applicable fees and related requirements, including annual variable fees;

(c) facilitate the efficient use of scarce resources; and

(d) collect and compile information to be used for the purposes of sectoral analysis, planning, reporting and conducting inquiries.

- (2) In respect of each information request referred to in sub-clause(1), except where otherwise addressed in applicable regulations, the Authority will provide, among other things, detailed specifications of its information request, applicable response times and a contact person to whom queries may be addressed.
- (3) The licensee must provide the information in accordance with such format as may be prescribed by the Authority.

10. PUBLICATION OF TARIFFS AND FEES

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

11. METERING AND BILLING ARRANGEMENTS

- (1) A Licensee must install and operate metering and billing systems which accurately record the extent of the service(s) provided to any end-user.
- (2) A Licensee must provide an accurate invoice with a detailed statement of services rendered to any end-user at no charge, except where the end-user obtains services exclusively on a prepaid basis and the prices and terms of such prepaid service have been disclosed at the time of purchase.
- (3) The invoice must include information for the entire period covered by such invoice as follows:
 - (a) details of services rendered to the end-user; and
 - (b) breakdown of charges associated with such services.
- (4) Upon request by an end-user, the Licensee must provide an itemised bill, which contains a sufficient level of detail to allow verification of charges incurred in using the services provided by the licensee.

- (a) Each detailed itemised bill shall contain at least the following information in relation to each individual transaction (voice or data call) charge incurred by the subscriber during the relevant billing period:
- (1) destination,
 - (2) dialed number,
 - (3) date,
 - (4) time,
 - (5) duration; and
 - (6) charge for each individual transaction.
- (b) The detailed itemised bill must be provided:
- (i) via post or in an electronic format; and
 - (ii) at such a price that takes into account the difference in the mode of delivery.

12. OFFENCES AND PENALTIES

- (1) Upon a determination of non-compliance by the Complaint and Compliance Committee in terms of the ICASA Act, the Authority may impose a fine not exceeding:
- (a) One Hundred Thousand Rands (R100000) for contravention of regulations 3(1), 4,5),6,7,8,9,10(and 11).
 - (b) Fifty Thousand Rands (R50000) for contravention of all the regulations not specified in 12(1)(a), and
 - (c) Additional Hundred Thousand Rands (R1,00000) for repeated contravention of the regulations.

13. SHORT TITLE AND COMMENCEMENT

These regulations are called the Standard Terms and Conditions for Class Electronic Communications Services 2010, and will come into operation by notice in the Gazette.

14. REPEAL OF REGULATIONS

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



ANNEXURE A

CLASS BROADCASTING SERVICE LICENCE

NO.

GRANTED

TO

.....

FOR THE PROVISION OF

.....

Effective from [Year:Month:Day]

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

Chairperson

**Amended [Year:Month:Day] _____
Chairperson**

**Transferred [Year:Month:Day] _____
Chairperson**

**Surrendered [Year:Month:Day] _____
Chairperson**

1. LICENSEE

The Licence is issued to:

- 1.1. Name of Company/Entity:.....
- 1.2. Shareholders: (*where applicable*):
- 1.3. Ownership held by black persons: (*where applicable*)%

2. LICENCE PERIOD

- 2.1. The effective date of the licence is
- 2.2. The licence shall expire on

3. LICENCE AREA

The Licensee shall provide services to the.....district/local municipality in.....Province.

4. COMMUNITY

- 4.1. The licensee shall provide services to the (specify a particular interest group if community is interest based) community residing within the licence area specified herein.
- 4.2. The licensee shall provide for the participation of community members in the affairs of the station in the following ways:
 - 4.2.1
 - 4.2.2.....
 - 4.2.3.....

5. PROGRAMMING

- 5.1. The Licensee shall provide programming in the following format:
 - 5.1.1. Local News and information:.....Minutes per day
 - 5.1.2. Current Affairs Programming:Minutes per day
 - 5.1.3. South African Music Content:.....(expressed as % of total content), and
 - 5.1.4. Talk v Music: (expressed as a % of total content).
- 5.2. The licensee shall keep a log of programmes broadcast which must be submitted on a monthly basis to the Authority. A pro-forma of the log to be kept will be supplied by the Authority.

6. CONTACT DETAILS

6.1 The contact person for the Licensee shall be:

6.1.1 Name:

6.1.2 Tel:

6.1.3 Fax:

6.1.4 Cell:

6.1.5 Email:

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

7. NOTICE AND ADDRESSES

7.1 The licensee chooses the following addresses as the principal addresses and for service of processes:

7.1.1 Postal Address

7.1.2 Physical Address

8. PROMISES OF PERFORMANCE/UNDERTAKINGS BY THE LICENSEE

8.1 The following conditions are undertakings made by the Licensee and form an integral part of the licence conditions and must therefore be complied with:

8.1.1.....

8.1.2.....

8.1.3.....

8.1.4.....

8.1.5.....

8.1.6.....



ANNEXURE B

CLASS ELECTRONIC COMMUNICATIONS NETWORK SERVICE LICENCE

NO.

GRANTED

TO

.....

FOR THE PROVISION OF

.....

Effective from [Year:Month:Day]

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

Chairperson

Amended [Year:Month:Day] _____
Chairperson

Transferred [Year:Month:Day] _____
Chairperson

Surrendered [Year:Month:Day] _____
Chairperson

1. LICENSEE

The Licence is issued to:

- 1.1. Name of Company/Entity:.....
- 1.2. Shareholders: (*where applicable*):
- 1.3. Ownership held by black persons: (*where applicable*):.....%

2. LICENCE PERIOD

- 2.1 The effective date of the licence is
- 2.2 The licence shall expire on

3. LICENCE AREA

The Licensee shall provide services to the.....district/local municipality in.....Province.

4. CONTACT DETAILS

- 4.1 The contact person for the Licensee shall be:
 - 4.1.1 Name:
 - 4.1.2 Tel:
 - 4.1.3 Fax:
 - 4.1.4 Cell:
 - 4.1.5 Email:
- 4.2 Should the licensee propose to replace the person so designated, the Licensee shall notify the Authority in writing within seven (7) days after appointing the new designate person.

5. NOTICE AND ADDRESSES

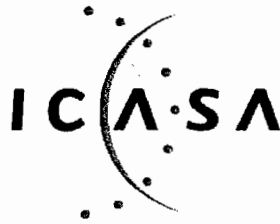
- 5.1 The licensee chooses the following addresses as the principal addresses and for service of processes:
 - 5.1.1 Postal Address
 - 5.1.2 Physical Address

6. PROMISES OF PERFORMANCE/UNDERTAKINGS BY THE LICENSEE

6.1 The following conditions are undertakings made by the Licensee and form an integral part of the licence conditions and must therefore be complied with:

6.1.1

6.1.2



ANNEXURE C

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

CLASS ELECTRONIC COMMUNICATIONS SERVICE LICENCE

NO.

GRANTED

TO

.....

FOR THE PROVISION OF

.....

Effective from [Year:Month:Day]

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

Chairperson

Amended [Year:Month:Day] _____
Chairperson

Transferred [Year:Month:Day] _____
Chairperson

Surrendered [Year:Month:Day] _____
Chairperson

1. LICENSEE

The Licence is issued to:

- 1.1. Name of Company/Entity:.....
- 1.2. Shareholders: (*where applicable*):
- 1.3. Ownership held by black persons:%

2. LICENCE PERIOD

- 2.1 The effective date of the licence is
- 2.2 The licence shall expire on

3. LICENCE AREA

The Licensee shall provide services to the.....district/local municipality in.....Province.

4. CONTACT DETAILS

- 4.1 The contact person for the Licensee shall be:
 - 4.1.1 Name:
 - 4.1.2 Tel:
 - 4.1.3 Fax:
 - 4.1.4 Cell:
 - 4.1.5 Email:
- 4.2 Should the licensee propose to replace the person so designated, the Licensee shall notify the Authority in writing within seven (7) days after appointing the new designate person.

5. NOTICE AND ADDRESSES

- 5.1 The licensee chooses the following addresses as the principal addresses and for service of processes:
 - 5.1.1 Postal Address
 - 5.1.2 Physical Address

6. PROMISES OF PERFORMANCE/UNDERTAKINGS BY THE LICENSEE

6.1 The following conditions are undertakings made by the Licensee and form an integral part of the licence conditions and must therefore be complied with:

6.1.1

6.1.2

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