



# Government Gazette

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**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

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**GENERAL NOTICE**

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**NOTICE 837 OF 2004****DEPARTMENT OF COMMUNICATIONS****TERMS AND CONDITIONS OF A VALUE-ADDED NETWORK SERVICE LICENCE  
AND A PRIVATE TELECOMMUNICATIONS NETWORK LICENCE**

In terms of section 95(3) of the Telecommunications Act, 1996 (Act No. 103 of 1996), I, Dr. Ivy Matsepe-Casaburri, Minister of Communications hereby approve and publish the regulations made by the Independent Communications Authority of South Africa in terms of section 96(1) read with sections 33(1)(b), 35, 40 and 41(1)(b) and (c) of the said Act.

Dr. Ivy Matsepe-Casaburri  
Minister of Communications

## SCHEDULE

### LICENCE FOR THE PROVISION OF VALUE-ADDED NETWORK SERVICES

In terms of the provisions of section 40 of the Telecommunications Act (Act 103 of 1996) and the applicable regulations

**"VANS provider's name"**

(hereafter called "the Licensee"), is hereby licensed to provide value-added network services, subject to the following terms and conditions:

#### 1. DEFINITIONS AND INTERPRETATIONS

In this licence, unless otherwise stated, words and terms used shall have the same meaning as defined in the Telecommunications Act, (Act No. 103 of 1996, as amended) and any regulations derived therefrom.

**"Act"** means the Telecommunications Act, 1996 (Act No. 103 of 1996, as amended).

**"Anniversary date"** means every consecutive twelve month period from the date of issue of this licence.

**"Licence Fee Income"** means the total annual invoiced revenue of the Licensee (less discounts, value-added tax and other indirect taxes) derived from customers for the provision to them of any aspect of the value-added network services, less net facilities leasing fees and charges and bad debts incurred and as provided for in terms of the Income Tax Act, No. 58 of 1962.

**"Value-added network service"** means a telecommunication service provided by a person over a telecommunication facility, which facility has been obtained by that person in accordance with the provisions of section 40(2) of the Act, to one or more customers of that person concurrently, during which value is added for the benefit of the customers, which may consist of-

- (a) any kind of technological intervention that would act on the content, format or protocol or similar aspects of the signals transmitted or received by the

customer in order to provide those customers with additional, different or restructured information;

- (b) the provision of authorised access to, and interaction with, processes for storing and retrieval of text and data;
- (c) managed data network services.

## **2. RIGHTS AND OBLIGATIONS OF THE LICENSEE**

Unless otherwise stated

- a) The Licensee shall be entitled, subject to the other provisions in this licence, to provide any or all value-added network services.
- b) This Licensee shall provide its service by means of telecommunications facilities provided by any PSTS operator, until a date to be fixed by the Minister by notice in the Government Gazette.
- c) The Licensee shall not disclose any information about its customers, obtained in the course of providing the service, to third parties or use it for any purpose other than fulfilling its obligations to customers, unless required to do so pursuant to condition (i).
  - (i) The Licensee may disclose information about customers to a third party to the extent that it is required –
    - (a) in the process of debt collection;
    - (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) by the Authority for the purpose of compiling, verifying or auditing any reports, accounts or other information required under this licence.

- d) The Licensee shall clearly reflect and differentiate the value added network services from other non-value added network services for which it is charging its customers and this information shall be made available to the Authority for inspection upon request.
- e) The Licensee shall establish efficient procedures for dealing with customer complaints and to provide customers with such service assistance as and when they may so require.
- f) The Licensee shall keep a record of financial records for a minimum period of at least five (5) years.

### **3. REVOCATION**

This licence may be revoked by the Authority upon breach by the Licensee of any of the terms and conditions of this licence. The Authority shall follow the relevant provisions of the Act.

### **4. TERMINATION**

- 4.1 This licence shall come into effect on the date of issue and will remain valid for a period of ten (10) years, provided that the licence may be renewed on application in accordance with the provisions of section 49 of the Act.
- 4.2 The Licensee shall apply to the Authority for renewal of the licence at least three (3) months prior to the expiry date of the licence.
- 4.3 Should the Licensee fail to apply in accordance with the above clause, the licence shall lapse.

### **5. TRANSFER OF LICENCE**

Transfer of this licence shall be done in accordance with the regulations prescribed under section 50 of the Act.

**6. LICENCE FEE**

6.1 The Licensee shall on each anniversary date of the licence pay to the Authority an annual variable licence fee in amount equal to 0.1% of the Licence Fee Income.

6.2 Payment of the annual variable licence fee shall be accompanied by a copy of audited financial statements of the Licensee as they relate to the Licensee's value added network services.

Issued at .....on the..... day of ..... 20....

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Chief Executive Officer