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DEPARTMENT OF COMMUNICATIONS**TELECOMMUNICATIONS ACT, 1996 (Act No. 103 of 1996)****REGULATIONS RELATING TO PUBLIC PAYPHONE SERVICES**

In terms of section 96(6) of the Telecommunications Act, 1996 (Act No. 103 of 1996) as amended, I, Dr. Ivy Matsepe-Casaburri, Minister of Communications hereby approve and publish the regulations in the Schedule made by the Independent Communications Authority of South Africa under sections 96(1) and 96(6), 33(1)(b), 34(1), 39 and 88 of the said Act.

Dr. Ivy Matsepe-Casaburri
Minister of Communications

SCHEDULE**1 DEFINITIONS AND INTERPRETATIONS**

In this regulation, 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 promulgated there under.

“Private Property” means, for the purposes of these regulations, any property so registered in a person’s name, but excluding public places such as shopping malls; taxi ranks; markets or any place where the public at large congregate and where such Public Pay Telephone Services would address the communication needs of the public in that area.

“Public Pay Telephone” means apparatus manned or un-manned (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 may contain a device to accept payment for those services.

“Public Pay Telephone Service” means the provision of telecommunication services by means of the installation, maintenance and the bringing into operation of one or more Public Pay Telephones, which are connected to the exchanges or local network of a licensed public switched telecommunication network operator in any area.

“Public Pay Telephone Service Licensee” means any person duly authorised by the Authority to provide a Public Pay Telephone Service.

“GSM Public Pay Telephone Service” means the provision of telecommunication services by means of the installation, maintenance and the bringing into operation of one or more Public Pay Telephones, which are connected to the network of a licensed mobile cellular telecommunication service operator in any area.

“GSM Public Pay Telephone Service Licensee” means any person duly authorised by the Authority to provide a **GSM** Public Pay Telephone Service.

“VANS Public Pay Telephone Service” means the provision of telecommunication services by means of the installation, maintenance and the bringing into operation of one or more Public Pay Telephones, which are connected to the network of a licensed value added network service provider in any area.

“VANS Public Pay Telephone Service Licensee” means any person duly authorised by the Authority to provide a **GSM** Public Pay Telephone Service.

For the sake of interpretation of this regulation the words “Public Pay Telephone Service” can be substituted with the words **“GSM Public Pay Telephone Service”** or **“VANS Public Pay Telephone Service”** as applicable.

2 PUBLIC PAY TELEPHONE SERVICE LICENCE

In terms of the provisions of section 33 of the Telecommunications Act (Act 103 of 1996, as amended) and the applicable regulations,

“Public Pay Telephone Service provider’s name”

(hereafter called **“the Licensee”**), is hereby licensed to provide Public Pay Telephone Services, subject to the following terms and conditions:

2.1 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 promulgated there under.

“**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 Public Pay Telephone 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.

2.2 RIGHTS

Unless otherwise provided for in this licence or the Act:

- a) The Licensee shall be entitled to provide a Public Pay Telephone Service in accordance with this licence, in any area of the Republic, except on Private Property, unless such Private Property owner has granted the necessary authorisation in writing for such service.

2.3 EXCLUSIONARY

- a) Any Public Pay Telephones located on Private Property shall not be regarded as forming part of a Public Pay Telephone Service for which a licence is required and for which tariffs are regulated, unless such Private Property owner has granted authorisation in writing for such service.

2.4 LOCATION OF PUBLIC PAY TELEPHONES

- a) The Licensee shall be authorised to offer his/her Public Pay Telephones Services in any area of the Republic, except as provided for in 4(a) and 5(a) above.
- b) The Licensee shall not place his/her Public Pay Telephones within one-hundred (100) meters of any other Public Pay Telephone Service Licensee’s Public Pay Telephones or GSM Public Pay Telephone Service Licensee’s Public Pay Telephones or **VANS** Public Pay Telephone Service Licensee’s Public Pay Telephones or Community Service Telephones provided by Mobile Cellular Telecommunication Service licensees to prevent unnecessary duplication of Public Pay Telephone infrastructure or service.
- c) The Licensee shall consult and co-ordinate with the respective municipality

prior to deployment of its Public Pay Telephones in that municipality with the intention of achieving optimal population coverage in that municipality.

- d) The Licensee shall submit annually to the Authority, an electronic list of all Public Pay Telephones so rolled out, together with their geographical location details (Global Positioning System co-ordinates) in a format that is compatible with that of the geographic information package "Map Info", for the purposes of enabling the Authority to develop the necessary database of all Public Pay Telephones rolled out within the Republic of South Africa.

2.5 TARIFFS

- a) The Licensee shall submit to the Authority the Public Pay Telephones Service Tariffs 3 months prior to the effective date of implementation of the tariffs and the Authority shall approve such lodged tariffs within **14** days of lodgement with the Authority.
- b) The Licensee shall stipulate the unit period and fee for each such Public Pay Telephone Service Tariff so lodged with the Authority.
- c) Public Pay Telephone Service Tariffs shall not exceed 30% of the approved retail unit call fees of the licensed telecommunication service provider to which it is so connected.

2.6 LOCAL EXCHANGE LINES

Where the Licensee connects its Public Pay Telephones to any form of wire, cable, optical fibre etc, the following conditions shall apply:

- a) The Licensee shall leave the wires so connected from the licensed telecommunication service provider to its Public Pay Telephones, unscathed when removing them from that location, to enable any other competitor or other person duly authorised to easily connect **its** Public Pay Telephones or other devices to such leased lines.
- b) Should the Authority determine that the Licensee has not complied with condition (a) above, the Licensee shall become liable for the payment of a fine not exceeding R 25 000 for each such location where such damage has occurred by the Licensee, subject to the Authority granting the Licensee an opportunity to be heard.
- c) The provision of 2.6.(b) will not apply in the case where disconnection/removal of wires resulted in negligent or unintended damage

to the location contemplated in 2.6.(b) above and where efforts to repair the damage are underway and have been communicated to the licensed telecommunications service provider concerned.

2.7 CONSUMER ISSUES

2.7.1 Confidentiality

- a) The Licensee shall not disclose any information about its customers, obtained in the course of providing the service, to third parties or use such information for any purpose other than fulfilling its obligations to customers, except as provided for in provision (b) below.
- b) The Licensee may disclose information about customers to a third party to the extent that it is required –
 - i.) in the process of debt collection;
 - ii.) by the Licensee's auditors for the purpose of auditing the Licensee's accounts;
 - iii.) by the Licensee's attorneys in connection with any potential, threatened or actual litigation;
 - iv.) by the Authority for the purpose of compiling, verifying or auditing any reports, accounts or other information required under this licence.

2.7.2 Customer Complaint Procedures

- a) The Licensee shall establish efficient procedures for dealing with customer complaints and provide customers with such service assistance as and when they may **so** require, which shall be submitted to the Authority for information purposes.
- b) The Licensee shall display on each Public Pay Telephone used for the provision of the Public Pay Telephone Service a weekly, updated set of information which shall include the following:
 - i.) The Public Pay Telephone Service licensee's help line number to provide customers with assistance on matters of maintenance or billing or any other such related consumer matters;

- b) In the case of a natural person due regard must be had to the Employment Equity Act and Skills Development Act.

2.11 TRANSFER OF LICENCE

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

2.12 LICENCE FEE

- a) The Licensee shall within three months of each Anniversary date of the licence pay to the Authority an annual variable licence fee in an amount equal to 0.1% of the Licence Fee Income.
- b) 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 Public Pay Telephone Services.

2.13 TYPE APPROVAL OF PUBLIC PAY TELEPHONES

The Licensee shall comply with the provisions of section 54 of the Act with respect to type approval of the Public Pay Telephones to be used in the provision of the Public Pay Telephone Services.

2.14 TECHNICAL STANDARDS

The Licensee shall comply with the applicable regulations prescribed by the Authority under section 55 of the Act.

2.15 REGISTRATION OF SUPPLIER OF TELECOMMUNICATION EQUIPMENT

The Licensee shall comply with the applicable regulations prescribed by the Authority under section 56 of the Act.

2.16 CERTIFICATION OF TECHNICIANS

The Licensee shall comply with the applicable regulations prescribed by the Authority under section 57 of the Act.

2.17 REVOCATION

- a) This licence may be revoked by the Authority upon breach by the Licensee

of any of the terms and conditions of this licence subject to the relevant provisions of the Act pertaining to licence revocation.

- b) Should the Authority receive more than 50 complaints on any aspect of the Licensee's Public Pay Telephone Service from the public within any period of 180 consecutive days, the Licensee shall be invited in writing to attend a hearing to present its case, after which the Authority will determine whether the Licence should be revoked. Upon such decision to revoke this licence, the Authority will provide the Licensee with its reasons for its decision upon request and specify the date from which the licence shall be revoked.

2.18 TERMINATION

- a) This licence shall come into effect upon date of issue of this licence 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.
- b) 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. Should the Licensee fail to apply before this date, this licence shall terminate.

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

.....
Licensing Officer

3 APPLICATION FEES

The application fees for a Public Pay Telephone Service Licence shall be **R5,636.36** to be adjusted annually for inflation by taking into account cumulative changes in the Consumer Price Index for the immediately preceding calendar year and with 2004 as the base year.

4 PENALTY FOR LATE PAYMENT

A Public Pay Telephone Service Licensee who fails to pay the annual licence fee on or before the required date shall, in addition to the annual licence fee, pay a penalty comprising 10% (ten per cent) of the annual licence fee per month overdue up to

three months after the required date, failing which section 100 of the Act shall be invoked.

5 MANNER OF APPLICATION

a) An application for a Public Pay Telephone Service licence shall:

(1) be made to the Authority in writing, by completing the application form as set out in Annexure A attached hereto;

(2) identify the applicant by providing the following information:

(a) if the applicant is a **natural** person, the following information must be furnished:

(i) the full names of the applicant;

(ii) the identity number of the applicant;

(iii) the applicant's permanent residential address;

(iv) the applicant's business address;

(v) the applicant's telephone and fax numbers.

(b) if the applicant is a **juristic** person, the following information must be furnished:

(i) business name and address, the telephone and fax numbers of the applicant, and certified copies of all founding documents of the applicant;

(ii) the full name, address (physical, postal and e-mail) and the telephone number, fax number of each shareholder or member owning shares or having an interest in the applicant by completing section 1.2.2 of the application form.

b) In the case of juristic persons;

(i) The current percentage of shareholding by historically disadvantaged individuals.

(ii) their employment strategies related to historically disadvantaged individuals and empowerment;

c) The area in the Republic which the applicant intends providing Public Pay Telephone Services

2). Name: Address: Tel. No. : (.....)..... Fax No. : (.....)..... E-mail Address:	Shares:%
	Nature of Shares	<input type="checkbox"/> Ordinary <input type="checkbox"/> Preference <input type="checkbox"/> Redeemable

3). Name: Address: Tel. No. : (.....)..... Fax No. : (.....)..... E-mail Address:	Shares:%
	Nature of Shares	<input type="checkbox"/> Ordinary <input type="checkbox"/> Preference <input type="checkbox"/> Redeemable

4). Name:..... Address:..... Tel. No. : (.....)..... Fax No. : (.....)..... E-mail Address:	Shares:%
	Nature of Shares	<input type="checkbox"/> Ordinary <input type="checkbox"/> Preference <input type="checkbox"/> Redeemable

5). Name: Address: Tel. No. : (.....)..... Fax No. : (.....)..... E-mail Address:	Shares:%
	Nature of Shares	<input type="checkbox"/> Ordinary <input type="checkbox"/> Preference <input type="checkbox"/> Redeemable

6). Name: Address: Tel. No. : (.....)..... Fax No. : (.....)..... E-mail Address:	Shares:%
	Nature of Shares	<input type="checkbox"/> Ordinary <input type="checkbox"/> Preference <input type="checkbox"/> Redeemable

