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**GOVERNMENT NOTICE**

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**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA****No. R. 1122****23 November 2007****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 (No. 36 of 2005) and 17E(2)(b) of the ICASA Act, No. 13 of 2000 , hereby prescribes regulations in the schedules.

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

## **SCHEDULE 1**

### **CLASS BROADCASTING SERVICES LICENCES**

#### **1. INTERPRETATION**

(1) In these regulations terms used have the same meaning as in the Electronic Communications Act, No. 36 of 2005, unless otherwise defined in these regulations:

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

“BS” means a broadcasting service;

“effective date” means the date on which the Licence is issued;

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

“Licensee” means the person named in the Licence.

(2) Should any specific provision of these regulations become void or unenforceable as a result of a change in law, or final judgment of a court of competent jurisdiction, all other provisions hereof will continue to remain in force notwithstanding.

#### **2. COMPLIANCE**

A Licensee must comply with the provisions of the Act and the related legislation.

#### **3. NOTIFICATION OF LICENSEE DETAILS AND INFORMATION**

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

- (a) the board of directors of the Licensee;
- (b) the name of the Licensee; and
- (c) the shareholders' agreement or similar agreement governing the affairs of the Licensee.

#### **4. 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, or part thereof, including communities with ascertainable common interests that are restricted to the area concerned.

(2) Notwithstanding the provisions of sub-clause (1), the specific licence area will be as defined in the Licence issued to a Licensee.

#### **5. DURATION OF THE LICENCE**

(1) The following Licences are valid for five (5) years from the effective date:

- (a) Community Sound BS;
- (b) Low Power Sound BS; or
- (c) Low Power Subscription Sound BS;

(2) A Licence for Community Television BS is valid for seven (7) years from the effective date.

#### **6. 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.

#### **7. HOURS OF OPERATIONS**

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

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

## **8. 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) Low Power Sound BS; or
- (d) Low Power Subscription Sound BS.

## **9. SAFETY MEASURES**

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

## **10. 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 and other requirements of the Act and related legislation;
  - (b) allow for the assessment and allocation of applicable fees and related requirements;
  - (c) facilitate the efficient use of scarce resources; and
  - (d) collect and compile aggregate information to be used for the purposes of sectoral planning and reporting.
  
- (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 address queries to in the matter concerned.

## **11. CHANNEL AUTHORISATION**

- (1) Where a Licensee's BS is a multi-channel service, no channel may be broadcast as part of the BS unless such channel has been authorised in writing by the Authority.
- (2) A Licensee must apply in writing to the Authority for such channel authorisation.
- (3) If the Authority does not respond to such written application for channel authorisation within thirty (30) days of the date of receipt of the channel authorisation application, the Authority is deemed to have approved the broadcast of the channel in question by a Licensee.

## **12. PUBLIC SERVICE ANNOUNCEMENTS**

### **A Licensee must broadcast:**

- (a) when requested by the National or a Provincial Commissioner of Police, without charge, any information or other matter concerning a disaster or immediate grave danger to public safety and security which the Commissioner may and on reasonable grounds request to be broadcast. Such request should be confirmed in writing by the Commissioner concerned within twenty-four (24) hours; and
- (b) **any other public service announcements in the public interest as may be requested by the Authority in writing.**

## **13. EQUAL EMPLOYMENT OPPORTUNITY**

A Licensee shall ensure equal employment opportunity practices and shall ensure that the composition of its management and staff reflects the racial and gender demographics of the area or the community it serves.

## **14. CONFIDENTIALITY**

Where a Licensee requests confidentiality in respect of the information provided in terms of these regulations, the provisions of section 4D of the ICASA Act shall apply.

## **15. CONTRAVENTION AND FINES**

(1) In terms of section 17E(2)(b) of the ICASA Act, the Authority may impose on a Licensee a fine not exceeding Fifty Thousand Rands (R50 000) for each contravention of these regulations.

(2) Repeated contraventions of these regulations will be dealt with in terms of the other applicable provisions of the ICASA Act.

## **16. NOTICES AND ADDRESSES**

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

- (a) if delivered by hand to the recipient's address, it shall be deemed, until the contrary is proved, that it has been received at the time of delivery;
- (b) if posted by pre-paid registered post from an address within the Republic of South Africa, it shall be deemed, until the contrary is proved, to have been received on the 14<sup>th</sup> day after the date of posting; or
- (c) if sent by facsimile transmission during normal business hours, proof of successful transmission shall be deemed to be proof of receipt, unless the contrary is proved.

(2) A Licensee shall provide the Authority with an address where it will accept formal service of letters, documents and legal process in this regard as well as a fax and telephone number on which it can be contacted as set out in the Licence. A Licensee shall further notify the Authority in writing of any change in such address, fax and telephone numbers prior to the changes being effected.

## **17. TERMS AND CONDITIONS APPLICABLE TO COMMUNITY BROADCASTING LICENSEES ONLY**

(1) A Licensee shall inform the Authority, in writing, within fourteen (14) days of:

- 
- (a) any judgment or judgments given in a court of law against it; and
  - (b) any conviction in respect of an offence involving dishonesty of any of its directors or senior managers.
- (2) A Licensee shall keep the following records, in accordance with the template determined by the Authority and provided to a Licensee, relating to its broadcasting activities and provide same to the Authority on a monthly basis:
- (a) a log of all advertisements broadcast;
  - (b) a log of the percentage of air-time per hour allocated to advertisements;
  - (c) a log of all sponsorships received for programmes, news, game shows, welfare activities or similar programming together with details of payment, financial or otherwise, received for such sponsorship;
  - (d) a log of programmes broadcast which must be submitted on a monthly basis to the Authority and
  - (e) a log of all direct and indirect fundraising activities of and for a Licensee.
- (3) A Licensee must establish and maintain formal structures which will facilitate the participation of the community in the control, management, operational and programming aspects of the broadcasting service.
- (4) Financial Information to be provided by Licensees and financial matters:
- (a) A Licensee shall utilise profits and any other income for the promotion of its broadcasting activities and in the service of its community.
  - (b) A Licensee shall not pay a dividend to any of its board members, directors, trustees, management or staff. This does not preclude the payment in good faith of reasonable remuneration for services rendered to a Licensee.
  - (c) A Licensee shall furnish to the Authority, for every completed one (1) year of this licence or upon written demand by the Authority, the name and address of all donors together with details of the amount donated by each donor.

(d) A Licensee shall furnish annually to the Authority, audited financial statements and any further supporting vouchers and documentation as may be required by the Authority after receipt of the annual audited statement.

(5) The station must clearly identify itself at intervals of not more than thirty (30) minutes.



**ANNEXURE A**



Independent Communications Authority of South Africa

**CLASS BROADCASTING SERVICE LICENCE**

**No. ....**

**GRANTED**

**TO**

.....

**FOR THE PROVISION OF**

.....

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

**AT .....ON THIS.....DAY OF .....**

\_\_\_\_\_  
**Chairperson**

**1. LICENSEE**

The Licence is issued to:

- 1.1. Name of Company/Entity:.....
- 1.2. Shareholders(*where applicable*):.....
- 1.3. Ownership held by persons from historically disadvantaged groups (*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:
  - 4.1.1. the (*specify a particular community of interest if the Licensee is a community of interest broadcaster*) within the licence area; or
  - 4.1.2. the general 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**

The Licensee shall provide programming as follows:

- 5.1. In the following format: [...% talk and ...% music]
- 5.2. News and Information obligations:
  - 5.2.1. ....;
  - 5.2.2. ....etc.

5.3. Local Content obligations in addition to those prescribed by the Authority:

5.3.1. South African music requirements: .....and/or

5.3.2. Local Television content .....

5.4. Language(s) of broadcast:

5.4.1. ....%

5.4.2. ....%

**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. NOTICES AND ADDRESSES**

The Licensee chooses the following addresses as its principal addresses:

7.1. Postal Address:..... and

7.2 Physical Address:.....

.....

.....

.....

.....

.....

.....

.....

.....

**8. PROMISES OF PERFORMANCE / UNDERTAKINGS BY THE LICENSEE**

The following conditions are undertakings made by the Licensee:

8.1.....

8.2.....

8.3..... etc.

## SCHEDULE 2

### CLASS ELECTRONIC COMMUNICATIONS NETWORK SERVICES LICENCES

#### 1. INTERPRETATION

(1) In these regulations terms used have the same meaning as in the Electronic Communications Act, No. 36 of 2005, unless otherwise defined in these regulations:

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

“ECN” means an electronic communications network;

“ECNS” means an electronic communications network service;

“effective date” means the date on which the Licence is issued;

“Licence” means the Class ECNS Licence issued to the Licensee in the form contained in Annexure B of these regulations; and

“Licensee” means the person named in the Licence.

(2) Should any specific provision of these regulations become void or unenforceable as a result of a change in law, or final judgment of a court of competent jurisdiction, all other provisions hereof will continue to remain in force notwithstanding.

#### 2. COMPLIANCE

A Licensee must comply with the provisions of the Act and the related legislation.

#### 3. NOTIFICATION OF LICENSEE DETAILS AND INFORMATION

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

- (a) the board of directors of the Licensee;
- (b) the name of the Licensee; and

- (c) the shareholders' agreement or similar agreement governing the affairs of the Licensee.

#### **4. LICENCE AREA**

The licence area is a district or local municipality as defined in the Local Government Municipal Structures Act, No. 117 of 1998. All electronic communications equipment and facilities, as well as radio apparatus are to be situated entirely within the licence area. The specific licence area is as defined in the Licence issued to a Licensee.

#### **5. DURATION OF THE LICENCE**

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

#### **6. COMMENCEMENT AND OPERATION OF SERVICE**

(1) A Licensee must commence operation of the ECNS 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.

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

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

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

## **8. SAFETY MEASURES**

A Licensee must, in respect of all apparatus, equipment and installations that it owns, leases or uses, take such safety measures as may be prescribed and in any event such reasonable and necessary safety measures to safeguard life or property, and 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 and other requirements of the Act and related legislation;
- (b) allow for the assessment and allocation of applicable fees and related requirements;
- (c) facilitate the efficient use of scarce resources; and
- (d) collect and compile aggregate information to be used for the purposes of sectoral planning and reporting.

(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 identify a contact person to address queries to in the matter concerned.

## **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 have been made known to the public by:

- (a) making such prices and terms and conditions available for inspection at its offices during business hours;

(b) providing such details to anyone who requests same at no charge; and

(c) providing such details on its website, if any.

(2) A Licensee must provide to the Authority:

(a) details of the price(s) for its service and other terms and conditions of the provision of such service within 30 days of commencing providing such service; and

(b) on a bi-annual basis, a record of the actual services provided and the actual tariffs charged therefor during the previous six months.

## **11. METERING AND BILLING ARRANGEMENTS**

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

(2) A Licensee must provide a detailed and accurate invoice and/or statement of services rendered to any end-user at no charge, except where the end-user is either a Licensee or a provider of services under a licence exemption pursuant to section 6 of the Act.

(3) The invoice and/or statement of services rendered must include information for the entire period covered by such invoice or statement as follows:

(a) details of services rendered to the end-user; and

(b) breakdown of charges associated with such services.

## **12. CONFIDENTIALITY**

Where a Licensee requests confidentiality in respect of the information provided in terms of these regulations, the provisions of section 4D of the ICASA Act shall apply.

### **13. CONTRAVENTION AND FINES**

(1) In terms of section 17E(2)(b) of the ICASA Act, the Authority may impose on a Licensee a fine not exceeding One Million Rand (R1 000 000) for each contravention of these regulations.

(2) Repeated contraventions of these regulations will be dealt with in terms of the other applicable provisions of the ICASA Act.

### **14. NOTICES AND ADDRESSES**

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

- (a) if delivered by hand to the recipient's address, it shall be deemed, until the contrary is proved, that it has been received at the time of delivery;
- (b) if posted by pre-paid registered post from an address within the Republic of South Africa, it shall be deemed, until the contrary is proved, to have been received on the 14<sup>th</sup> day after the date of posting; or
- (c) if sent by facsimile transmission during normal business hours, proof of successful transmission shall be deemed to be proof of receipt, unless the contrary is proved.

(2) A Licensee shall provide the Authority with an address where it will accept formal service of letters, documents and legal process in this regard as well as a fax and telephone number on which it can be contacted as set out in the Licence. A Licensee shall further notify the Authority in writing of any change in such address, fax and telephone numbers prior to the changes being effected.



**ANNEXURE B**



Independent Communications Authority of South Africa

**CLASS ELECTRONIC COMMUNICATIONS NETWORK SERVICE LICENCE**

**No. ....**

**GRANTED**

**TO**

.....

**FOR THE PROVISION OF**

**ELECTRONIC COMMUNICATIONS NETWORK SERVICES**

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

**AT .....ON THIS.....DAY OF .....**

\_\_\_\_\_  
**Chairperson**

**9. LICENSEE**

The Licence is issued to:

- 9.1. Name of Company/Entity:.....
- 9.2. Shareholders(*where applicable*):.....
- 9.3. Ownership held by persons from historically disadvantaged groups (*where applicable*):.....

**10. LICENCE PERIOD**

- 10.1. The effective date of the Licence is .....
- 10.2. The Licence shall expire on .....

**11. LICENCE AREA**

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

**12. CONTACT DETAILS**

12.1. The contact person for the Licensee shall be:

- 12.1.1. Name:
- 12.1.2. Tel: .....
- 12.1.3. Fax:.....
- 12.1.4. Cell:.....
- 12.1.5. Email:.....

12.2. 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.

**13. NOTICES AND ADDRESSES**

The Licensee chooses the following addresses as its principal addresses:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>13.1. Postal Address:..... and</li> <li>Address:.....</li> <li>.....</li> <li>.....</li> <li>.....</li> <li>.....</li> </ul> | <ul style="list-style-type: none"> <li>7.2 Physical</li> <li>.....</li> <li>.....</li> <li>.....</li> <li>.....</li> </ul> |
|---|--|

**14. PROMISES OF PERFORMANCE / UNDERTAKINGS BY THE LICENSEE**

The following conditions are undertakings made by the Licensee:

14.1. ....

14.2. ....

14.3. ....

14.4. ....etc.