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## GENERAL NOTICE

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### NOTICE 329 OF 2008

#### INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)

#### DRAFT SOUTH AFRICAN POST OFFICE LICENCE

The Independent Communications Authority of South Africa (ICASA) is in the process of reviewing SAPO License to align it with the ICASA Amendment Act, No. 3 of 2006 and Postal Services Amendment Act, No. 22 of 2006.

Consequently, ICASA invites the public to make submissions on the Draft SAPO License. Interested parties should make their representations on the Draft licence within a period of 30 days from the date of publication. Those wishing to make oral submissions should indicate their interest in writing. The closing date for submissions is 16 April 2008.

The Draft SAPO License is also available on ICASA website: [http:// www.icasa.org.za](http://www.icasa.org.za) and ICASA Library during the following working hours: 09h30 -16h30.

Written submissions should be sent to:

[Mwendamutswu@icasa.org.za](mailto:Mwendamutswu@icasa.org.za) or [Tmaruping@icasa.org.za](mailto:Tmaruping@icasa.org.za) or hand delivered or posted to:

Ms M Nwendamutswu  
164 Katherine Street  
Pinmill Farm, Block A  
Sandton  
2146

Or

Private Bag X10002  
Sandton  
2146

**SAPO LICENCE**

**No. ....**

**GRANTED**

**TO**

**THE SOUTH AFRICAN POST OFFICE**

**FOR THE PROVISION OF**

**POSTAL AND OTHER SERVICES PROVIDED THROUGH POSTAL AND  
RELATED ICT INFRASTRUCTURE**

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

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

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**Chairperson**

## 1. LICENSEE

The Licence is issued to:

- 1.1. Name of Company/Entity: The South African Post Office
- 1.2. Shareholders: The Government of the Republic of South Africa: 100%

## 2. CONTACT DETAILS

2.1. The contact person for the Licensee shall be:

- 2.1.1. Name:.....
- 2.1.2. Tel: .....
- 2.1.3. Fax:.....
- 2.1.4. Cell:.....
- 2.1.5. Email:.....

2.2. In the event the Licensee decides to replace the person so designated, the Licensee must notify the Authority in writing within seven (7) days after appointing the new designated person.

## 3. NOTICES AND ADDRESSES

The Licensee chooses the following addresses as its principal addresses:

- 3.1. Postal Address: PO Box 10000  
Pretoria  
0001
- 3.2. Physical Address: 497 Schubart Street  
Pretoria Central  
0002

## PART I – TERMS AND CONDITIONS OF THE LICENCE

### 1. DEFINITIONS

- 1.1 Unless otherwise indicated, all words and phrases have the meaning ascribed to them in the Postal Services Act and related legislation, as may be amended from time to time.
- 1.2 For purposes of this schedule,
- 1.2.1 “**Act**” means the Postal Services Act of 1998 as amended (Act no 124 of 1998)
- 1.2.2 “**Authority**” means the Independent Communications Authority of South Africa established by the ICASA Act, 2000 (Act No. 13 of 2000)
- 1.2.3 “**basic letter**” means a letter, postcard, printed matter, small parcel and other postal articles of the type covered from time to time in Schedule 1 of the Act
- 1.2.4 “**basic letter service**” means the delivery of basic letters to households at their street letter boxes address boxes, and private bags.
- 1.2.5 “**business day**” means any day other than a Saturday, Sunday or a public holiday in the Republic
- 1.2.6 “**commencement date**” means 1 April 2000, the date on which Section 16 of the Act came into force
- 1.2.7 “**CPIX**” means the annual inflation rate for South Africa, all items of the 12 (twelve) areas, specified in the notices as notified by Statistics South Africa or the South African Reserve Bank [with average for 1995 as base which equals 100 (one hundred)], excluding the interest rates on mortgage bonds. In the event of the publications being discontinued, or of any change in the basis of computation of that index, which replaces such index and becomes an official direct substitute for it from time to time, shall apply.

- 1.2.8 “**CPIX adjustment**” means the adjustment upwards of the amount in question by the percentage by which the CPIX for the month of October in the year in question has been increased above the CPIX for the month of October in respect of the preceding 12 (twelve) month period
- 1.2.9 “**delivery point**” means an address where basic letters are delivered
- 1.2.10 “**delivery point roll-out**” means the delivery points to be rolled out in the Republic as set forth in **Schedules** or as published from time to time
- 1.2.11 “**e-commerce**” means the use of electronic networks to exchange information, products, services and payment for commercial and communication purposes between consumers and business, between businesses themselves, within government, between the public and government and between business and government
- 1.2.12 “**Electronic communication**” means the emission, transmission or reception of information, including without limitation, voice, data, text, video, animation, visual images, moving images and pictures, signals or a combination thereof by means of magnetism, radio or other electronic waves, optical, electromagnetic systems or any agency of a like nature whether with or without the aid of tangible conduct, but does not include content services
- 1.2.13 “**electronic communications service roll-out**” means the electronic communications service address to be rolled out in the Republic.
- 1.2.14 “**ICASA Act**” means the Independent Communications Authority of South Africa Act , as amended (Act No. 13 of 2000)
- 1.2.15 “**independent auditor**” means any independent organisation or person appointed by the Authority to audit the results of the independent monitor for the purposes of this License

- 1.2.16 “**independent monitor**” means any independent organisation or person appointed by the Authority to undertake monitoring of the achievement by the Licensee of the service performance standards for the purposes of the Licence
- 1.2.17 “**inspector**” means any person appointed by the Authority to perform the functions provided for in the ICASA Act
- 1.2.18 “**mail collection point**” means any structure where an addressee can collect mail at any time
- 1.2.19 “**minimum percentage**” means the minimum percentage in respect of the service performance standards set forth in **Schedules**
- 1.2.20 “**Minister**” means Minister of Communications (as defined in the ICASA Act)
- 1.2.21 “**post box**” means the receptacle at a post office or any other structure where mail can be collected by the addressee.
- 1.2.22 “**price cap**” means the maximum percentage by which the tariffs to customers of the Licensee prevailing in respect of any year may be increased in respect of the next succeeding year, which must be determined in accordance with this licence
- 1.2.23 “**Retail Outlet**” means the outlets at which customers receive basic postal services provided through postal and related ICT Infrastructure, to be made available by the Licensee
- 1.2.25 “**Retail outlet rollout**” refers to the roll-out set out in Schedules of the Licence or as published
- 1.2.26 “**Reserved Postal Services**” refers to the services outlined in Schedule 1 of the Act
- 1.2.27 “**Roll-out auditor**” means any independent organisation or person appointed by the Authority to verify the extent of the achievement by the Licensee of the delivery point roll-out and the retail outlet roll-out for the purposes of the Licence

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- 1.2.28 “**serviced areas**” means areas where there is a postal and other services provided through postal and other ICT Infrastructure within 3 km and/or where one postal outlet services up to 10 000 inhabitants.
- 1.2.29 “**service performance standards**” means the service performance standards set forth in Schedule 6 (to the extent that they may have improved on their productivity as a result of technology and infrastructure) and any other related Regulations as prescribed.
- 1.2.30 “**street addresses**” means premises in the Republic which have been assigned a number and name by the relevant municipal authorities in a street
- 1.2.31 “**street delivery**” means the delivery of basic letters and notifications to a street letter box or site contemplated in the licence
- 1.2.32 “**street letter box**” means a receptacle provided and installed by any recipient of basic letters and notifications on the street frontage of the person’s property, bearing the number of the house in question, and in which the basic letters and notifications can be inserted
- 1.2.34 “**under serviced area**” means any area where a person has to walk more than 3 km to access a postal and other services provided through postal and related ICT Infrastructure or where one postal outlet services more than 10 000 inhabitants
- 1.2.35 “**universal postal service**” means the universal postal service referred to in Section 8(1) (f) of the Act as read with the relevant provisions of this Licence.
- 1.2.36 “**virtual addresses**” means a post box number allocated to a customer to collect basic letters at the post office counter during office hours until such time that a post box can be allocated

### **2.1 PAYMENT OF LICENCE FEES**

The Licensee must pay to the National Revenue Fund through the Authority an annual licence fee of 0.55% of the Licensee's audited annual turnover. The payment must be made within 90 days of the end of each financial year.

### **2.2 LICENCE NOT TRANSFERABLE**

The Licence must not be transferred to any person except in terms of applicable legislation and with the prior written approval of the Authority.

No ownership interest in and/or control of the Licensee may be transferred or assigned to any person except in terms of applicable legislation and with the prior written approval of the Authority.

The Licensee may not cede or assign or otherwise dispose of its rights, duties, liabilities, obligations and privileges or part thereof under the terms and conditions of the Licence to any person except to the extent expressly permitted by this Licence or with the prior written approval of the Authority. Any such approval must be subject to the Postal Services Act, 1998 (Act No. 124 of 1998) and to the terms and conditions of the Licence.

## **PART II – LICENCE**

### **3. LICENCE TO PROVIDE RESERVED POSTAL SERVICES**

In order to facilitate the achievement of the universal postal service, the reserved postal services have been established conferring exclusive rights upon the Licensee, so as to ensure compliance with Section 2 of the Act. The Licensee is hereby granted a Licence giving it the right to provide reserved postal services to any person requiring such services within the Republic from the commencement date until the day prior to the 25<sup>th</sup> (twenty-fifth) anniversary of the commencement date.



#### **4. PERIOD OF EXCLUSIVE RIGHT TO RENDER RESERVED POSTAL SERVICES**

Subject to the terms and conditions imposed in terms of the Act and the Licence and in compliance by the Licensee with the obligations imposed in terms of the Licence, the Licensee shall have exclusive rights for a period of five (5) years or such lesser period as the Minister may determine.

### **PART III – OBLIGATIONS IMPOSED ON THE LICENSEE**

#### **5. DETERMINATION BY THE AUTHORITY OF WHAT CONSTITUTES UNIVERSAL POSTAL SERVICE**

- 5.1 The Authority determines that notwithstanding provisions of Section 8(1) (f) of the Act that the Licensee must:
- (a) extend the services such as the basic letter services to all areas,
  - (b) provide retail outlets at which customers can mail basic letters and other postal items taking into account the population size and mail volumes of particular areas,
  - (c) provide mail collection points which are accessible,
  - (d) provide and roll out virtual addresses where there are no available post box facilities; provided that the Licensee must within a maximum period of 12 months convert such virtual addresses to post boxes or street addresses,
  - (e) rebalance the retail outlets between the serviced areas and the underserved areas to achieve equitable access,
  - (f) improve service performance standards,
  - (g) provide basic letter services at charges approved by the Authority,
  - (h) provide adequate facilities for the receipt from the dispatchers of basic letters,
  - (i) sell postage stamps,
  - (j) accept and deliver Cash on Delivery (COD) items, insured parcels, ordinary parcels, registered letters (with an insurance option) and signature on delivery (SOD) items,
  - (k) issue and pay money orders,
  - (l) must render the reserved postal services by way of vending machines or other devices.

5.2 The Licensee shall not:

- (a) differentiate in the provision of services between serviced areas and underserved areas;
- (b) unfairly discriminate in the discounts afforded to mail users;
- (c) unfairly discriminate against any person in respect of the provision of the reserved postal services, without the prior written approval of the Authority.

5.3 The Licensee must submit a plan to the Authority with respect to the provision of electronic communications services to all citizens of the Republic within sixty (60) days of the date this License.

5.4 The Licensee must roll out to the serviced and underserved areas in line with regulations published by the Authority.

5.5 The Authority may develop detailed criteria in regard to the universal postal service including:

- (a) what constitutes equitable access
- (b) appropriate differentiation in the provision of reserved postal services between service and underserved areas
- (c) appropriate population densities which warrant the provision of a basic letter service
- (d) appropriate objectively justifiable criteria for differentiation in discounts offered to bulk mail users

## **6. ACHIEVEMENT OF UNIVERSAL POSTAL SERVICE**

6.1 The Licensee must achieve universal postal service

6.2 In compliance with its obligations in terms of the Act and related regulations, the Licensee must provide postal and other services provided through postal and related ICT infrastructure.

## **7. DETERMINATION OF TARGETS IN REGARD TO DELIVERY POINT ROLL-OUTS AND RETAIL OUTLET ROLL-OUTS**

- 7.1 The Licensee must draw up a sustainable programme for a period which will be reviewed annually from the beginning of April 2008 for the delivery point roll-outs and retail outlet roll-outs in the Republic as well as the development of the reserved postal services.
- 7.2 The Authority after consultation with the Licensee may determine the respective priorities between the serviced and under serviced areas and amongst the other serviced areas for delivery point roll-out and retail outlet roll-out.

## **8. DETERMINATION OF THE PRICE CAP**

- 8.1 The Authority determines the price cap and any such price cap is binding upon the Licensee.
- 8.2 For the purposes of enabling the Authority to determine the price cap, the Licensee must furnish the Authority with the following information:
- (a) the cost structures of the Licensee
  - (b) steps taken by the Licensee during the preceding period to reduce costs
  - (c) capital expenditure the Licensee intends to deploy in any one financial period
  - (d) any profit the Licensee may have generated from the basic service and any other services rendered pursuant to this Licence.
  - (e) the proposed pricing for new products forming part of reserved postal services to be introduced by the Licensee including a detailed analysis of the proper costing for such new products.
  - (f) and any other information that the Authority may require the Licensee to provide
- 8.3 The Authority may for the purposes of determining the price cap, in addition require for the deduction of a productivity factor to encourage the licensee to become more efficient, and may permit the addition of a factor to cover the capital expenditure to be incurred by the licensee in achieving the universal postal service.

8.4 In the event the Authority decides to prescribe a different methodology for determining tariffs other than the price cap, such information shall be published.

## **9. TARIFFS**

9.1 The Licensee must submit in writing by no later than 01 October of each year, to the Authority, tariffs it proposes for the forthcoming year in respect of reserved postal services contemplated in the Act.

9.2 The Authority may allow the Licensee an opportunity to make oral submissions during the period between 1 November and 31 December, concerning changes in the tariffs.

9.3 If the Licensee grants discounts on tariffs to the public, the Licensee must publish by no later than 31 January prior to the commencement of the relevant year and during the relevant year. The Licensee must act in accordance only with such published discounts.

9.4 Where the Authority has determined tariffs, the Authority will publish such tariffs by no later than 31 January or 60 days prior to the commencement of the fees for the relevant year.

9.5 The Licensee shall not be entitled to re-categorise or make any changes to tariffs for reserved postal services without the written approval of the Authority.

9.6 The Licensee shall not finance unreserved postal services from revenues or profits gained from reserved postal services. In this regard the Licensee must:-

- (a) keep proper costing systems for both reserved and non reserved postal services
- (b) prepare management accounts separately
- (c) prepare in respect of each financial year, cost accounts on a historic cost basis for both reserved postal services and non reserved postal services
- (d) send a copy of each of such accounts to the Authority within 6 (six) months of the end of the Licensee's financial year
- (e) submit to the Authority in respect of each financial year, an audit report.

9.7 Nothing contained herein may prevent the Licensee from financing reserved postal services from revenues or profits gained from unreserved postal services.

## **10. DETERMINATION OF CUSTOMER CARE STANDARDS AND COMPLAINT HANDLING PROCEDURE**

10.1 The determination of customer care standards and complaint handling procedure must be as prescribed by the Authority.

## **11. MEASUREMENT OF QUALITY OF SERVICE**

Quality of service should be adhered to in line with the prescribed regulations setting out the minimum customer care standards.

## **12. POSTAGE STAMPS**

12.1 The Licensee must:

- (a) issue postage stamps upon payment of the applicable postal charges and may not assign this obligation to any other third party.
- (b) issue postage due labels and any other labels for the collection of unpaid charges or for denoting postage and may not assign this obligation
- (c) not appoint sub-contractors to issue postage stamps or postage due labels to any other party without first obtaining the Authority's written approval.
- (d) issue postage stamps that project the image of the Republic and its people and depict amongst others themes of national and international interest
- (e) comply with the regulations promulgated with regard to the supply, use and validity of postage stamps including the perforation and defacement thereof and all other matters subject to which postage stamps may be accepted or refused in payment of postage.

12.2 The Licensee must:

- (a) archive in suitable storage conditions and display in its museum such number of each new stamp and issue or postage due label or other type of new philatelic material as agreed to with the Authority
- (b) present to the Authority proof or progressive samples of any new stamp issue

- (c) take appropriate steps to store in suitable conditions and preserve the original designs for postage stamps and postage due labels whether in the museum or in the archives.
- (d) store duplicate copies of original designs at a remote site, the whereabouts of which must be known by the Authority and the curator of the museum. No such original designs may be lent to any person or for art shows unless:
  - (i) a written undertaking is obtained from such person that the original design, whilst in his/her possession (which will not be for a period longer than 6 (six) months) is sufficiently insured. Such person may be required to pay a rental; and
  - (ii) if displayed at art shows, proper measures will be taken by the borrower for the safety of the original design.
- (e) ensure that printing plates of any new postage stamps issues are stored in suitable conditions by the printer for possible re-issues of a series of postage stamps and when no longer required, the printing plates will be destroyed upon the instructions of the Licensee
- (f) grant access to the Authority to the philatelic archives of past stamp-issues relating to the Republic or other philatelic material or original designs kept in the archives or museum
- (g) ensure that there is a proper security in connection with the printing and storing of postage stamps.

### **13. REMOTE METER SETTING FRANKING MACHINES**

#### **13.1 The Licensee must:**

- (a) appoint approved suppliers to sell and issue remote meter setting franking machines to users; and
- (b) formulate and apply a set of rules and policy for the issue of remote meter setting franking machines and inform the Authority in writing thereof.

#### **13.2 The Licensee must from time to time carry out inspections at the suppliers' premises to ensure that the contractual conditions are being complied with and proper records are kept.**

- 13.3 The Licensee must submit reports concerning inspections to the Authority every quarter.

#### **14. POSTAL SECURITY AND CONFIDENTIALITY**

- 14.1 The Licensee must maintain security and confidentiality of the basic letters and any other postal articles, in all activities carried out in connection with the reserved postal services.
- 14.2 Sealed postal items may only be opened by persons authorised to do so by the Licensee in accordance with the provision of the Act and any other relevant legislation or order of a competent court.
- 14.3 The Licensee must endeavour to prevent sensitive information concerning its customers that it receives in the course of providing the reserved postal services, from being disclosed to third parties or from being used otherwise than for the purposes of providing the reserved postal services in accordance with the regulations published by the Authority.
- 14.4 Notwithstanding the foregoing, the Licensee may use its database of addresses for commercial gain, provided that the Licensee complies with the terms and conditions of this Licence. 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 owed to the Licensee
  - (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
  - (e) where this Licence or any law so permits or requires
  - (f) take all reasonable steps to prevent the theft or other unauthorised removal or destruction or violation of any items entrusted to it for delivery or their contents.

**15. COMPLIANCE WITH INTERNATIONAL COMMITMENTS**

- 15.1 The Licensee must comply with all international commitments to which the Republic has bound itself or may bind itself in the future, in the sphere of postal services.
- 15.2 The Licensee must exercise its rights and powers and perform its duties and obligations under the Licence, in a manner which is consistent with any other international commitment to which the Republic may be party to currently or in future.
- 15.3 The Licensee must cooperate with the Authority to exchange the necessary expertise and information in the commercial and technical sphere required in respect of the Universal Postal Union or the Pan African Postal Union or the South African Development Community, on which the Republic or the Licensee is represented or to which it wishes to make representations. The Licensee may not levy any charges on the Authority or government in respect of the expertise or information the said bodies may provide to it.
- 15.4 The Licensee must provide mail services to and from other postal administrations in accordance with the rules and regulations agreed upon by the Universal Postal Union regarding the operation of international postal services.

**16. OTHER DUTIES OF THE LICENSEE**

The Licensee must in addition to the other obligations imposed in terms of this Licence:

- 16.1 comply with and, where required by the Authority, implement the provisions of the Act
- 16.2 furnish the Authority with such reports as the Authority may require from time to time.
- 16.3 subject to the provisions of the ICASA Act the Licensee must allow the Authority reasonable access to its books and records during business hours as the



Authority may require for the purpose of exercising the functions assigned to it by the Act.

## **17. USE OF INFRASTRUCTURE**

- 17.1 The Licensee must not conclude any agreement relating to the sharing of any part of its infrastructure if same could affect the rendering of the reserved postal services or the universal postal service obligation unless the Licensee will first have given the Authority full details thereof in writing and obtained the Authority's written approval.
- 17.2 The Licensee must comply with directives from the Authority to allow the Licensee's infrastructure to be utilised by competitors. The Authority will consult with the Licensee in regard to terms and conditions, including a market related fee, which would be applicable to any such utilisation of the Licensee's infrastructure by competitor's after furnishing the Licensee with full technical details concerning the competitors' systems.
- 17.3 Where the Licensee concludes a contract with any other operator/ licensee, same must be filed with the Authority.

## **18. OTHER POSTAL AUTHORITIES AND ORGANISATIONS**

The Licensee must file with the Authority the full details of all strategic agreements concluded by the Licensee with other postal operators within 30 (thirty) days of the date on which the agreement is entered into. Where any strategic agreements were concluded by the Licensee with other postal operators prior to the commencement date, the Licensee must file details of same to the Authority within 15 (fifteen) days of the date upon which this Licence is formally issued.

## **19. CONTRACTS WITH THIRD PARTIES TO PROVIDE LICENSED SERVICES**

The Licensee may enter into any agreement with third parties with the intention to provide services under this Licence. The Licensee is solely liable for contravention of the Licence Terms and Conditions.

**20. PENALTIES**

The imposition of penalties arising out of failure to comply by the Licensee with its Licence terms and conditions constitutes an offence and is liable to a penalty as determined in the ICASA Act.

**PART IV – OTHER LICENCES****21. OBLIGATION TO OBTAIN OTHER LICENCES**

Nothing in this Licence may be construed as discharging the Licensee from its obligation to obtain any other licence, which may be required under any law in the provision of the services.

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