



**INDIVIDUAL LICENCE NUMBER: IECN/NO.\_\_\_\_\_/YEAR\_\_\_\_/**

**ISSUED TO**

**(NAME OF LICENSEE)**

**FOR THE PROVISION OF**

**AN ELECTRONIC COMMUNICATIONS NETWORK**

**IN ACCORDANCE WITH SECTION 9 AS READ WITH SECTION 11 OF THE  
ELECTRONIC COMMUNICATIONS ACT, 9 OF 2013, AS MAY BE AMENDED**

**("the Licence")**

**AT MBABANE ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_**

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**CHIEF EXECUTIVE  
MVILAWEMPHI DLAMINI  
ESWATINI COMMUNICATIONS COMMISSION**

## 1. DEFINITIONS

1.1. In this licence, all words and expressions shall, unless the context indicates otherwise, have the same meanings as in the Electronic Communications Act, 9 of 2013, as may be amended, read with the Eswatini Communications Commission Act, 10 of 2013, as may be amended. The following definitions apply:

- 1.1.1. "audited annual financial statements" means statements audited by a registered auditor in line with acceptable accounting standards, or if the Licensee is not required by law to audit its financial statements, the annual financial statements signed and sworn by the accounting officer of the Licensee;
- 1.1.2. "customer" means any person who has purchased any electronic communications service or concluded a contract with any Licensee;
- 1.1.3. "emergency organisation" means in respect of any locality, the relevant governmental and state security agencies, fire and ambulance services;
- 1.1.4. "interconnection" means direct or indirect physical or logical linking of public telecommunications networks;
- 1.1.5. "interconnection agreement" means an agreement concluded between the Licensee and any operator recording the commercial, technical and financial arrangements made between them in respect of the interconnection of their respective network;
- 1.1.6. "licensed service" means any service provided in terms of an electronic communications network licence;
- 1.1.7. "licensee" has the meaning assigned to it under section 2 of the Eswatini Communications Commission Act, 2013;
- 1.1.8. "net operating income" means the income derived from the provision of a Licensed Service and does not include interconnection, facility leasing charges, government grants and subsidies;
- 1.1.9. "reference interconnection offer (RIO)" means the standard draft facilities leasing agreement to be used by the Licensee in

engagements for the conclusion of such agreements as may be requested by another Licensee;

1.1.10. "royalty" means an annual fee paid by the Licensee to the Commission for the authorisation granted to the Licensee in terms of this licence;

1.1.11. "universal access fund" means the Universal Access Fund provided in Part VI of the Electronic Communications Act, 9 of 2013;

## **2. SCOPE OF THE LICENCE**

2.1. The Licensee is authorised to operate in the Kingdom of Eswatini and to provide electronic communications network in accordance with the Electronic Communications Act, 9 of 2013, read with the Eswatini Communications Commission Act, 10 2013, as may be amended. The Licensee shall be entitled to provide the following network services in terms of this licence on a technology –neutral basis:

2.1.1. Construct, maintain and operate electronic communications network facilities;

2.1.2. Lease all or part of the Licensee's network facilities and capacity to any other licensed entity (Individual or General electronic communications Licensees);

2.1.3. Provide any type of public or private telecommunications services, whether on an international or national level, to the public and /or to another Licensee holding a valid General and Individual Electronic Communications Service Licence;

2.1.4. The activities authorised by the I-ECN licence include, but are not limited to, the construction, maintenance and operation of and the provision of telecommunications services over:

2.1.4.1 Terrestrial fixed line transmission facilities;

2.1.4.2 Terrestrial radio transmission facilities;

2.1.4.3 Mobile base station facilities;

2.1.4.4 Other satellite facilities located in the Kingdom of Eswatini

providing capabilities for the transmission of telecommunications services;

2.1.4.5 Any other electronic network service as may be

authorised by the Commission under this licence; and

2.1.4.6 Telecommunications Services authorised by the I-ECN licence.

- 2.2. This licence is issued in terms of and in accordance with the Electronic Communications Act, 9 of 2013, read with the Eswatini Communications Commission Act, 10 of 2013, as may be amended.
- 2.3. The Licensee is subject to the Statutes mentioned above as well as the regulations, decisions, guidelines, directives, determinations and authorisations that may be issued under these Statutes.
- 2.4. The Licensee must, at all times, ensure compliance with the totality of its obligations in terms of this licence and under the regulatory instruments mentioned above.
- 2.5. Failure to comply will be dealt with as a contravention of the terms of this licence and any other provision that may be contained in the statutes, regulations, decisions, guidelines, directives, determinations and/or authorisations.

### **3. DURATION, COMMENCEMENT AND RENEWAL**

- 3.1. This licence is granted for a period of 10 years from the date of issue.
- 3.2. The licence shall be effective from the \_\_\_\_\_
- 3.3. The Licensee may apply for renewal of this licence within the licence term. The application to renew the licence must be submitted to the Commission no less than twelve (12) months prior to the expiration of the licence, and the Commission shall make a decision relating to such renewal application by not later than three (3) months before the expiry date of the licence.
- 3.4. The Commission may renew the licence in accordance with prevailing legislation, regulations and guidelines, provided that the Licensee has

not been in material breach of the licence conditions.

- 3.5. The licence terminates on the last day of the licence period if it is not renewed or where an application for renewal has been declined. Notwithstanding, the Commission may extend the licence for a period that may be specified by the Commission pending the renewal process.

#### **4. AMENDMENT OF THE LICENCE**

- 4.1. Save as set out in this licence, any amendment of the terms and conditions of this licence together with its appendices may only be made in writing by the Commission, in accordance Section 12 of the Electronic Communications Act, 9 2013.

#### **5. CONTACT DETAILS**

- 5.1. The primary contact person for the Licensee shall be:
  - 5.1.1. **Name:**
  - 5.1.2. **Tel:**
  - 5.1.3. **Cell:**
  - 5.1.4. **Email:**

#### **6. NOTICES AND ADDRESSES**

The Licensee chooses the following addresses as its principal addresses:

- 6.1. **Postal Address:**
- 6.2. **Physical Address:**

#### **7. NOTIFICATION OF LICENSEE DETAILS AND INFORMATION CHANGE**

- 7.1. The Licensee must submit a written notice to the Commission within thirty (30) days of the occurrence of any of the following changes in its licence:
  - 7.1.1. the contact person;
  - 7.1.2. contact details;
  - 7.1.3. physical address of the main office of the Licensee; or
  - 7.1.4. financial year end;

- 7.1.5. any change affecting the characteristics of the body or structure.
- 7.2. Where a Licensee fails to notify the Commission of any of the changes above, the Commission may revoke the licence by notice served on the Licensee, and the revocation shall take effect on a date specified in the notice, subject to the Licensee being afforded the right to be heard.

## **8. SAFETY MEASURES**

The 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 to limit exposure to electromagnetic emission, radiation and related risks.

## **9. ACCESS TO FREQUENCY SPECTRUM**

- 9.1. The Licensee may apply for the grant of Radio Frequency Spectrum.
- 9.2. Where a Licensee requires access to Radio Frequency Spectrum, the Licensee shall submit an application to the Commission for the assignment of such Radio Frequency Spectrum in accordance with the Electronic Communications (Radio Frequency Spectrum) Regulations, 2016. The application shall specify:
  - 9.2.1 The relevant portion of the Radio Frequency Spectrum required by the Licensee;
  - 9.2.2 The total quantity/ies of Radio Frequency Spectrum; and
  - 9.2.3 Specific details of the actual portions/blocks of Radio Frequency Spectrum to be accessed.
- 9.3. The Licensee's assigned Radio Frequency Spectrum and the terms and conditions for the use of such assignment shall be set out in its Frequency Spectrum Licence.
- 9.4. The Licensee may not use any other portion of Radio Frequency Spectrum not specifically authorised in its Radio Frequency Spectrum Licence unless such portion of Radio Frequency Spectrum is designated as licence exempt.

## **10. CUSTOMER SERVICE STANDARDS**

- 10.1. The Licensee must develop, publish and implement Wholesale Customer Service Guidelines for use by its employees for administering queries and complaints lodged by wholesale customers, which Guidelines must be available to the wholesale customer and may be included in the Commercial Contract or Service Level Agreement between the Licensee and the wholesale customer.
- 10.2. The Wholesale Customer Services Guidelines must address at a minimum the following areas:
  - 10.2.1. Key contact details for wholesale customers wishing to lodge a complaint;
  - 10.2.2. Complaints handling procedures and applicable timeframes;
  - 10.2.3. Appeal/ escalation process and timeframes for customers not satisfied with the resolution of a complaint;
  - 10.2.4. Bill-verification procedures where an invoice is in dispute; and
  - 10.2.5. Publication of quality of service information for services provided.

## **11. TARIFF FILING AND PUBLICATION**

- 11.1 The Licensee may not provide any service, as part of the Licensed Services, 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 agreed with the other party and filed with the Commission prior to the provision of the said service. In making such a filing, the Licensee must utilise a format approved by the Commission in writing, which includes;
  - 11.1.1 A description of the services to be approved;
  - 11.1.2 Details of the amounts to be charged for the services;
  - 11.1.3 Any other applicable charges.
- 11.2 The Commission shall evaluate and approve submissions on new products and pricing thereof and provide a written response within reasonable time.
- 11.3 The Commission shall notify the Licensee of its decision, including

reasons where the tariffs have not been approved.

11.4 In the event that the Commission approves the tariff, the Licensee must:

11.4.1 Widely publicise the new rates and the effective date in the market;

11.4.2 Make such rates and the terms and conditions of the services to be provided, are available for inspection on its website and at its offices during business hours; and provide such details to anyone who requests same at no charge.

## **12. OWNERSHIP AND CONTROL**

12.1. The Licensee' shareholding structure is contained in **Appendix A**.

12.2. The Licensee must notify the Commission in writing of any changes to its ownership and control structure and shall not transfer, cede, pledge, assign or otherwise dispose of, or encumber:

12.2.1 This licence; or

12.2.2 Shares in excess of 5% of the issued share capital in the Licensee, or

12.2.3 Voting share capital resulting in a change to the composition of one quarter of the board of directors without the prior written approval of the Commission.

12.3. The Licensee shall submit an application for approval of a change in ownership or control contemplated above, prior to concluding such a transaction, which approval shall not be unreasonably withheld.

12.4. The Licensee may not assign, sub-licence, transfer, cede or otherwise dispose of this licence, or any rights derived under it, in favour of any third party without the prior written approval of the Commission.

## **13. TYPE APPROVAL**

The Licensee must ensure that all electronic communications equipment that is used on or connected to its network is type approved by the Commission.

## **14. REPORTING**

14.1. The Licensee shall submit a quarterly report to the Commission,



reporting on the following:

- 14.1.1. Statistics on network performance including but not limited to, call placement success rate, call drop rate, unplanned outages and time taken to resolve such outages. The report shall include coverage maps and shall also indicate the extent of network coverage expressed as a percentage of the total geographic coverage of the total populated areas of the Kingdom of Eswatini as well as a percentage of the population resident in the Kingdom of Eswatini;
- 14.1.2. The relevant Radio Frequency Spectrum assigned and the extent of usage of each spectrum type assigned, if applicable;
- 14.1.3. Revenues generated in respect of each of the Licensed Services and the aggregated revenues;
- 14.1.4. Total number of lines installed and average time taken to install/providing services as well as coverage statistics showing actual coverage versus coverage in the previous financial year;
- 14.1.5. Wholesale prices levied in the previous quarter, per type of service provided; and
- 14.1.6. Compliance with implementation of the Human Resources / Skills Development Policy, in the format to be specified by the Commission.

14.2. The Licensee must submit the quarterly reports in the format specified by the Commission, within thirty (30) days from the end of each quarter.

## **15. PERFORMANCE TARGETS**

The Licensee must comply with the rollout plan and performance undertakings set out on Annex....

## **16. UNIVERSAL SERVICE**

16.1 With respect to Universal Service and Access, the Licensee shall comply with:

16.1.1 The Universal Service and Access Obligations as may be

provided for under the laws, regulations, guidelines and decisions of the Commission issued from time to time;

16.1.2 The specific Universal Service obligations set out in **Annex B**.

## **17. HUMAN RESOURCES, SKILLS DEVELOPMENT AND EXECUTIVE MANAGEMENT CHANGES**

17.1 The Licensee shall ensure that it develops and implements a Human Resource, Training and Skills Development Policy to be updated annually and submitted to the Commission.

17.2 The Licensee must submit a quarterly report to show compliance with implementation of the Policy, in the format to be specified by the Commission.

17.3 The Licensee shall ensure that in all divisions within the business, a majority of personnel are nationals of the Kingdom of Eswatini. Where a foreign national has been engaged by the Licensee for work purposes, justification on the preference of such national over local citizens must be furnished.

17.4 The Licensee shall ensure that all changes to personnel holding Executive Management positions within the organisation are reported to the Commission prior to being implemented.

17.5 The Licensee shall submit candidates proposed for engagement to hold Executive Management positions for vetting and approval to the Commission prior to being officially engaged. The evaluation shall be undertaken to establish whether or not the proposed candidate is adequately qualified to occupy the position and to determine whether or not a Liswati qualifies to occupy the position.

## **18. CONFIDENTIALITY OF CUSTOMER INFORMATION AND DATA PROTECTION**

18.1 The Licensee shall not, under any circumstances whatsoever, disclose any information about a customer to any third party except to the extent that such information is required in compliance with a Court Order or an applicable statutory obligation.

18.2 The Licensee must record and store Court Orders or duly issued

instructions provided for above for each instance in which customer information is disclosed for a period of five (5) years.

18.3 The Licensee shall on its electronic communications system, store/keep call records (CDRs) for a period of five (5) years. Such records shall be stored even after the customer has cancelled a contract /subscription for any Licensed Services with the Licensee or after the Licensee has ended the Licensed Service provided to the customer.

18.4 The Licensee shall not store customer data outside of the jurisdiction of Eswatini without prior written approval of the Commission.

## **19. FEES**

19.1. The Licensee shall, annually, pay the following fees based on revenue from its Licensed Services:

19.1.1. Initial Licence Fee: \_\_\_\_\_;

19.1.2. A payment of **2% of its Audited Net Operational Income towards annual Royalties;**

19.1.3. A Contribution **0.5% of its Audited Net Operational Income towards the Universal Service Obligation Fund;**

19.1.4. The licence fee payments shall be due annually within three (3) months of the end of the financial year of the Licensee and shall be accompanied by the Audited Annual Financial Statements of the Licensee.

## **20. INTERCONNECTION, FACILITY LEASING FEES/RATES AND AGREEMENTS**

20.1 The Licensee may not implement any interconnection agreement or facilities leasing agreement until such time that it has developed a Reference Interconnection Offer (RIO) and Reference Facilities Leasing Offer (RFLO). To the extent possible, agreements developed by the Licensee shall follow a template as may be developed and approved by the Commission.

20.2 Following conclusion of an interconnection and/or facilities leasing agreement, a copy of the signed agreement shall be submitted to the Commission within thirty (30) days of execution thereof.

- 20.3 The Licensee shall ensure that in concluding either of these agreements, it shall not unduly discriminate against any operator for whatever reason. Such discrimination shall be construed as a material contravention of this licence.
- 20.4 Until such time that the Licensee has obtained approval from the Commission, it may not implement any such interconnection rate or facilities leasing fee. Similarly, the Licensee shall immediately implement any prescribed tariff applicable to interconnection or facilities leasing, notwithstanding any need to amend the existing agreements which may arise. The Licensee shall not delay the implementation of any regulation or directive by the Commission on these grounds.

## **21. EMERGENCY SERVICES**

- 21.1 The Licensee shall enable the passing of emergency services calls and/or messages on its network to emergency organisations, and shall not charge another Licensee any interconnection or other fees for carrying an emergency services call.
- 21.2 The Licensee shall not charge another Licensee any fees for carrying an emergency services call.
- 21.3 The Licensee shall ensure its systems support the transmission of automatic number identity, automatic caller/line identity as well as geolocation of the origin of the message.
- 21.4 Emergency services shall be available to all customers, subscribers and users irrespective of their parent network and/or billing status.
- 21.5 Emergency services must be available to local and foreign users, sim-locked, soft-locked, registered and unregistered numbers.
- 21.6 The network shall be capable of transmitting automatic number identity, automatic caller/line identity as well as geolocation of the origin of the call.
- 21.7 The Licensee must keep records of all communication received and transmitted to emergency organisations for a period of five (5) years. Copies of the records must be made available, on request by the Commission, in the format and to the relevant person as may be

identified by the Commission with due regard to the confidentiality of personal information that may be contained in the report.

21.8 The Licensee must ensure that it has the relevant network architecture to provide the service continuously, including the requisite redundancy, network quality and dedicated circuits.

## **22. SEVERABILITY**

22.1 Where a Court of competent jurisdiction finds any provision of this licence unlawful, that provision shall be severed from this licence and the remainder of the licence conditions shall continue to apply as if such clause had not been part of the licence.

22.2 To the extent that the Minister makes any regulations as contemplated in Section 5 and 49 of the Electronic Communications Act which have an impact on any matter addressed in this licence at any time, the relevant provisions of this licence shall be construed as repealed and severed from the Licence and the relevant regulation or guideline so made shall take precedence from the date it comes into operation.

## **23. CONTRAVENTIONS, PENALTIES, SUSPENSION AND REVOCATION OF THE LICENCE**

23.1. Failure to comply with any applicable Statute, licence conditions contained herein, regulations, guidelines, directives, authorizations or decisions issued by the Commission shall be deemed to be a contravention of the licence conditions.

23.2. Where the Commission finds the Licensee guilty of a contravention in accordance with Section 21 of the Electronic Communications Act, 2013 read with Section 36 – 42 of the Eswatini Communication Commission Act, the Commission may impose a fine in accordance with section 42 of the said Act.

## **24. FORCE MAJEURE**

24.1. Where the Licensee cannot provide any service due to circumstances beyond its control, for a continuous period of twelve (12) hours or

longer, it shall notify the Commission in writing of such circumstances within twenty-four (24) hours of the occurrence thereof and shall endeavour to restore the services as soon as reasonably possible.

**25. COMPETITION MATTERS**

25.1 The Licensee shall not engage in any anti-competitive or discriminatory practices against or negatively affecting any other operator or customer.

25.2 The Licensee shall ensure that no exclusivities are established with distribution channels where the licence has not established an employee/employer relationship. No exclusivities will be allowed where the Licensee only pays a fee for distributing its product based on a commission.

25.3 All distribution agreements concluded by the Licensee and distributors, (Municipalities, Chiefs, Tinkhundla) shall be lodged with the Commission for approval prior to implementation.

**26. ADDITIONAL NEW TERMS AND CONDITIONS**

Additional terms and conditions to address non-compliance findings from the licence evaluation are contained in **Annex C**.

## Appendix A

### Ownership and Control

#### Shareholding

<b>Name</b>	<b>Natural / Juristic Person</b>	<b>Nationality/ Country of Registration</b>	<b>Percentage</b>	<b>Voting Rights</b>