



**IMPLEMENTATION OF ELECTRONIC COMMUNICATIONS ACT 2011
ADVISORS' PRELIMINARY RECOMMENDATIONS**

Pre-Consultation:
**Integrated Communications
Operating Licences and
Associated Spectrum Licences**

Pre-Consultation Document

Reference: PC12/01

Date: 10 October 2012

Responses Due: 14 November 2012

NOTICE

PURPOSE OF PRE-CONSULTATION PROCESS AND DOCUMENTS

This pre-consultation document has been prepared by a team of legal, regulatory and economic advisors retained by the Government of Bermuda to assist in implementing the provisions of the Electronic Communications Act 2011 (“ECA”).

The purpose of this pre-consultation is to provide industry participants and the general public with an opportunity to comment on the advisors’ preliminary recommendations and, where possible, to focus on key issues so that the Regulatory Authority can conduct a more efficient and productive consultation process when it begins operations in January 2013. All references to “consultation” in this document should be construed as “pre-consultation,” that is, as the preliminary draft of a future consultation document. The responses to this pre-consultation will be important inputs in the preparation of the consultation document, on which the Regulatory Authority will request and consider comments, prior to forwarding a standard form Integrated Communications Operating Licence and associated spectrum licences to the Minister in accordance with Section 73(1) of the ECA.

For the avoidance of doubt, the analysis, conclusions and proposals contained in this pre-consultation document are preliminary in nature and have been developed by the Government’s advisors. Notwithstanding any references to the “Regulatory Authority” in this pre-consultation document, the preliminary analysis, conclusions and proposals set forth herein do not in any way bind the Regulatory Authority, the Government or its advisors.

FILING INSTRUCTIONS

Responses to this pre-consultation document should be submitted in MS Word or Adobe Acrobat format by email to reform@gov.bm no later than 6:00 PM on 14 November 2012. All comments should be clearly marked “Response to Pre-Consultation Document PC12/01: Comments on Integrated Communications Operating Licences and Associated Spectrum Licences.” Commenting parties submitting information that is confidential in nature should refer to Paragraph 14 of the pre-consultation document.

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1 EXECUTIVE SUMMARY

1. Section 12 of the Electronic Communications Act 2011 (“ECA”) requires all operators of electronic communications networks and providers of electronic communications services (collectively, “electronic communications”) to secure a licence.

2. The ECA does not require all providers of electronic communications to be licensed in the same manner. The ECA’s licensing framework provides for two broad categories of Communications Operating Licences (“COLs”): COLs granted to individual licensees; and class COLs, which are class licences granted to persons that meet the requirements of a particular class.

3. Integrated Communications Operating Licences (“ICOLs”) are a particular type of COL. During the initial years of regulatory reform, ICOLs may be granted only to the entities identified by Schedule 1 of the ECA. Electronic communications may be provided by persons other than ICOL holders only pursuant to class licences or licence exemptions, as specified by the transitional provisions of Part 12 of the ECA. Class licences and exemptions are the subject of a separate consultation.

4. The Minister has directed the Regulatory Authority, pursuant to Section 73(1) of the ECA, to initiate a public consultation concerning the basic terms and conditions of ICOLs and any associated spectrum licences. As directed by the Minister, the Regulatory Authority has prepared this consultation document and the proposed standard terms and conditions that appear in the draft ICOL attached as Appendix B hereto. At the conclusion of the consultation process, the Regulatory Authority will submit a proposed standard form ICOL and associated radio spectrum licences to the Minister.

5. In developing the standard terms and conditions of the ICOL, the Regulatory Authority has tentatively concluded that it is unnecessary to restate every applicable obligation contained in the Regulatory Authority Act 2011 (“RAA”) and ECA in the draft ICOL. The relevant provisions of these Acts will apply to all ICOL holders without regard to whether they are repeated in the ICOL. Generally speaking, the Regulatory Authority has included in the ICOL only those substantive provisions of the RAA and ECA which direct the Regulatory Authority to undertake specific tasks or which require clarification in the ICOL.

6. The Regulatory Authority notes that implementation of the ECA will evolve over time. To deal with future implementation of the ECA in an administratively efficient manner, Annex A to the draft ICOL contains a number of Transitional Conditions applicable to ICOL holders. As the Minister and the Regulatory Authority implement the ECA, these Transitional Conditions will expire by their own terms or the affirmative actions of the Minister and the Authority.

7. Section 73 of the ECA contemplates that the Regulatory Authority will issue associated spectrum licences to ICOL holders corresponding to their assignments under the Telecommunications Act 1986 (“TA86”). Thus, in addition to developing a standard form ICOL, the Regulatory Authority has developed standard form spectrum licences, which appear as Appendix C to this consultation document. These licences will have an initial term of 18 months. In accordance with Section 78 of the ECA, the Regulatory Authority will conduct an investigation to determine whether the assigned

spectrum is being used efficiently and whether the assignments should be renewed or modified at the end of the 18-month period, depending on whether the licence holder has demonstrated “a reasonable need for some or all of the spectrum assigned to it.”

8. ICOL holders are obligated comply with legal instruments issued under the TA86 until such time as the Minister or the Regulatory Authority amends, revokes or otherwise makes dispositions in respect of those instruments. Of particular relevance to this consultation are those regulations and instruments that will have an immediate impact on the manner in which the public electronic communications authorized by the ICOL may be provided. In addition to conforming these regulations to the new regulatory framework established by the RAA and ECA, the Regulatory Authority anticipates a comprehensive review of these regulations and instruments to determine whether and how they should be revised to further implement the regulatory reform process initiated by these Acts.

9. Within 30 days of the date on which the Regulatory Authority submits a proposed standard form ICOL, the Minister will make regulations establishing the basic terms and conditions of the ICOL. The Minister will also direct the Regulatory Authority to modify the licences, issued (or deemed to have been issued) under the TA86, held by the entities listed in Schedule 1 of the ECA. In doing so, the Regulatory Authority proposes to make a general determination that the electronic communications authorized by the ICOL, like those authorized by the licences issued under the TA86, are public electronic communications.

10. The Regulatory Authority invites interested parties to comment on the standard form ICOL and associated spectrum licences, as well as any other matters raised by this consultation document.

2 CONSULTATION PROCEDURE

11. This consultation is being undertaken in accordance with Sections 69 to 73 of the RAA. Written comments should be submitted before 6:00 PM on 14 November 2012.

12. The Regulatory Authority invites comments from members of the public, operators of electronic communications networks and providers of electronic communications services, and other interested parties. The Regulatory Authority requests that commenting parties, in their responses, reference the numbers of the relevant questions, as set forth in this consultation document, to which they are responding. A complete list of questions presented by this consultation document appears in Appendix D hereto.

13. Please submit your responses in MS Word or Adobe Acrobat format by email to reform@gov.bm. All comments should be clearly marked “Response to Pre-Consultation Document PC12/01: Comments on Integrated Communications Operating Licences and Associated Spectrum Licences,” and should otherwise comply with Sections ___-___ of the Regulatory Authority’s Administrative Rules, which are posted on the Regulatory Authority’s official website, at www.rab.ba.

14. The Regulatory Authority intends to make responses to this consultation available on its website. If a commenting party’s response contains any information

that is confidential in nature, a clearly marked “Non-Confidential Version,” redacted to delete the confidential information, should be provided together with a complete version that is clearly marked as the “Confidential Version.” Redactions should be strictly limited to “confidential information,” meaning a trade secret, information whose commercial value would be diminished or destroyed by public disclosure, information whose disclosure would have an adverse effect on the commercial interests of the commenting party, or information that is legally subject to confidential treatment. The “Confidential Version” should highlight the information that has been redacted.

15. _____ is the principal point of contact at the Regulatory Authority for interested persons during this consultation. He/she may be contacted by email at _____ or by telephone at _____.

16. In this document, except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them by the RAA, ECA and the Interpretation Act 1951.

17. This consultation document is not a binding legal document and does not contain legal, commercial, financial, technical or other advice. The Regulatory Authority is not bound by the consultation document, nor does it necessarily set out the Regulatory Authority’s final or definitive position on particular matters. To the extent that there might be any inconsistency between the contents of this document and the due exercise by the Regulatory Authority of its functions and powers, and the carrying out of its duties and the achievement of relevant objectives under law, such contents are without prejudice to the legal position of the Regulatory Authority.

3 INTRODUCTION

3.1 Background to This Consultation

18. The Minister responsible for electronic communications (“Minister”) is empowered by Section 6 of the ECA to establish general policies and make regulations governing the electronic communications sector, including the licensing of public telecommunications services and the management of radio spectrum. The Regulatory Authority is charged by the ECA with responsibility for: implementing the provisions of the ECA and the general policies and regulations made by the Minister; regulating the electronic communications sector; and enforcing compliance with the applicable regulatory framework. In particular, the Regulatory Authority is responsible for licensing persons who establish, construct or operate electronic communications networks, provide electronic communications services, use radio spectrum, or operate radio stations and apparatus.

19. The Minister has directed the Regulatory Authority, pursuant to Section 73(1) of the ECA, to initiate a public consultation concerning the basic terms and conditions of Integrated Communications Operating Licences and any associated spectrum licences. This consultation has been initiated by the Regulatory Authority in response to the Minister’s direction.

3.2 Legislative Framework: Licensing

20. Section 12 of the ECA requires all operators of electronic communications networks and providers of electronic communications services (collectively referred to in the ECA as “electronic communications”) to secure a licence:

No person may establish, construct or operate an electronic communications network or provide an electronic communications service within the territorial limits of Bermuda or between Bermuda and another country, without a valid COL [Communications Operating Licence] authorizing such activities, unless the Authority has made a general determination expressly authorizing a licence exemption for the provision of the particular type or types of electronic communications that the person is operating or providing, in accordance with section 16(2)(c).

21. The definitions of “electronic communications network” and “electronic communications service” set forth in Section 2 of the ECA establish the broad reach of Section 12’s licencing requirement:

“electronic communications network” means a transmission system and, where applicable, switching or routing equipment and other resources, including network elements that are not active, which permit the conveyance of signals by wire, radio, optical or other electronic means, irrespective of the type of information conveyed, including—

- (a) satellite networks;
- (b) fixed (circuit and packet-switched, including Internet Protocol) and mobile networks;
- (c) electricity cable systems to the extent used for the purpose of transmitting signals;
- (d) wireless networks operating outside the band allocated for broadcasting and wireline circuits used for purposes of transmitting programming or other content to, or for the reception of the same by, a broadcasting station; and
- (e) networks used for the distribution of subscription audiovisual services.

“electronic communications service” means a service normally provided for remuneration which consists wholly or mainly of the conveyance of signals by means of electronic communications networks, including the provision of subscription audiovisual services.

22. The ECA does not require all providers of electronic communications to be licensed in the same manner. The ECA’s licensing framework provides for two broad categories of Communications Operating Licences (“COLs”): COLs granted to individual licensees; and class COLs, which are class licences granted to persons

that meet the requirements of a particular class. The framework also provides for exemptions from the requirement to hold a licence under certain circumstances.

23. Integrated Communications Operating Licences (“ICOLs”) are a particular type of COL and authorize the licence holder:

to operate and provide public electronic communications networks and electronic communications services transmitted by means of such networks, within the territorial limits of Bermuda and another country, subject to the availability of spectrum and the grant of necessary spectrum licences or permits ECA Section 18(1)

24. During the initial years of regulatory reform (the “Moratorium Period”),¹ ICOLs may only be granted to the entities identified by Schedule 1 of the ECA.² Other types of COLs may be granted to persons not listed in Schedule 1 of the ECA under certain limited circumstances during the Moratorium Period.

25. ICOLs are the subject of this consultation. Class licences and exemptions from the requirement to hold a licence will be addressed in a separate consultation, the “Communications Operating Licences: Exemptions and Class Licences Consultation.”

26. Various provisions of the ECA expressly address the terms and conditions of ICOLs. Section 18(3) provides that the term of an ICOL may not exceed 20 years. Sections 18(4) and 18(5) address the renewal and revocation of ICOLs, and Section 18(6) requires advance approval of the transfer of an ICOL or a change of control of an ICOL holder.

27. Section 50 of the RAA and Section 17(1) of the ECA address the conditions that the Regulatory Authority may impose on all licensees, including ICOL holders, and Section 73(1)(a) of the ECA expressly identifies the conditions set forth in Section 17(2) as conditions that may be included in an ICOL. Section 17(2)(a), in turn, provides that these conditions can include any of the obligations specified by the Regulatory Authority in administrative determinations made pursuant to Section 9(2)(c)(i) though (xv) of the ECA.

28. In addition to developing a standard form ICOL, Section 73 of the ECA contemplates that the Regulatory Authority will issue associated spectrum licences, which will have an initial term of 18 months. The initial spectrum licences will reflect the frequency assignments made by the Minister prior to the enactment of the ECA. In accordance with Section 78 of the ECA, the Regulatory Authority will conduct an investigation to determine whether these assignments are being used efficiently and whether the assignments should be renewed or modified at the end of the 18-month period, depending on whether the licence holder has demonstrated “a reasonable need for some or all of the spectrum assigned to it.”

¹ See ECA Section 75 (Moratorium on the award of ICOLs and other communications operating licences).

² Schedule 1 of the ECA appears as Appendix A to this consultation document.

3.3 Legislative Framework: Fees

29. Section 44 of the RAA allows for the imposition of general regulatory fees to recover the costs of the Regulatory Authority that are: incurred in connection with specific functions performed by the Regulatory Authority; directly related to supervising the electronic communications sector; and not recovered through fees for specific functions performed by the Authority. Section 52 of the RAA allows for the imposition of Government authorization fees in connection with the grant of a licence, permit or other authorization.

30. Section 11 of the ECA, which addresses Regulatory Authority fees, requires that general regulatory fees for ICOL holders “be based on a percentage of the relevant turnover of the licensee.” Section 19, which addresses Government authorization fees, also contains provisions specific to ICOL holders.

31. Section 40(3) of the ECA addresses Regulatory Authority fees for issuing spectrum licences and undertaking other spectrum-related activities. Section 40(1) contemplates the imposition of Government authorization fees for specified types of spectrum licences and permits for radio stations and radio apparatus.

32. Regulatory Authority fees are the subject of a separate consultation (the “Work Plan and Budget Consultation”). Government authorization fees will be established by Parliament pursuant to the Government Fees Act 1965. The Regulatory Authority will make a recommendation to the Minister regarding such fees.

33. In addition, Section 34 of the ECA contemplates a public consultation to consider contributions for the support of universal service, as does Section 47 to fund number portability.

4 BASIC TERMS AND CONDITIONS OF THE ICOL

4.1 Introduction

34. The Regulatory Authority has initiated this consultation at the direction of the Minister to consider the basic terms and conditions that should be included in the ICOL. As directed by the Minister and the ECA, the Regulatory Authority has prepared this consultation document and the proposed standard terms and conditions that appear in the draft ICOL attached as Appendix B hereto. At the conclusion of the consultation process, the Regulatory Authority will submit a proposed standard form ICOL to the Minister.

35. The Regulatory Authority invites comments on each of the proposed standard terms and conditions of the ICOL. In particular, the Regulatory Authority invites comment on whether the proposed standard terms and conditions comply with Section 50 of the RAA. The Regulatory Authority also invites interested parties to comment on additional or different terms and conditions that may be necessary to address the unique circumstances of individual ICOL holders. Section 73(2) of the ECA requires the Minister to adopt regulations that establish the basic terms and conditions of the ICOL. In doing so, the Minister is required to ensure that the terms and conditions applicable to all ICOL holders are as homogenous as possible and not unreasonably discriminatory. This means that minor deviations from the standard

form may be permitted where necessary; the Regulatory Authority, however, intends to allow for such deviations by exception and only to the extent necessary.

36. In developing standard terms and conditions, the Regulatory Authority has tentatively concluded that it is unnecessary to restate every applicable obligation contained in the RAA and ECA in the draft ICOL. The relevant provisions of these Acts will apply to all ICOL holders without regard to whether they are repeated in the ICOL. Generally speaking, the Regulatory Authority has included in the ICOL only those substantive provisions of the RAA and ECA which direct the Regulatory Authority to undertake specific tasks or which require clarification in the ICOL.

37. The Regulatory Authority also notes that not all provisions of the RAA and ECA will be implemented immediately. Section 74(b) of the ECA requires the Regulatory Authority to initiate one or more public consultations to determine which operators possess significant market power in a relevant market and to specify the *ex ante* remedies applicable to those providers. Section 74(c) directs the Regulatory Authority to conduct an investigation whether all fees due and payable by an ICOL holder under previous licences have been paid. The determinations reached by the Regulatory Authority in the foregoing consultation and investigation will determine the extent to which ICOL holders can take full advantage of the intended scope of the ICOL. Similarly, until such time as the Regulatory Authority can make determinations with respect to legal instruments adopted under the TA86, ICOL holders will remain subject to those instruments, to the extent not inconsistent with the ECA. It is also anticipated that the Minister will make regulations and that the Regulatory Authority will make administrative determinations to fully implement other provisions of the RAA and ECA.

38. To deal with the future implementation of the RAA and ECA in an administratively efficient manner, Annex A to the draft ICOL contains a number of Transitional Conditions applicable to ICOL holders. As the Minister and the Regulatory Authority implement the RAA and ECA, these Transitional Conditions will expire by either their own terms or the affirmative actions of the Minister and Authority, without any need for the Authority to conduct additional proceedings pursuant to Section 51 of the RAA and Section 9(2)(c)(i) of the ECA to modify the standard terms and conditions of ICOLs.

39. Section 73(2) directs the Minister, within 30 days of the date on which the Regulatory Authority submits a proposed standard form ICOL, to make regulations establishing the basic terms and conditions of the ICOL. The Minister is also required to direct the Regulatory Authority to modify the licences, issued (or deemed to have been issued) under the TA86, held by the Class A, B and C carriers listed in Schedule 1 of the ECA. In doing so, the Regulatory Authority proposes to make a general determination that the electronic communications authorized by the ICOL, like those authorized by the licences issued under the TA86, are public electronic communications.

1. Interested parties are invited to comment on the structure of the proposed ICOL.

4.2 Individual Conditions of the ICOL

40. In the discussion that follows, the Regulatory Authority addresses the proposed conditions of the ICOL. Some conditions warrant more extended discussion than others. Some present issues as to which the Regulatory Authority has framed specific questions. The Regulatory Authority, however, invites comment on any aspect of the proposed ICOL conditions. Where interested parties wish to propose specific changes to the language of a condition, the Regulatory Authority requests that the proposed edits clearly indicate proposed additions and deletions. (A Word version of the ICOL is being provided for this purpose.)

(a) **Conditions 1 and 2: Definitions and Interpretation**

41. Condition 1 defines key terms used in the ICOL. Condition 2 sets forth rules of construction. The Regulatory Authority invites the attention of commenting parties to Condition 2.1(a), which incorporates the definitions appearing in the ECA, RAA and the Interpretation Act 1951. Condition 2.1(c) notes that, for ease of reference, terms defined in the RAA and ECA have been capitalized in the ICOL.

2. Interested parties are invited to comment on the proposed definitions and rules of interpretation contained in Conditions 1 and 2.

(b) **Condition 3: Scope of the Licence**

42. Condition 3.1 grants ICOL holders authority to establish and operate any electronic communications network and provide any electronic communications service within Bermuda and between Bermuda and other countries. The only exceptions are free over-the-air broadcasting networks and non-subscription broadcasting services and content.

43. An alternative version of Condition 3.1 addresses the unique circumstances of Bermuda Land Development Company Limited ("BLDC"). As required by Section 73(7) of the ECA, the scope of the ICOL for BLDC is limited both in terms of the geographic scope of the authorization and the end-users, subscribers and other licensees to which service may be provided.

44. Condition 3.2 makes clear that the ICOL does not govern the ICOL holder's provision of electronic communications as to which the Regulatory Authority has made an administrative determination that the providers of such electronic communications are exempt from the obligation to hold a COL or that such electronic communications should be provided pursuant to a class licence. In such cases, the ICOL holder's provision of such electronic communications will be governed by the terms of the exemption or class licence. Condition 3.2 also makes clear nothing in an exemption or class licence will relieve an ICOL holder of its obligation to comply with any *ex ante* remedies imposed upon it by the Regulatory Authority.

45. Condition 3.3 expressly provides that the ICOL does not grant the ICOL holder any licences or permits for spectrum or associated radiocommunication equipment. Annex C to the ICOL will, solely for administrative convenience, list the frequencies that have been assigned to each ICOL holder. The proposed terms and

form of the associated spectrum licences (each of which may be relevant to some, but not all, ICOL holders) are discussed below.

46. Condition 3.4 confirms that ICOL holders remain obligated to comply with other relevant laws and regulations, and secure such other authorizations as may be needed to construct or operate their networks and provide their services, including, but not limited to, building permits, environmental controls, health and safety requirements and the like.

3. Interested parties are invited to comment on proposed Condition 3.

(c) **Condition 4: Grant and Duration of Licence**

47. Condition 4.1 proposes an ICOL term of 20 years, the maximum permitted by Section 18(3) of the ECA. An extended term will provide ICOL holders with certainty and an incentive to invest in their networks and services. By contrast, a shorter term would provide the Regulatory Authority and ICOL holders with greater flexibility to adapt to future marketplace developments. Condition 4.2 provides for renewal of the ICOL for one or more terms.

4. Interested parties are invited to comment on proposed Condition 4.

(d) **Condition 5: Fees, Contributions and Penalties**

48. As noted above, Regulatory Authority and Government authorization fees are not the subject of this consultation. The Regulatory Authority invites the attention of commenting parties to Sections 11, 15, 19, 34, 38, 40, 45, 47, 73, 74 and 81 of the ECA, which make reference to Regulatory Authority fees and Government authorization fees. Conditions 5.3 and 5.4 confirm the obligation of ICOL holders to contribute to the support of universal service and number portability as and when required by the Minister. Condition 5.5 obligates ICOL holders to pay penalties and interest imposed on ICOL holders by the Regulatory Authority.

5. Interested parties are invited to comment on proposed Conditions 5.
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(e) **Condition 6: Compliance**

49. Condition 6 identifies the obligations with which ICOL holders must comply. The Regulatory Authority notes the inclusion of “the Applicable Regulatory Framework,” a term broadly defined by Section 2 of the ECA that includes not only existing but future instruments. Condition 6(c) reflects the licence conditions authorized by Section 17(2) of the ECA. The one exception is Condition 6(c)(vii) which identifies pay telephone services, which are addressed in Transitional Condition A3 and present both consumer protection and universal service issues.

50. The Regulatory Authority notes that “Convention” is defined by Section 2 of the ECA. Among the other international agreements with which ICOL holders must comply is the Convention for the Protection of Submarine Cables.

51. As discussed above, an ICOL holder is not relieved of its obligation to comply with any applicable law, enactment, regulation or order in effect in Bermuda, solely by virtue of the fact it is not expressly identified by Condition 6.

6. Interested parties are invited to comment on proposed Condition 6.

(f) Condition 7: Operation of Networks and Provision of Services

52. Condition 7.1 requires ICOL holders to operate their networks and provide their services so as not to interfere with navigation at sea or in the air or the networks of other operators. Both of these requirements were present in licences issued under the TA86 and their inclusion in the ICOL is warranted, particularly given the importance of sea and air navigation to Bermuda. Condition 7.1 also obligates ICOL holders to operate in a manner that is consistent with the terms of the ICOL holder’s spectrum licences and permits.

53. Condition 7.2 implements the requirements of Section 38(10) of the ECA that ICOL holders share the use of masts and other structures suitable for the placement of radiocommunication equipment in an efficient manner and on fair, reasonable and transparent terms.

54. Condition 7.3 requires ICOL holders to manage their operations in Bermuda from Bermuda. In proposing this condition, the Regulatory Authority wishes to ensure that it is in a position to enforce the requirements of the ECA and regulate the networks and services authorized by the ICOL, without interference by, or dependence on the goodwill of, foreign governments and otherwise protect the national security of Bermuda. The Regulatory Authority also wishes to ensure that sensitive personal and commercial data are resident in Bermuda and subject to the jurisdiction of the Bermuda courts and law enforcement authorities.

55. Condition 7.4, which requires the reporting of network outages by ICOL holders, reflects provisions appearing in licences granted under the TA86. The Regulatory Authority concludes that such a provision will enhance its ability to carry out its responsibilities under the ECA.

56. With the advent of competition envisioned by the ECA, ICOL holders will be permitted to invest in new markets and provide new services. Condition 7.5 is intended to protect the public interest by providing the Regulatory Authority with the means to ensure that works undertaken by ICOL holders are completed and that abandoned property is removed from public property.

57. Condition 7.6, which reflects the provisions of licences granted under the TA86, requires an ICOL holder to make reasonable efforts to sell its assets, and facilitate the continued employment of its staff, to other licenced operators in Bermuda on the termination of the ICOL. The Regulatory Authority has concluded that such a provision should be included in the ICOL, particularly given that one of the

stated purposes of the ECA, as set forth in Section 5(1)(i), is to “promote Bermudian ownership and Bermudian employment at all levels of the electronic communications sector.”

7. Interested parties are invited to comment on proposed Condition 7.

(g) **Condition 8: Emergency Call Services**

58. Section 48 of the ECA directs the Regulatory Authority to require licensees to provide access to emergency call services. Condition 8 implements that directive.

8. Interested parties are invited to comment on proposed Condition 8 and, in particular, whether ICOL holders should be required to provide calling line or any other additional information to emergency service providers.
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(h) **Condition 9: Numbering**

59. Condition 9.1 confirms the ability of ICOL holders to participate in the national numbering plan.

60. Condition 9.2 imposes an obligation on ICOL holders to use the numbers they have been assigned in an efficient manner, as contemplated by Section 46(5)(f) of the ECA.

61. Condition 9.3 prohibits ICOL holders from charging subscribers for the use of any numbers, except as permitted by the Regulatory Authority.

62. Condition 9.4 contemplates that the Regulatory Authority, over time, will take measures to promote the more efficient use of numbers in Bermuda.

9. Interested parties are invited to comment on proposed Condition 9.

(i) **Condition 10: National Security, Emergencies and Law Enforcement**

63. Section 51 of the ECA recognizes the importance of electronic communications to national security and in times of national emergencies. Condition 10.1 imposes an affirmative obligation to cooperate with the Governor, Minister and Regulatory Authority with respect to such matters.

64. Conditions 10.2, 10.3 and 10.4 are typical of provisions found in licences granted under the TA86. The Regulatory Authority has concluded that similar provisions should be retained in the ICOL in the interests of national security and emergency preparedness.

65. Condition 10.6 makes compliance with Schedule 2 of the ECA a condition of the ICOL.

10. Interested parties are invited to comment on proposed Condition 10.

(j) **Condition 11: Significant Market Power**

66. Condition 11.1 sets forth the obligation of ICOL holders that are found to possess significant market power in one or more relevant markets to comply with any *ex ante* remedies adopted by the Regulatory Authority until such time as those remedies are removed by the Authority.

67. Condition 11.2 sets forth the minimum obligations of ICOL holders that are found to possess significant market power in a relevant market, unless specifically waived by the Authority. These include the obligations: not to unduly discriminate in relation to the provision of interconnection or access; not to adopt any technical specifications that would obstruct or impede the ability of other licensees to interconnect; and not to unreasonably bundle services subject to *ex ante* price controls with any other services.

11. Interested parties are invited to comment on proposed Condition 11.

(k) **Condition 12: Privacy of Communications**

68. Condition 12 imposes an obligation on ICOL holders to take all reasonable measures to comply with the requirements of Section 30 of the ECA to protect the privacy of telecommunications.

12. Interested parties are invited to comment on proposed Condition 12.

(l) **Condition 13: Confidentiality of Personal Data**

69. Section 29 of the ECA empowers the Regulatory Authority to make general determinations governing the processing, disclosure and use of personal data. Section 31 of the ECA requires providers of public electronic communications services to take measures to protect the security of electronic communications and personal data. Condition 13 imposes specific obligations on ICOL holders regarding the collection, use, maintenance and disclosure of personal data.

70. Condition 13.1 requires ICOL holders to obtain the informed consent of end-users to collect, maintain and use personal data. Condition 13.2 addresses record retention.

71. Condition 13.3 imposes an affirmative obligation on ICOL holders to ensure that the personal data in their possession is accurate and complete. In order to help ensure that such information is accurate, Condition 13.4 requires ICOL holders to permit end-users to inspect their records and require the correction or removal of inaccurate information. Condition 13.5 requires ICOL holders to disclose the

purposes for which personal data is collected and prohibits the collection and use of personal data for undisclosed purposes.

72. Condition 13.6 requires ICOL holders to transfer personal data belonging to a subscriber that wishes to transfer to another operator, in accordance with procedures adopted by the Regulatory Authority. Condition 13.7 prohibits an ICOL holder from using subscriber and other information obtained from other licensees as a result of entering into interconnection and other agreements with such licensees, other than for the purpose for which such information was provided. Condition 13.7 also requires the ICOL holder to implement reasonable internal measures to safeguard and maintain the confidentiality of any such commercially or competitively sensitive information.

13. Interested parties are invited to comment on proposed Condition 13.

(m) **Condition 14: Consumer Protection**

73. Part 5 and Section 9(2)(c)(ii) of the ECA empower the Regulatory Authority to protect the interests of consumers. The Regulatory Authority anticipates initiating one or more public consultations to implement these provisions of the Act, including those relating to ICOL marketing practices, unsolicited communications and premium rate services, as well as codes of practice. The Regulatory Authority, however, has concluded that robust consumer protection provisions should be an essential element of the ICOL. Condition 14 is intended to protect consumers, while at the same time not imposing excessive burdens on ICOL holders. The Regulatory Authority is also mindful that not all end-users and subscribers warrant the same level of protection. Thus, certain provisions of Condition 14 are limited to residential and small business customers.

74. Condition 14.1 obligates ICOL holders to publish clear, transparent and up-to-date information regarding the rates, terms and conditions of their electronic communications services.

75. Conditions 14.2, 14.3 and 14.4 address the obligations of ICOL holders with respect to their contracts with subscribers.

76. Conditions 14.4, 14.5, 14.6, 14.7, and 14.8 set forth the obligations of ICOL holders with respect to their billing practices.

77. Condition 14.9 obligates ICOL holders to publish up-to-date information, as determined by the Regulatory Authority, regarding the quality of their services in a manner that enables consumers to make industry comparisons. Condition 14.10 requires ICOL holders to give subscribers advance notice of any planned interruptions of service.

78. Condition 14.11, 14.12 and 14.13 address the handling of complaints and the disconnection of service.

79. Condition 14.14 prohibits false or misleading marketing practices. Condition 14.15 prohibits the practice commonly referred to as slamming, *i.e.*, switching a subscriber from one operator to another without the subscriber's express consent.

80. Condition 14.15 obligates ICOL holders to comply with such other consumer protection measures as may be adopted by the Regulatory Authority as a consequence of the public consultations referenced above.

14. Interested parties are invited to comment on:
- 14A. Whether the provisions of Condition 14 adequately protect the interests of consumers, particularly residential and small business subscribers?
- 14B. Whether the definitions of residential and small business subscribers set forth in Condition 1 are appropriate or should be revised?
- 14C. Whether the provisions that apply to residential and small business subscribers should be extended to all end-users?
- 14D. Whether additional consumer protection provisions, such as those addressing the needs of disabled users, should be included in Condition 14?

(n) **Condition 15: Information, Audits and Inspection**

81. Sections 50(1)(h), 53 and 91 of the RAA require authorization holders to submit information to the Regulatory Authority and empower the Authority to require licensees to provide such information as the Regulatory Authority may request. Section 92 permits the Regulatory Authority to conduct inspections. Condition 15 implements these provision of the RAA.

82. Condition 15.4 requires the Licensee to maintain a complete copy of the Licensee's ICOL and any associated radio spectrum licences on its website.

15. Interested parties are invited to comment on proposed Condition 15.

(o) **Condition 16: Modification of the Licence**

83. Condition 16 identifies the three ways in which ICOLs can be modified. Condition 16(a) recognizes that ICOLs can be modified with the mutual agreement of the ICOL holder and the Regulatory Authority. Condition 16(b) provides that the ICOL can be modified by an administrative determination made by the Regulatory Authority pursuant to Section 9(2)(c)(i) of the ECA. Condition 16(c) provides that the ICOL can be modified by the Regulatory Authority following an enforcement proceeding.

16. Interested parties are invited to comment on proposed Condition 16.

(p) **Condition 17: Enforcement and Revocation**

84. Condition 17.1 provides that the Regulatory Authority may initiate enforcement proceedings if there is reason to believe that the ICOL holder has contravened the terms of the ICOL or the applicable regulatory framework.

85. Condition 17.2 provides that the ICOL may be revoked following an adjudication, or if, without the prior authorization of the Regulatory Authority, the ICOL is assigned or transferred or if there is a change of control of the ICOL holder.

17. Interested parties are invited to comment on proposed Condition 17.

(q) **Condition 18: Discontinuation of Service; Surrender of Licence**

86. Section 9(2)(c)(ix) of the ECA empowers the Regulatory Authority to make determinations regarding the discontinuation of public electronic communications services. Condition 18.1 requires an ICOL holder to provide the Regulatory Authority with 120 days advance notice of its intent to discontinue the general provision of an electronic communications service, and to make such reasonable efforts as the Regulatory Authority may require to transition affected subscribers and other licensees from the discontinued service to a reasonable alternative service provided by the Licensee or other service providers.

87. Condition 18.2 permits an ICOL holder to surrender the ICOL, but only after providing the Regulatory Authority with 180 days advance notice and securing the Regulatory Authority's approval. If the Regulatory Authority approves the surrender of the ICOL, Condition 18.2 requires the ICOL holder to make reasonable efforts to transition affected subscribers and other licensees to alternative providers.

18. Interested parties are invited to comment on:
18A. Whether ICOL holders should be permitted to discontinue the general provision of a public electronic communications service after giving advance notice to the Regulatory Authority? Whether 120 days is an appropriate notice period? Whether an ICOL holder should be required to obtain the Regulatory Authority's prior consent before terminating service?
18B. Whether ICOL holders should be required to obtain the Regulatory Authority's prior approval before surrendering the ICOL? Whether 180 days is an appropriate notice period?

(r) **Condition 19: Assignment**

88. Condition 19 reflects the provisions of Section 18(6) of the ECA that prohibit the assignment or transfer of an ICOL without the prior approval of the Regulatory Authority, acting with the written consent of the Minister. Condition 19 incorporates that requirement into the ICOL.

19. Interested parties are invited to comment on proposed Condition 19.

(s) **Condition 20: Change of Control**

89. Section 18(6) of the ECA prohibits a transfer of control of an ICOL holder without the prior approval of the Regulatory Authority, acting with the written consent of the Minister. Section 18(7) defines “control” for purposes of Section 18(6). Condition 20 incorporates the requirement of Section 18(6) into the ICOL.

20. Interested parties are invited to comment on proposed Condition 20.

(t) **Condition 21: Indemnification**

90. Condition 21.1 obligates the ICOL holder to indemnify the Government against claims in respect of the injury or death of persons or damage to property arising from any act of the ICOL holder permitted or authorized by the ICOL. Condition 21.2 obligates the ICOL holder to indemnify the Government for the reasonable costs of repairing or replacing any electronic communications networks or electronic communications services used by the Government that are damaged or interrupted by the ICOL holder.

91. Similar provisions appear in licences issued under the TA86. The Regulatory Authority has concluded that similar provisions should be retained in the ICOL.

21. Interested parties are invited to comment on proposed Condition 21.

(u) **Condition 22: Force Majeure**

92. Force majeure provisions were common in licences issued under the TA86. Those provisions, however, relieved the licensee of its obligations without the involvement of the regulator. Condition 22 requires the ICOL holder to notify the Authority of: an event of force majeure; its expected duration; the obligations of the Licence with which the ICOL holder cannot comply; and the measures being taken by the ICOL holder to overcome the consequences of the event of force majeure. Based upon this showing, the Regulatory Authority may suspend the ICOL holder’s obligation to comply with individual terms of the ICOL.

22. Interested parties are invited to comment on proposed Condition 22.

(v) **Condition 23: Notices**

93. Condition 23 provides that notice to the ICOL holder and the Regulatory Authority must be sent by registered letter. The Regulatory Authority, however,

anticipates that, once its website is operational, all notices to and from the Regulatory Authority will be electronic.

23. Interested parties are invited to comment on proposed Condition 23.

94. As explained above, Annex A to the draft ICOL contains a number of Transitional Conditions applicable to ICOL holders. These Transitional Conditions are discussed below.

(w) Transitional Condition A1: Scope of Licence; Change of Ownership

95. Section 73(5) of the ECA limits the scope of the electronic communications networks and electronic communications services that may be authorized by an ICOL if the Regulatory Authority determines that an ICOL holder possesses significant market power in one or more relevant markets or if the Regulatory Authority determines that the ICOL holder has failed to pay any fees due under its prior licences. Transitional Condition A1.1 implements the requirements of Section 73(5).

96. As discussed above, not all of the provisions of the ECA will be immediately implemented. In order to allow for the orderly implementation of the ECA and limit actions that might frustrate the achievement of the ECA's goals, particularly as they relate to the imposition of *ex ante* remedies, the Regulatory Authority has concluded that Transitional Condition A1.2 should be included in the ICOL. Transitional Condition A1.2 prohibits an ICOL holder from increasing its ownership interest in, or transferring assets relating to the provision of the Electronic Communications Services of, another ICOL holder in which the Licensee has an ownership interest, without the prior approval of the Regulatory Authority. This condition will cease to apply to an ICOL holder upon a determination by the Regulatory Authority either that the ICOL holder does not possess significant market power in one or more relevant markets or, if it does possess significant market power, that the ICOL holder has complied with all of the *ex ante* remedies imposed by the Regulatory Authority.

24. Interested parties are invited to comment on proposed Transitional Condition A1.
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(x) Transitional Condition A2: Compliance

97. Section 80(1) of the ECA provides that Sections 21 and 23A of the TA86 shall remain in full force and effect until such time as the Regulatory Authority makes a determination either that the ICOL holder does not possess significant market power in one or more relevant markets or, if it does possess significant market power, that the ICOL holder has complied with all of the *ex ante* remedies imposed by the Regulatory Authority. Transitional Condition A2.1 implements the requirements of Section 80(1) of the ECA.

98. Section 23 of the TA86 requires specified carriers to provide the Telecommunications Commission and public with advance notice of the introduction of new telecommunications services or changes in the rates for existing services.

The specified carriers identified by the TA86 are Bermuda Cablevision Limited, Bermuda Land Development Company Limited, and Bermuda Telephone Company Limited.

99. As discussed above, not all of the provisions of the ECA will be immediately implemented. In order to allow for the orderly implementation of the ECA and limit actions that might frustrate the achievement of the ECA's goals, particularly as they relate to the imposition of *ex ante* remedies, the Regulatory Authority has concluded that Transitional Condition A2.2 should be included in the ICOL.

100. In accordance with Section 79 of the ECA, Transitional Condition A2.2 maintains the obligation of the specified carriers that become ICOL holders to obtain the Regulatory Authority's approval, pursuant to the Authority's Administrative Rules, before modifying the charges for any electronic communications services that were being provided as of the effective date of the ICOL. This condition will cease to apply to an ICOL holder upon a determination by the Regulatory Authority either that the ICOL holder does not possess significant market power in one or more relevant markets or, if it does possess significant market power, that the ICOL holder has complied with all of the *ex ante* remedies imposed by the Regulatory Authority.

101. In order to maintain flexibility during the implementation of the ECA, Transitional Condition A2.2 provides that the Regulatory Authority may waive this requirement for individual electronic communications services.

102. Transitional Condition A2.3 supplements the compliance obligations of Condition 6 by confirming the obligation of ICOL holders to comply with legal instruments issued under the TA86 until such time as the Minister or the Regulatory Authority amends, revokes or otherwise makes dispositions in respect of those instruments, or removes this Transitional Condition in its entirety.

25. Interested parties are invited to comment on proposed Transitional Condition A2.
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(y) Transitional Condition A3: Pay Telephones and Operator Services

103. Pay telephones and operator services are currently being provided in Bermuda. The Regulatory Authority anticipates making administrative determinations regarding the future provision of such services as it implements the ECA, possibly as part of its consideration of universal service issues. Pending the initiation of a public consultation to consider such matters, the Regulatory Authority has concluded that Transitional Condition A3 should be included in the ICOL.

104. Transitional Condition A3.1 addresses public pay telephones. The Regulatory Authority's primary goal in including this condition is to protect consumers against excessive charges. Thus, Transitional Condition A3.1 requires the providers of pay telephones to conspicuously post the charges for all calls made from a pay telephone. Other provisions of this condition prohibit charging for unanswered calls and require the pay telephone operator to connect callers to emergency services free of charge.

105. Transitional Condition A3.2 addresses operator services. As with pay telephones, the Regulatory Authority's primary goal in including this condition is to protect the interests of consumers. Thus, Transitional Condition A3.2 requires the providers of operator services to disclose the charges for all calls before they are connected. Other provisions of this condition prohibit charging for unanswered calls and require the provider of operator services to connect callers to emergency services free of charge.

106. In order to ensure the continued availability of pay telephones and operator services to consumers, Transitional Conditions A3.1 and A3.2 require ICOL holders that are currently providing such services to continue to do so until such time as the Regulatory Authority authorizes the ICOL holder to discontinue the provision of such services.

26. Interested parties are invited to comment on:
- 26A. Whether the disclosure requirements of Transitional Conditions A3.1 and A3.2 are adequate to protect consumers from excessive charges when making calls from pay telephones or making operator assisted calls?
- 26B. Whether other obligations should be imposed on ICOL holders that provide pay telephones and operator services and, if so, what those obligations should be?

(z) Transitional Condition A4: Directories and Directory Enquiry Services

107. Directories and directory enquiry services are currently being provided in Bermuda. The Regulatory Authority anticipates making administrative determinations regarding the future provision of such services as it implements the ECA. Pending the initiation of a public consultation to consider such matters, the Regulatory Authority has concluded that Transitional Condition A4 should be included in the ICOL.

108. Transitional Condition A4.1 permits, but does not require, ICOL holders to publish printed and electronic directories and provide directory enquiry services. If an ICOL holder elects to do so, subscribers must be permitted to opt out of being included in such directories and enquiry services.

109. Transitional Condition A4.2 requires ICOL holders to cooperate with other licensees that wish to provide such services in the provision of subscriber information.

110. In order to ensure the continued availability of directories and directory enquiry services to subscribers, Transitional Condition A4.3 requires ICOL holders that are currently providing such services to continue to do so until such time as the Regulatory Authority authorizes the ICOL holder to discontinue the provision of such services.

27. Interested parties are invited to comment on:
- 27A. Whether the requirement of Transitional Condition A4.1 that ICOL holders permit subscribers to opt out of directories and directory enquiry services is adequate? Whether any other obligations should be imposed on ICOL holders offering such services?
- 27B. Whether the obligation of Transitional Condition A4.2 to cooperate with other licensees that wish to provide such service is appropriate and whether that obligation should be revised or supplemented?
- 27C. Whether Transitional Condition A4 should expressly permit or prohibit ICOL holders that provide such services from imposing charges for these services?

5 BASIC TERMS AND CONDITIONS OF SPECTRUM LICENCES ASSOCIATED WITH ICOLS

5.1 Spectrum Licences

111. As noted above, the Regulatory Authority has initiated this consultation at the direction of the Minister to consider the standard terms of the ICOL and the associated spectrum licences that will be issued to each ICOL holder. As directed by the Minister, the Regulatory Authority has prepared this consultation document and the standard form of spectrum licences attached as Appendix C hereto.

112. In accordance with Section 73(2)(c) of the ECA, the spectrum licences that are issued in connection with the conversion of licences issued under the TA86 to ICOLs will have a term of 18 months. The spectrum licences will identify the frequencies, permitted uses, and other relevant data of the spectrum assignments held by each ICOL holder as at the date of the commencement of Part 12 of the ECA.

113. The proposed standard form spectrum licences address mobile, point-to-point microwave, wireless cable and fixed wireless uses. These licences will be relevant to some but not all ICOL holders on the date that their TA86 Act licences are converted to ICOLs.

28. Interested parties are invited to comment on the proposed spectrum licences. Where interested parties wish to propose specific changes to the language of the spectrum licences, the Regulatory Authority requests that the proposed edits clearly indicate proposed additions and deletions. (A Word version of the spectrum licences is being provided for this purpose.)

5.2 Spectrum Investigation

114. During the 18-month duration of the spectrum licences issued in connection with the conversion of licences issued under the TA86 to ICOLs, the Regulatory Authority will conduct an investigation of the spectrum assigned to each of the

relevant ICOL holders to determine whether the assigned frequencies are being utilized efficiently, in accordance with Section 78 of the ECA.

115. Within six months of the award of the ICOL-associated spectrum licences, each of the spectrum licence holders will be required to submit a technical report to the Regulatory Authority (a) detailing its current and planned utilization of the spectrum and (b) demonstrating that the ICOL holder has a reasonable need for some or all of the assigned spectrum in order to provide the services being offered as at the date of commencement of Part 12 of the ECA. These reports will comprise one part of the Regulatory Authority's investigation into whether spectrum is being used efficiently by the ICOL holder and whether there is a reasonable basis for one or more of the associated spectrum licences to be modified to reduce the assigned frequencies.

116. The Regulatory Authority will assess efficient use based on criteria and factors to be established by the Regulatory Authority in an administrative determination following a public consultation conducted in accordance with Section 41(2) of the ECA. The administrative determination establishing the criteria and factors comprising the efficiency assessment methodology will be issued by the Regulatory Authority no later than four months after the ICOLs are granted. If the Regulatory Authority determines that some or all of the assigned frequencies should be vacated by the licensee based on the established efficiency assessment methodology, the relevant spectrum licence will be modified accordingly and the licence holder will be required to vacate the spectrum identified by the Regulatory Authority in accordance with a reasonable timetable to be determined by the Authority.

117. Section 35(1) requires the Minister to make general policies and regulations regarding the management and allocation of spectrum for particular uses, as well as the procedures to be followed in assigning radio spectrum. Section 36(2) directs the Regulatory Authority to implement the Minister's policies and regulations and otherwise manage radio spectrum. The Regulatory Authority anticipates that the information gathered during the investigation and consultation set forth above will assist the Minister and Authority in carrying out their respective responsibilities under the ECA. The Regulatory Authority also anticipates that, with the reclamation of any spectrum that is not being used efficiently, additional spectrum can be made available for assignment in accordance with the policies established by the Minister.

29. Interested parties are invited to comment on:
- 29A. The proposed timetable and process for reaching decisions regarding the efficient use of the assigned frequencies.
- 29B. The factors and criteria that should be considered by the Regulatory Authority in assessing efficient use.

6 REGULATIONS

118. As discussed above, Transitional Condition A2.3 confirms the obligation of ICOL holders to continue to comply with legal instruments issued under the TA86 until such time as the Minister or the Regulatory Authority amends, revokes or

otherwise makes dispositions in respect of those instruments. The Regulatory Authority recognizes that all of these instruments will need to be reviewed.

119. Some of these regulations, such as the Public Telecommunications Service (Licence) Regulations 1998, are on their face no longer relevant to the licensing framework established by the ECA. In such cases, it is anticipated that these regulations will simply be rescinded. Other regulations and exemptions, such as the Telecommunications (Bermuda Hospitals Board) Exemption Order 1999, may be impacted by outcome of the “Communications Operating Licences: Exemptions and Class Licences Consultation” initiated by the Regulatory Authority.

120. Of particular relevance to this consultation are those regulations and instruments that will have an immediate impact on the manner in which the public electronic communications authorized by the ICOL may be provided. The Regulatory Authority intends to initiate one or more public consultations to address these regulations and instruments. In addition to conforming these regulations to the new regulatory framework established by the RAA and ECA, the Regulatory Authority anticipates a comprehensive review of these regulations and instruments to determine whether and how they should be revised to further implement the regulatory reform process initiated by these Acts.

30. Interested parties are invited to comment on the regulations and other instruments issued under the TA86 that require review and the relative priority with which such a review should be undertaken. In particular, the Regulatory Authority solicits comments on the following instruments:
- 30A. Cable Television Service Regulations 1987;³
 - 30B. Cable Television Amendment Regulations 2008;⁴
 - 30C. Subscription Radio Service Regulations 2003;⁵
 - 30D. Class Four Radio (Two-Way Radiotelephone Services) Regulations 1987;⁶
 - 30E. Wireless Telegraphy (Licence) Regulations 1961;⁷ and
 - 30F. DOT Cable Television Leased Channel Policy.
31. Interested parties are invited to identify other regulations and instruments the review of which that should be accorded priority by the Regulatory Authority.

³<http://www.bermudalaws.bm/Laws/Consolidated%20Laws/Cable%20Television%20Service%20Regulations%201987.pdf>

⁴<http://www.bermudalaws.bm/Laws/Annual%20Laws/2008/Statutory%20Instruments/Cable%20Television%20Service%20Amendment%20Regulations%202008.pdf>

⁵<http://www.bermudalaws.bm/Laws/Annual%20Laws/2003/Statutory%20Instruments/Subscription%20Radio%20Service%20Regulations%202003.pdf>

⁶[http://www.bermudalaws.bm/Laws/Consolidated%20Laws/Class%20Four%20Radio%20\(Two-way%20Radiotelephone%20Services\)%20Regulations%201987.pdf](http://www.bermudalaws.bm/Laws/Consolidated%20Laws/Class%20Four%20Radio%20(Two-way%20Radiotelephone%20Services)%20Regulations%201987.pdf)

⁷[http://www.bermudalaws.bm/Laws/Consolidated%20Laws/Wireless%20Telegraphy%20\(Licence\)%20Regulations%201961.pdf](http://www.bermudalaws.bm/Laws/Consolidated%20Laws/Wireless%20Telegraphy%20(Licence)%20Regulations%201961.pdf)

7 CONCLUSION

121. As required by Section 73(1)(b) of the ECA, the Regulatory Authority will submit a proposal for a standard form of ICOL and associated spectrum licences to the Minister no later than 60 days from the initiation of this consultation.

<p>32. Interested parties are invited to raise any matters, not addressed herein, that the Regulatory Authority should consider in preparing its proposal to the Minister.</p>
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APPENDIX A

SCHEDULE 1

LIST OF ENTITIES WITH LICENCES ELIGIBLE FOR CONVERSION TO INTEGRATED COMMUNICATIONS OPERATING LICENCES IN ACCORDANCE WITH SECTION 73

The following are the entities referred to in section 73(2)(b)—

1. BDB Ltd.
2. Bermuda Cablevision Limited
3. Bermuda Digital Communications Ltd.
4. Bermuda Land Development Company Limited (subject to the geographic limitations set out in section 73(7))
5. Bermuda Telephone Company Limited
6. Brasil Telecom Subsea Cable Systems (Bermuda) Ltd.
7. Cable Co. Ltd.
8. Deltronics Limited
9. Digital Mobile Television Limited
10. Electronic Communications Limited
11. FKB Net Ltd.
12. iTech (Bermuda) Limited
13. LinkBermuda Ltd.
14. Logic Communications Ltd.
15. North Rock Communications Ltd.
16. Quantum Communications Limited
17. TeleBermuda International Limited
18. Telecommunications (Bermuda & West Indies) Limited
19. Telecommunications Networks Limited
20. Transact Limited
21. World on Wireless Limited

APPENDIX B



**IMPLEMENTATION OF ELECTRONIC COMMUNICATIONS ACT 2011
CONSULTANTS' PRELIMINARY RECOMMENDATIONS**

**Integrated Communications
Operating Licence Issued to
[Name]
[Address]**

_____ 2013

Licence Number: _____

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ANNEX C -- RADIO FREQUENCY SPECTRUM

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ a licence to establish, construct and operate Electronic Communications Networks, on an integrated basis, and provide Electronic Communications Services within the territorial limits of Bermuda and between Bermuda and other countries, subject to the terms of this Licence, any associated Spectrum licences, the Electronic Communications Act 2011, the Regulatory Authority Act 2011, and any Regulations, General Determinations, Adjudicative Decisions, Orders, and Directions made or issued in accordance with these Acts.

1 DEFINITIONS

In this Licence, unless the context otherwise requires:

“Authority” means the Regulatory Authority;

“Condition” means a condition, including a Transitional Condition set forth in Annex A, of this Licence.

“Directory” means a printed or electronic directory containing the name, address and Number of the Subscriber to an Electronic Communications Service;

“Directory Enquiry Service” means the provision by a live operator or on an automated basis of the Number of a Subscriber to an Electronic Communications Service;

“ECA” means the Electronic Communications Act 2011;

“Licence” means this Integrated Communications Operating Licence granted to _____;

“Licensee” means _____ and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Mast” means a tower or similar structure upon which Radiocommunication Equipment is installed;

“Number” means a number assigned to the Licensee by the Authority in accordance with the Numbering Plan;

“Other Licensee” means another licensee that holds an Individual Licence;

“Operator Service” means an Electronic Communications Service, including domestic and international voice calls, provided using any fixed or mobile telephone, either with the assistance of a human operator or on an automated basis, payment for which may be made with a commercial credit card or a calling card issued by the Licensee, if service is not provided on a subscription basis;

“Public Pay Telephone Service” means an Electronic Communications Service, including domestic and international voice, data and teletext calls, provided from stationary pay telephones situated in public locations, available to all Users, payment

for which may be made by coins, a commercial credit card or a calling card issued by the Licensee;

“Person” means a natural person or any company or association or body of persons, whether corporate or unincorporate, including an Affiliate thereof;

“RAA” means the Regulatory Authority Act 2011;

“Residential Subscriber” means an End-User or Subscriber who is a natural person and who uses the Licensee’s Electronic Communications Services at a place of residence;

“Slamming” means a practice whereby a Subscriber is switched from an Other Licensee to the Licensee without the express knowledge and consent of the Subscriber;

“Small Business Subscriber” means an End-User or Subscriber that is a business with twenty or fewer employees that uses the Licensee’s Electronic Communications Services at its place of business; and

“Transitional Condition” means a Condition set forth in Annex A of this Licence.

2 INTERPRETATION

For the purpose of interpreting this Licence:

- (a) unless the context otherwise requires, words or expressions shall have the meaning assigned to them in the Licence, the ECA, the RAA and the Interpretation Act 1951;
- (b) where there is any conflict between the provisions of this Licence and the ECA or RAA, the provisions of the ECA or the RAA, as the case may be, shall prevail;
- (c) terms defined herein and in the ECA and RAA have been capitalised;
- (d) references to Conditions and Annexes are to Conditions and Annexes of the Licence, as modified from time to time in accordance with the Licence and the ECA;
- (e) a document referred to in this Licence shall be incorporated into and form part of the Licence and a reference to a document is to the document as modified from time to time;
- (f) headings and titles used in this Licence are for reference only and shall not affect its interpretation or construction;
- (g) references to any law or statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
- (h) expressions cognate with those used in this Licence shall be construed accordingly;

- (i) use of the word “include” or “including” is to be construed as being without limitation; and
- (j) words importing the singular shall include the plural and vice versa, and words importing the whole shall be treated as including a reference to any part unless explicitly limited.

3 SCOPE OF THE LICENCE

- 3.1** This Licence grants the Licensee the right to establish, construct and operate, on an integrated basis, one or more Electronic Communications Networks, with the exception of wireless networks operating in the frequency band allocated for Broadcasting, and to provide Electronic Communications Services, with the exception of non-Subscription Audiovisual Services, within the territorial limits of Bermuda and between Bermuda and other countries.

ALTERNATE PROVISION FOR BLDC

This Licence grants the Licensee the right to:

- (a) establish, construct and operate, on an integrated basis, one or more Electronic Communications Networks, with the exception of wireless networks operating in the frequency band allocated for Broadcasting, within the territorial limits of Bermuda co-extensive with the properties identified by the Schedule to the Base Lands Development Act 1996; and
- (b) provide Electronic Communications Services, with the exception of non-Subscription Audiovisual Services, to End-Users and Subscribers that are tenants occupying one or more of the scheduled properties referred to in Condition 3.1(a) for their use in connection with such property, or to Other Licensees serving or seeking to serve such End-Users or Subscribers.

- 3.2** Notwithstanding the provisions of Condition 3.1, this Licence does not grant the Licensee the right to establish, construct and operate an Electronic Communications Network or provide an Electronic Communications Service if the Authority has made an Administrative Determination that:

- (b) such Electronic Communications Network or such Electronic Communications Service is exempt from the obligation to hold a communications operating licence; or
- (c) such Electronic Communications Network or such Electronic Communications Service should be authorized pursuant to a Class Licence.

In such cases, the Licensee's Electronic Communications Network or Electronic Communications Service shall be subject to the terms and conditions of the relevant exemption or Class Licence. In cases where the Licensee's Electronic Communications Network or Electronic Communications Service may appear to be authorized by both this Licence and the exemption or Class Licence, as the case may be, the terms and conditions of this Licence shall apply unless and until the Authority makes an Administrative Determination to the contrary. Nothing in any exemption or Class Licence shall be interpreted to relieve the Licensee of the

obligation to comply with any Ex Ante Remedy or obligation imposed on the Licensee by the Authority pursuant to Sections 23 and 24 of the ECA.

3.3 This Licence does not grant the Licensee, and shall not be construed as an entitlement on the part of the Licensee to, any licences or permits for the use of Radio Spectrum, Radio Stations or Radio Apparatus.

3.4 Nothing in this Licence shall relieve the Licensee of the obligation to comply with any other requirement at law or practice to obtain any additional consents, permissions, authorizations, licences or permits as may be necessary to establish, construct or operate Electronic Communications Networks, provide Electronic Communications Services or exercise the Licensee's rights or discharge its obligations under the Licence, including obtaining any licences or permits required by the ECA for the use of Radio Spectrum, Radio Stations or Radio Apparatus.

4 GRANT AND DURATION OF THE LICENCE

4.1 The Licence is valid and effective from the date hereof and shall remain in effect until the earlier of:

- (a) ____ 2033;
- (b) the date on which the Licensee surrenders the Licence in accordance with Condition 18.2; or
- (c) the date on which the Licence is revoked pursuant to Sections 18(5) or 18(6) of the ECA or Section 93 of the RAA.

4.2 The Licence may be renewed for an additional term or terms pursuant to Section 18(4) of the ECA.

5 FEES, CONTRIBUTIONS AND PENALTIES

5.1 The Licensee shall pay to the Authority such Government Authorization Fees in such amounts and at such times as may be prescribed pursuant to Section 52 of the RAA and the Government Fees Act 1965.

5.2 The Licensee shall pay to the Authority such Regulatory Authority Fees in such amounts and at such times as may be prescribed pursuant to Section 44 of the RAA and the Government Fees Act 1965.

5.3 The Licensee shall make such contributions to support the provision of Universal Service as may be specified in a Regulation made by the Minister pursuant to Section 34 of the ECA.

5.4 The Licensee shall make such payments to support the establishment and provision of number portability, or the equivalent, as may be specified in a Regulation made by the Minister pursuant to Section 47 of the ECA.

5.5 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under

this Licence and for any other contraventions of this Licence or the Applicable Regulatory Framework.

6 COMPLIANCE

The Licensee shall comply with:

- (a) the terms of this Licence, including the Annexes;
- (b) the terms of any associated licences, authorizations and permits issued to the Licensee for the use of Radio Spectrum, Radio Stations and Radio Apparatus;
- (c) the Applicable Regulatory Framework, including, but not limited to, any:
 - (i) Regulations made by the Minister;
 - (ii) Administrative Determinations made by the Authority pursuant to Section 9(2)(c) of the ECA;
 - (iii) Universal Service obligations imposed in accordance with Part 6 of the ECA;
 - (iv) obligations imposed by the Authority to interconnect with the Electronic Communications Networks of other ICOL holders and any Other Licensees that may be designated by the Authority for this purpose by the Authority, promptly and on reasonable terms and conditions;
 - (v) Ex Ante Remedies that may be imposed in accordance with Part 4 of the ECA;
 - (vi) obligations imposed by the Authority in respect of emergency call services;
 - (vii) obligations imposed by the Authority in respect of Public Pay Telephones and Operator Services;
 - (viii) obligations imposed by the Authority in respect of Directory information and Directory Enquiry facilities;
 - (ix) obligations imposed by the Authority to provide performance bonds in respect of compliance with any of the conditions of the Licence.
- (d) the Convention and any other international agreements relating to Electronic Communications to which Bermuda is a party; and
- (e) the ECA, the RAA and any other applicable law, enactment, regulation or order in effect in Bermuda to which the Licensee is subject.

Where there is an irreconcilable conflict among any of the instruments identified above, the following order of precedence shall apply: acts of Parliament (including

international agreements to which Bermuda is a party), Regulations and Orders made by the Minister, General or other Administrative Determinations made by the Authority, and this Licence.

7 OPERATION OF NETWORKS AND PROVISION OF SERVICES

7.1 The Licensee shall establish, construct and operate the Electronic Communications Networks and provide the Electronic Communications Services authorized by the Licence in a manner that:

- (a) does not prejudice or obstruct, or is likely to prejudice or obstruct, navigation by ships at sea or aircraft on the ground or in the air;
- (b) does not interfere with the operation of Electronic Communications Networks and the provision of Electronic Communications Services by Other Licensees; and
- (c) complies with the terms and conditions of any associated licences or permits for the use of Radio Spectrum, Radio Stations and Radio Apparatus that the Authority may grant to the Licensee.

7.2 The Licensee shall, where technically feasible, construct and share with Other Licensees that may be designated by the Authority Masts and other support structures suitable for the placement of Radiocommunication Equipment in an efficient manner that allows for the sharing of such facilities on terms and conditions that are fair, reasonable and transparent. The Licensee shall not enter into any leases, covenants or other agreements that restrict, or have the effect of restricting, the Licensee's ability to comply with the foregoing requirement.

7.3 The Licensee shall ensure that substantially all of the personnel, Electronic Communications Network facilities, Associated Facilities and Associated Services relating to the provision of the Electronic Communications Services authorized by this Licence are located in Bermuda. The Authority may waive this Condition in whole or in part if, and to the extent that, the Authority determines that:

- (a) there are insufficient human or other resources available in Bermuda to enable the Licensee to comply with this Condition;
- (b) compliance with this Condition would be economically infeasible; or
- (c) a waiver would be in the public interest and not unduly discriminatory in respect of other similarly situated licensees.

7.4 The Licensee shall report planned and unplanned outages of the Electronic Communications Networks and Electronic Communications Services authorized by this Licence in accordance with any requirements established by the Authority.

7.5 The Licensee shall procure such insurance or post such performance bonds as the Authority may reasonably require to ensure that any works undertaken by the Licensee are completed and that any property abandoned by the Licensee or that has fallen into disrepair is removed from public property.

- 7.6** Upon the termination of the Licence, the Licensee shall make reasonable efforts to sell the Licensee's Electronic Communications business and assets, and facilitate the transfer of the Licensee's Bermudian staff employed in Bermuda, to another provider of Electronic Communications.

8 EMERGENCY CALL SERVICES

If the Licensee has been assigned Numbers under the Numbering Plan, the Licensee shall:

- (a) make available to Users, free of charge, access to the national three-digit number or numbers for emergency purposes from any fixed or mobile terminal connected to the Licensee's network, and provide any User possessing a fixed or mobile terminal or using a pay telephone with automatic access to the Licensee's network for the purpose of making emergency calls by means of the three-digit national number or numbers, without regard to whether such User is the Licensee's Subscriber;
- (b) to the extent technically feasible, provide Location Data for all calls to the national three-digit number or numbers for emergency purposes; and
- (c) comply with such technical and other requirements relating to the provision of emergency call services as the Authority may adopt.

9 NUMBERING

- 9.1** The Licensee shall be eligible to participate in, and shall comply with, the Numbering Plan. The Licensee shall use only those Numbers assigned to it by the Authority and those Numbers assigned to Subscribers that elect to transfer from Other Licensees to the Licensee.
- 9.2** The Licensee shall manage any Numbers that it has been assigned by the Authority in a manner that ensures the efficient use of those Numbers.
- 9.3** The Licensee shall not charge its Subscribers for the assignment of Numbers, except as otherwise permitted by the Authority.
- 9.4** The Licensee shall comply with any General Determinations made by the Authority in respect of the Numbering Plan and the allocation, reclamation, re-assignment, sale and use of Numbers.

10 NATIONAL SECURITY, EMERGENCIES AND LAW ENFORCEMENT

- 10.1** The Licensee shall cooperate with, and at the Direction of the Governor, Minister or Authority shall provide assistance to, the relevant Government ministries responsible for national security and emergency services.
- 10.2** The Licensee shall, at the Direction of the Governor, Minister or the Authority, give Telecommunications of the relevant Government ministries responsible for national security and emergency services priority over all other Telecommunications.

- 10.3** The Licensee shall comply with the Authority's Directions regarding the location and concealment of the Licensee's Electronic Communications Networks to protect them from accidental or malicious injury or from destruction by Bermuda's enemies.
- 10.4** If the Licensee receives distress signals and requests for assistance from ships, aircraft and light stations, the Licensee shall re-transmit them, as promptly as possible, to the relevant Government bodies.
- 10.5** The Licensee shall comply with the requirements of Schedule 2 of the ECA.

11 SIGNIFICANT MARKET POWER

- 11.1** If the Authority determines that the Licensee possesses Significant Market Power in a relevant market, the Licensee shall promptly comply with each Ex Ante Remedy or obligation imposed on the Licensee by the Authority pursuant to Sections 23 and 24 of the ECA, until the remedy or obligation is removed pursuant to Section 25 of the ECA.
- 11.2** With regard to any market in which the Licensee has been determined to possess Significant Market Power, the Licensee shall comply with the following requirements unless they are specifically waived by an Administrative Determination of the Authority:
- (a) not to unduly discriminate in relation to the provision of Interconnection or access, in particular, by applying equivalent conditions in equivalent circumstances to Other Licensees providing equivalent services, and providing them with services and information (including technical specifications and network-related information) under the same conditions and of the same quality as it provides for its own services or those of its Affiliates, subsidiaries or partners;
 - (b) not to adopt any technical specifications that would obstruct or impede the ability of Other Licensees to interconnect with the Licensee's facilities or access parts of the Licensee's network that are subject to ex ante regulation; and
 - (c) not to unreasonably bundle services subject to ex ante price controls with any other services.

12 PRIVACY OF COMMUNICATIONS

- 12.1** The Licensee shall take all reasonable measures to ensure the privacy of all Telecommunications.
- 12.2** Except as otherwise provided in the ECA or any other applicable enactment, the Licensee may not intercept, or wilfully divulge the content of, any Telecommunications.

13 CONFIDENTIALITY OF PERSONAL DATA

- 13.1** Subject to Conditions 13.2 and 13.3 and Section 31 of the ECA, the Licensee:

- (a) may not without an End-User's or Subscriber's informed consent collect, use, maintain or disclose Personal Data about an End-User or Subscriber for any purpose; and
 - (b) shall apply appropriate security safeguards to prevent the collection, use, maintenance or disclosure of such Personal Data.
- 13.2** The Licensee shall comply with any General Determinations made by the Authority requiring the Licensee to retain, or prohibiting the Licensee from retaining, specified Personal Data relating to End-Users and Subscribers, including information about billing, beyond a specified period.
- 13.3** The Licensee shall take reasonable steps to ensure that any Personal Data it discloses or retains concerning an End-User or Subscriber is accurate and complete for its intended use.
- 13.4** The Licensee shall permit an End-User or Subscriber to inspect its records regarding Electronic Communications provided to that End-User or Subscriber and shall respond promptly to requests to correct or remove information that is shown to be incorrect.
- 13.5** The Licensee shall disclose to End-Users and Subscribers, in a clear and transparent manner, the purpose for requesting or collecting any information about the End-User or Subscriber and may not use or maintain information about the End-User or Subscriber for any undisclosed purposes.
- 13.6** The Licensee shall take appropriate steps to transfer relevant Personal Data relating to End-Users or Subscribers to an Other Licensee that has been selected by an End-User or Subscriber, as the case may be, to replace the Licensee as the provider of an Electronic Communications Service where necessary to facilitate the change in providers, in accordance with any procedures that may be established by the Authority.
- 13.7** The Licensee shall not make use of any End-User or Subscriber information, network and traffic data, or any other information obtained from Other Licensees as a result of entering into Interconnection and other agreements with such Other Licensees, other than for the purpose for which such information and data were provided. The Licensee shall implement reasonable internal measures, including by limiting access to physical records, systems and processes where appropriate, to safeguard and maintain the confidentiality of any such data that is commercially or competitively sensitive.

14 CONSUMER PROTECTION

- 14.1** The Licensee shall, in offering to provide, or providing, Electronic Communications Services, publish clear, transparent and up-to-date information regarding its rates, terms and conditions. Publication shall be effected by:
 - (a) placing such information on any relevant website operated by the Licensee or, if no such website exists, placing a copy of such information in every major office of the Licensee such that it is readily available for inspection free of charge by members of the general public during normal office hours; and

- (b) sending a copy of such information or any appropriate parts of it to any Subscriber who requests such information.

14.2 The Licensee shall ensure that the standard terms and conditions of any contract between the Licensee and a Residential Subscriber or Small Business Subscriber include the following minimum requirements:

- (a) the identity and address of the Licensee;
- (b) the services provided, details of the service quality levels offered and the time required to initiate service;
- (c) details of maintenance services offered;
- (d) particulars of prices and tariffs, and the means by which up-to-date information on all applicable tariffs, discounts and maintenance charges may be obtained;
- (e) the duration of the contract, provided that Subscribers shall have the option of entering into a contract with a fixed term of no more than twelve months on fair and reasonable terms;
- (f) the conditions, including any charges, for the renewal and termination of services and of the contract;
- (g) compensation and refund arrangements if quality of service levels to which the Licensee has committed are not met;
- (h) the procedures for initiating and resolving disputes in respect of the contract; and
- (i) any other information that may be required by the Authority.

14.3 Subject to any alternative requirements that may be established by the Authority, where the Licensee intends to modify a condition in a contract with a Residential Subscriber or Small Business Subscriber, the Licensee shall:

- (a) provide the Subscriber with at least one month's notice of its intention detailing the proposed modification; and
- (b) inform the Subscriber of the ability to terminate the contract without penalty if the proposed modification is materially adverse to the Subscriber.

14.4 The Licensee shall not render any bill to a Subscriber in respect of the provision of any Electronic Communications Services unless every amount stated in that bill represents and does not exceed the true extent of the service actually provided to the Subscriber. The Licensee shall retain such records as may be necessary for the purpose of establishing the Licensee's compliance with this requirement for at least one year or such other period determined by the Authority.

14.5 The Licensee may only charge a Subscriber for the specific Electronic Communications Services or equipment that the Subscriber has ordered, and the

Subscriber shall have no liability to pay for any Electronic Communications Service or equipment that it has not ordered.

14.6 In the case of Residential Subscribers and Small Business Subscribers who have contracted for Electronic Communications Services for which they will pay after usage, the Licensee shall provide such Subscriber with bills:

- (a) in writing, which may be transmitted electronically if the Subscriber consents;
- (b) on a regular basis no less than monthly;
- (c) in a plain and simple format;
- (d) that provide accurate information about the Electronic Communications Services provided and the amounts due for each Electronic Communications Service; and
- (e) that clearly indicate the method of calculation of prices for any Electronic Communications Service for which bills are based on the duration of calls or other measure of usage.

14.7 The Licensee shall provide Residential Subscribers and Small Business Subscribers, on request, and either at no extra charge or for a reasonable fee, a basic level of itemised billing. The Licensee shall ensure that each itemised bill contains a sufficient level of detail to allow the Subscriber to:

- (a) verify and control the charges incurred by the Subscriber in using the Licensee's Electronic Communications Services; and
- (b) monitor the Subscriber's usage and expenditure and thereby exercise a reasonable degree of control over the Subscriber's bills.

The Licensee shall ensure that calls which are made from a Residential Subscriber's telephone which are free of charge, including calls to distress hotlines, are not included in the Subscriber's itemised bill. The requirements of this Condition shall not apply to Electronic Communications Services provided to Subscribers for a flat monthly or other periodic fee.

14.8 The Licensee shall not be obligated to comply with Condition 14.7 when:

- (a) the Licensee provides Electronic Communications Services to the Subscriber on a pre-paid basis; and
- (b) the Subscriber has an alternative means, free of charge, to monitor the Subscriber's usage and expenditure.

14.9 The Licensee shall, as determined by the Authority, publish up-to-date information regarding the quality of its Electronic Communications Services in a format that may be used by Residential Subscribers and Small Business Subscribers to make industry comparisons.

- 14.10** Prior to any planned interruption to or suspension of service, the Licensee shall give reasonable advance notice to any Subscriber that will be affected by the interruption or suspension.
- 14.11** Subject to any General Determinations, including codes of practice, that the Authority may adopt pursuant to Section 26 of the ECA, the Licensee shall establish, publish and thereafter maintain fair and reasonable procedures for the handling of complaints made by Residential Subscribers or Small Business Subscribers in relation to the provision of the Licensee's Electronic Communications Services.
- 14.12** Where a Residential Subscriber or Small Business Subscriber has not paid the Licensee all or part of a bill for the Electronic Communications Services provided by the Licensee, any measures taken by the Licensee to effect payment or disconnection shall:
- (a) be proportionate and not unduly discriminatory;
 - (b) give prior warning to the Subscriber of any consequent service interruption or disconnection; and
 - (c) except in cases of fraud, persistent late payment or non-payment, confine any service interruption to the Electronic Communications Service concerned, as far as technically feasible.
- 14.13** The Licensee shall publish the details of measures it may generally take against Residential Subscribers and Small Business Subscribers to effect payment or disconnection in accordance with Condition 14.12 by:
- (a) placing such information on any relevant website operated by the Licensee or, if no such website exists, placing a copy of such information in every major office of the Licensee such that it is readily available for inspection free of charge by members of the general public during normal office hours; and
 - (b) sending a copy of such information or any appropriate parts of it to any Subscriber who requests such information.
- 14.14** The Licensee shall not make or cause to be made any claim or suggestion regarding the availability, price or quality of its Electronic Communications Networks or Electronic Communications Services or equipment or that of an Other Licensee if the Licensee knows or reasonably ought to know that the statement or claim is false or misleading.
- 14.15** Subject to any General Determinations, including codes of practice, made by the Authority pursuant to Section 26 of the ECA, the Licensee shall not engage in any Slamming activities and shall obtain each Subscriber's authorization and verification of the authorization prior to executing any change from an Other Licensee to the Licensee. Where the Authority prescribes any form or manner for verification of a Subscriber's authorization for the prevention of Slamming, the Licensee shall maintain records of verification in such a form or manner for a minimum period of twelve months.

- 14.16** The Licensee shall comply with such other determinations made by the Regulatory Authority to protect the interest of consumers pursuant to Part 5 of the ECA.

15 INFORMATION, AUDITS AND INSPECTION

- 15.1** In addition to the information required by Section 53 of the RAA, the Licensee shall promptly provide the Authority with any documents, accounts, reports, returns, estimates or other information requested by the Authority, including information regarding the services or equipment provided to Users, Other Licensees and Persons with Class Licences, the rates and charges for such services and equipment, copies of contracts with Other Licensees, and statistics regarding usage of the Licensee's Electronic Communications Networks and Electronic Communications Services.
- 15.2** The Licensee shall permit the Authority or Persons designated by the Authority to examine, investigate or audit, or procure such assistance as the Authority may require to conduct an examination, investigation or audit of, any aspect of the Licensee's business.
- 15.3** The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises to conduct an inspection, examination, investigation or audit of the Licensee.
- 15.4** The Licensee shall place a complete copy of this Licence and any associated Radio Spectrum licences on the Licensee's website or, if no such website exists, in a conspicuous place in the Licensee's principal place of business such that it is readily available for inspection free of charge by members of the general public during normal office hours

16 MODIFICATION OF THE LICENCE

The Licence may be modified:

- (a) with the mutual consent of the Licensee and the Authority;
- (b) by the Authority pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA; and
- (c) by the Authority following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA.

17 ENFORCEMENT AND REVOCATION

- 17.1** The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA and Section 18(5) of the ECA if there is reason to believe that the Licensee has contravened the terms of this Licence or the Applicable Regulatory Framework.
- 17.2** The Authority may revoke this Licence in accordance with the provisions of Sections 18(5) and 18(6) of the ECA. If this Licence is revoked, the Licensee shall make reasonable efforts to transition affected Subscribers and Other Licensees to alternative providers of Electronic Communications Service.

18 DISCONTINUATION OF SERVICE; SURRENDER OF LICENCE

18.1 Subject to any Ex Ante Remedies imposed on the Licensee pursuant to Sections 23 and 24 of the ECA, the Licensee shall not discontinue the general provision of any Electronic Communications Service unless the Licensee first provides the Authority and affected Subscribers and Other Licensees with 120 days advance notice of the discontinuation of service. The Licensee shall make such reasonable efforts as the Authority may require to transition affected Subscribers and Other Licensees from the discontinued Electronic Communications Service to a reasonable alternative service provided by either the Licensee or an Other Licensee.

18.2 The Licensee may surrender the Licence, with the agreement of the Authority. The Licensee shall submit a request to surrender the Licence 180 days in advance of the date on which the Licensee proposes to surrender the Licence. If the Authority agrees to the surrender of the Licence, the Licensee shall make such reasonable efforts as the Authority may require to transition affected Subscribers and Other Licensees to alternative providers of Electronic Communications Services.

19 ASSIGNMENT

The Licensee shall not sub-license, assign or grant any right, interest or entitlement in the Licence nor transfer the Licence to any other Person without the prior written authorization of the Authority acting with the written consent of the Minister.

20 CHANGE OF CONTROL

The Licensee shall not complete any proposed change in control of the Licensee without first obtaining the prior written authorization of the Authority, acting with the written consent of the Minister, in accordance with Sections 18(6) and 18(7) of the ECA.

21 INDEMNIFICATION

21.1 The Licensee shall indemnify the Government of Bermuda against all actions, claims and demands which may be brought or made by any Person in respect of any injury or death of any Person or damage to any property arising from any act of the Licensee permitted or authorized by the Licence.

21.2 The Licensee shall indemnify the Government of Bermuda for the reasonable costs of repairing, restoring or replacing any Electronic Communications Networks or Electronic Communications Services used by the Government that are damaged, interrupted or otherwise interfered with, either directly or indirectly, by the Licensee.

22 FORCE MAJEURE

If the Licensee is prevented from complying with the Licence by acts of God, war, warlike operations, civil commotion, major strikes or any other significant or protracted industrial action, fire, tempest or any other causes beyond the Licensee's control:

- (a) the Licensee shall notify the Authority, as promptly as reasonably practicable, of the obligations of the Licence with which the Licensee cannot comply, the

expected duration of the event of force majeure, and the measures the Licensee is taking to overcome the consequences of the event of force majeure; and

- (b) the Authority may suspend such obligations of the License as the Authority concludes the Licensee cannot comply with for as long as the event of force majeure continues.

23 NOTICES

- 23.1** Unless the Authority determines otherwise, notices to the Licensee under the Licence shall be in writing and sent by registered letter to the address shown on the cover page of the Licence to the attention of _____.
- 23.2** Unless the Authority determines otherwise, notices to the Authority under the Licence shall be in writing and sent by registered letter to the Secretary of the Authority at the business address of the Authority.

ANNEX A

TRANSITIONAL CONDITIONS

The Licensee shall comply with each of the Transitional Conditions set forth below until such time as the Authority makes an Administrative Determination in respect of the subject matter of each such Transitional Condition.

A1 SCOPE OF LICENCE ; CHANGE OF OWNERSHIP; TRANSFER OF ASSETS

A1.1 Notwithstanding the provisions of Condition 3.1, the Licensee may not establish, construct or operate any Electronic Communications Networks or provide any Electronic Communications Services [that were not authorized by the Licensee's pre-existing Public Telecommunications Licence] [that were not lawfully permitted] as at the date of commencement of Part 12 of the ECA, pending a determination by the Authority whether:

- (a) the Licensee has Significant Market Power in one or more relevant markets and until such time as the Authority confirms that the Licensee has complied with any Ex Ante Remedies imposed on the Licensee by the Authority; or
- (b) the Licensee has failed to pay any fees due and payable under its pre-existing licence and until such time as the Authority confirms that all amounts in arrears, including any applicable interest and penalties, have been paid in full to the Authority.

A1.2 Notwithstanding the provisions of Condition 20, the Licensee shall obtain the prior approval of the Authority, acting with the written consent of the Minister, for (i) any increase in the ownership of the shares, stocks or other securities or voting rights, or (ii) any transfer of assets relating to the provision of Electronic Communications Services, of another ICOL holder in which the Licensee has an ownership interest:

- (a) until such time as the Authority determines that the Licensee does not possess Significant Market Power in one or more relevant markets; and
- (b) if the Authority determines that the Licensee possesses Significant Market Power in one or more relevant markets, until such time as the Authority confirms that the Licensee has complied with any Ex Ante Remedies imposed on the Licensee by the Authority.

A2 COMPLIANCE

A2.1 The Licensee shall comply with the provisions of Sections 21 and 23A of the Telecommunications Act 1986, which are reproduced in Annex B, until the later of the following events:

- (a) the Authority determines that the Licensee does not possess Significant Market Power in one or more relevant markets; or

- (b) if the Authority determines that the Licensee possesses Significant Market Power, the Authority confirms that the Licensee has complied with any Ex Ante Remedies imposed on the Licensee by the Authority.

For purposes of this Transitional Condition, references in Annex B to “Carrier” shall mean the Licensee and references to “the Department” and “the Commission” shall mean the Authority.

A2.2 If the Licensee was designated as a Specified Carrier in the First Schedule of the Telecommunications Act 1986, the Licensee may not, without the prior written approval of the Authority, modify the tariffs or prices of Electronic Communications Services in effect as at the commencement date of the Licence, and shall otherwise comply with the provisions of Section 23 of the Telecommunications Act 1986, which is reproduced in Annex B, until the later of the following events:

- (a) the Authority determines that the Licensee does not possess Significant Market Power in one or more relevant markets; or
- (b) if the Authority determines that the Licensee possesses Significant Market Power, the Authority confirms that the Licensee has complied with any Ex Ante Remedies imposed on the Licensee by the Authority.

Notwithstanding the foregoing, the Authority may eliminate the prior approval requirement for individual Electronic Communications Services provided by the Licensee.

For purposes of this Transitional Condition, references in Annex B to “Carrier” shall mean the Licensee, references to “the Commission” shall mean the Authority, and references to “Section 24” shall mean the Authority’s Administrative Rules.

A2.3 The Licensee shall comply with all statutory instruments, administrative determinations, authorizations and adjudicative decisions and orders or their equivalent that relate to Electronic Communications that were made or given effect in accordance with the Telecommunications Act 1986 and that were in operation as at the date of commencement of the ECA, until such time as their disposition is determined by the Minister or the Authority. Notwithstanding the foregoing, in the case of an irreconcilable conflict between the ECA and any such legal instruments, the Licensee shall comply with the requirements of the ECA.

A3 PAY TELEPHONES AND OPERATOR SERVICES

A3.1 The Licensee may provide Public Pay Telephone Service, provided, however, that the Licensee:

- (a) shall conspicuously post on or near each pay telephone:
 - (i) the charges, including surcharges, that will be incurred by Users for all domestic and international voice and data calls,

including operator-assisted calls and access to toll-free numbers; and

(ii) the name, business address, email address and toll-free number of the Licensee;

(b) may not knowingly charge for unanswered calls; and

(c) shall immediately connect all calls to emergency services without charge.

If the Licensee is providing Pay Telephone Service as at the date of commencement of the ECA, the Licensee shall continue to provide such service until such time as the Authority approves the discontinuation of such service.

A3.2 The Licensee may provide Operator Services, provided, however, the Licensee:

(a) shall identify itself to the User, verbally for voice calls and otherwise for non-voice calls, at the beginning of each call before the call is connected and billed;

(b) shall provide a mechanism to inform the User of the price of each call, including any surcharges, before the call is connected and billed;

(c) may not knowingly charge for unanswered calls; and

(d) shall immediately connect all calls to emergency services without charge.

If the Licensee is providing Operator Services as at the date of commencement of the ECA, the Licensee shall continue to provide such service until such time as the Authority approves the discontinuation of such service.

A4 DIRECTORIES AND DIRECTORY ENQUIRY SERVICE

A4.1 The Licensee may publish Directories and provide Directory Enquiry Service, provided, however, that the Licensee shall provide Subscribers, including Subscribers of Other Licensees, with the option to be excluded from a Directory and Directory Enquiry Service; and provided further that if the Licensee obtains Subscriber data from Other Licensees pursuant to Transitional Condition A4.2 below, the Licensee may not use that data for any purpose other than providing Directories or Directory Enquiry Services.

A4.2 Subject to the requirements of Condition 13 of this Licence, the Licensee shall, at its own expense, maintain a complete and accurate database of its Subscribers' Numbers and make that data (including Numbers that Subscribers have asked be excluded from Directories and Directory Enquiry Services) available to licensees, designated by the Authority, that wish to provide Directories and Directory Enquiry Services on reasonable terms and

conditions, in a format agreed between the Licensee and the other licensee requesting the data.

- A4.3** If the Licensee is providing Directories or Directory Enquiry Service as at the date of commencement of the ECA, the Licensee shall continue to provide such service until such time as the Authority approves the discontinuation of such Directories and service.

ANNEX B

Excerpts from Telecommunications Act 1986

Duties of Carriers

- 21 (1) Subject to this section, it shall be the duty of every Carrier—
- (a) to furnish telecommunication service upon any reasonable request therefor and upon reasonable terms and conditions;
 - (b) to establish, upon reasonable terms and conditions, interconnection, at any technically feasible point within its network, with other Carriers; and such interconnection shall be at least equal in quality to that provided to itself, a subsidiary, affiliate or any other Carrier, to which it provides interconnection;
 - (c) to provide, on reasonable terms and conditions, for physical collocation of interconnection at its premises;
 - (d) to establish, and provide facilities for operating, through routes, on reasonable terms and conditions;
 - (e) subject to subsection (1A), to maintain the confidentiality of any information provided by a customer or another Carrier;
 - (f) to refrain from any act or practice which is intended, or is likely, to have the effect of lessening competition;
 - (g) to refrain from marketing practices or advertisements which are false or misleading in a material respect;
 - (h) to provide to other Carriers, upon reasonable terms and conditions, access to support structures including telephone poles, underground conduits and communication towers;
 - (i) to maintain existing services unless permitted by the Commission to discontinue such services;
 - (j) to display—
 - (i) in a conspicuous place in the Carrier's principal place of business or in such other place as may be specified in writing by the Minister; and
 - (ii) in such a manner that all the terms and conditions subject to which the licence is granted are visible and legible,
- every licence granted under this Act or authorized by law to establish, maintain or operate a public telecommunication service;

- (k) to submit to the Commission either prior to, or not later than ten days after, execution, and in such form as the Commission may specify, copies of all agreements in respect of interconnection or access to support structures between that Carrier and another Carrier, including any amendments to any existing agreements between Carriers.

(1A) Subsection (1)(e) does not apply—

- (a) where one Carrier wishes to transfer certain classes of services to another Carrier;
- (b) in respect public telecommunication services which are directly connected with the delivery of emergency services; or
- (c) where in the special circumstances of a particular case the Minister determines that it is in the public interest that such confidentiality should not apply.

(2) A carrier shall comply with a request under paragraph (1)(a), (b), (c) or (d) within thirty days of the request being made or within such longer period as the Commission may allow, and a Carrier is not relieved of the duty imposed by those paragraphs by reason only of the Carrier's inability to comply with the request within the time specified.

(3) For the purpose of paragraph (1)(k) any Carrier that is party to an agreement may furnish a copy of the agreement to the Commission on behalf of all the Carriers that are party to the agreement.

(4) Upon receipt of a copy of an agreement under paragraph (1)(k) the Commission shall within ten days either indicate its approval of such agreement or its intention to enquire into the agreement.

(5) Where the Commission approves an agreement and informs the Carrier in writing of such approval, the agreement shall either be executed within seven business days by all parties or remain in force as the case may be.

(6) If the Commission decides to enquire into any aspect of an agreement the Commission shall conclude its enquiries as expeditiously as possible and in no case in more than thirty days or such longer period as the Minister may allow and give a direction—

- (a) approving the agreement;
- (b) approving the agreement on a provisional basis;
- (c) changing the agreement in whole or in part; or
- (d) suspending the agreement or postponing the date upon which the agreement is intended to be executed to such other date as may be specified,

and the Carriers shall comply therewith.

(7) Where a Carrier has established to the satisfaction of the Commission that an existing service is unprofitable or loss-making, the Commission shall not refuse permission to discontinue that service unless—

- (a) the Commission considers that it is in the public interest to refuse permission, having regard to the utility of the service, the availability of suitable substitutes and the degree of reliance on the service by the public or segments of the public; and
- (b) the Commission is satisfied that the Carrier will be adequately compensated for the loss involved in continuing the service by the rates and charges it charges for other services it provides.

(8) No Carrier may disconnect another Carrier without the consent in writing of that Carrier or the Minister.

(9) A Carrier may only seek the permission of the Minister to disconnect another Carrier if—

- (a) that Carrier fails to settle its accounts due within a period of thirty days after receipt of a written warning notice and within a further period of thirty days after receipt of a written notice of intention to seek permission for disconnection;
- (b) that Carrier fails to comply with any term of the contract or agreement for the provision of the service;
- (c) that Carrier fails to conform to the agreed technical specification for the provision and operation of the service; or
- (d) there is other just and reasonable cause for disconnection.

(10) A Carrier which seeks the Minister's permission to disconnect another Carrier shall give notice to the Minister in writing not less than thirty days before the date of the proposed disconnection, informing the Minister of the reasons for the proposed disconnection, and the Minister shall forthwith refer the matter to the Commission for enquiry and report.

(11) Upon referral of a matter to the Commission under subsection (10), the Commission shall conclude its enquiry as expeditiously as possible and report to the Minister with recommendations within twenty days of the date of referral by the Minister.

(12) The Minister shall render a decision on a proposed disconnection of one Carrier by another within thirty days of receipt by the Minister of the notice by the Carrier under subsection (10).

Specified Carriers must give notice to Commission of charges

23 (1) Subject to this Act, no specified Carrier shall initiate a new telecommunication service or vary its rates and charges for existing telecommunication services unless it gives notice in writing of the new service and the proposed rates and charges therefor, the proposed variation in the rates and charges for the existing service and the amount thereof to the Commission and publishes a notice in accordance with subsection (2).

(2) A notice under subsection (1) shall be published in such form approved by the Commission on two separate days in not less than one local newspaper approved by the Commission and shall specify therein that any person may make objections and forward such objections to the Commission within twenty-one days from the second date of publication of the notice.

(3) Where a notice under subsection (1) is given, then subject to subsection (4) or subject to the Commission giving a direction under section 24 a new service and the rates and charges therefor or a variation in the existing rates and charges shall not be introduced.

(4) Where the Commission is satisfied with the notice given under subsection (1) and informs the specified Carrier in writing or by notice published in the Gazette that it does not intend to inquire into the matter, the specified Carrier may introduce the new service and the rates and charges therefor or the variation in the existing rates and charges, as the case may be.

Carriers to maintain lists of rates and charges

23A (1) A Carrier shall at all times keep at its place of business in Bermuda or such other place approved by the Commission, and on its website if any, a current list of all its rates and charges and shall make the list available for inspection by any person without charge during business hours subject to such reasonable restrictions as the Carrier may impose.

(2) A Carrier shall prior to initiating a new telecommunication service or varying the rates or charges for existing telecommunication services as the case may be furnish to the Department in such form as may be specified by the Commission, notice in writing of the new service and the rates and charges therefor or the revised rates and charges for the existing service as the case may be and such information shall be available for inspection at the offices of the Department or such other location as maybe specified by the Commission.

(3) A Carrier which contravenes any provision of this section is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding five thousand dollars and, in the case of a continuing offence, is liable to a further fine of five hundred dollars for each day during which the contravention continues.

ANNEX C

RADIO FREQUENCY SPECTRUM

Set forth below are the frequencies assigned to the Licensee as at _____.

Exclusive Assignments

Radio Frequency	Radio Service	Geographic Coverage Area

Non-Exclusive Assignments

Radio Frequency	Radio Service	Geographic Coverage Area

APPENDIX C



Spectrum Licence

Granted to

[Name]

[Address]

FIXED WIRELESS ACCESS

Dated: _____

Licence Number: _____

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ this Radio Spectrum licence, which provides the right to use the assigned Radio Spectrum in accordance with the terms and conditions of this Licence and its Schedules, the terms and conditions of the Licensee's associated Integrated Communications Operating Licence, the Electronic Communications Act 2011, the Regulatory Authority Act 2012, and any Regulations, General Determinations, Adjudicative Decisions, Orders or Directives made or issued in accordance with these Acts and applicable international treaties and regulations.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Licence, unless the context otherwise requires:

“Assigned Frequencies” means the frequencies assigned to the Licensee, as set forth in Schedule A attached hereto;

“Associated ICOL” means the Integrated Communications Operating Licence granted to the Licensee;

“Authority” means the Regulatory Authority;

“Authorized Use” means the use of the Assigned Frequencies as described in Condition 3.1 of this Licence;

“Bermuda Frequency Assignment Register” means a register containing a table of radio frequency spectrum assignments, including the name of the licensee, the frequencies assigned, the Authorized Use(s) and any other relevant information contained in Schedule A;

“Co-Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence to use specified frequencies, subject to the condition that the licensee shall coordinate with other Co-Primary licensees to limit Harmful Interference to existing links and services operating in the relevant frequency bands, and facilitate the introduction of additional links and services in the relevant frequencies. Co-Primary licensees shall refrain from causing Harmful Interference to, and may not require protection from, the links and services of other Co-Primary licensees that were previously authorized and operating in the licensed frequencies. All Co-Primary licensees are authorized to use the frequencies covered by their respective licences subject to protection from: (1) Harmful Interference caused by any other licensee that may be authorized to use the same Radio Spectrum on a Secondary Basis, and (2) claims of Harmful Interference from holders of secondary licences with respect to the frequencies;

“Control” means:

- (a) the power, whether held directly or indirectly, to exercise decisive influence over the Licensee, including by directing its management and policies, whether through ownership of shares, stocks or other securities or voting rights, or through an agreement or arrangement of any type, or otherwise; and
- (b) shall, in any event, be deemed to exist in any case involving the ownership of 25 per cent or more of the shares, stock or other securities or voting rights, including through an agreement or arrangement of any type;

“Distress signal” means radio signals broadcast to indicate that a person, ship, aircraft or other vehicle is in distress and requires immediate assistance;

“ECA” means the Electronic Communications Act 2011;

“ITU” means the International Telecommunication Union;

“Licence” means this Radio Spectrum licence granted to the Licensee;

“Licensee” means [NAME of COMPANY], [Address], and [Company Reg. No.] and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence, pursuant to which the licensee is the only Person authorized to use the specified frequency bands who is also entitled to protection from: (1) Harmful Interference caused by any other licensee who may be authorized to use the same spectrum on a Secondary Basis; and (2) claims of Harmful Interference by any such licensee;

“RAA” means the Regulatory Authority Act 2011;

“Secondary Basis” means the nature of a right granted to a holder of a Radio Spectrum licence that is authorized to use specified frequencies subject to the condition that such licensee does not cause any Harmful Interference to, or claim protection from any Harmful Interference caused by, other licensees who have been granted the right to use the same frequency bands on a Primary or Co-Primary Basis; and

“Sub-license” means any segregation or partition of the radio frequency usage rights granted herein and shall include any arrangement by the Licensee to share radio frequency rights with one or more third parties, including any Affiliate.

- 1.2** For the purpose of interpreting this Licence, words or expressions shall have the meaning assigned to them in the Associated ICOL, unless otherwise specified, and the rules of interpretation in Condition 2 of the Associated ICOL shall apply.

2 ASSIGNED FREQUENCIES AND USAGE RIGHTS

- 2.1** Subject to the Applicable Regulatory Framework, the Associated ICOL and the terms and conditions of this Licence, the Licensee is hereby authorized to use the Assigned Frequencies. The Licensee shall have the right to use the Assigned Frequencies on a Primary Basis. Schedule A shall be revised and updated, as necessary, to reflect the assignment of frequencies under this Licence.
- 2.2** The Licensee shall comply with any technical or other requirements that the Authority may adopt in respect of the Authorized Use.
- 2.3** The Licensee shall utilize the Assigned Frequencies in full conformity with the Bermuda Frequency Allocation Table and the Bermuda Frequency Assignment Register maintained by the Authority, including any amendments thereto, subject to Condition 3 of this Licence.

3 SCOPE OF LICENCE

- 3.1** This Licence grants the Licensee the right to use the Assigned Frequencies in conjunction with the Associated ICOL, exclusively in the provision of Fixed Wireless Access, including:

[as authorized by TA 86 licences/frequency authorizations]

- 3.2** This Licence does not grant the Licensee any ownership rights in the Assigned Frequencies, and no such rights shall be created or implied by virtue of the Licensee's use of the Assigned Frequencies.
- 3.3** The Licensee shall not use the Assigned Frequencies in the provision of Public Electronic Communications Services unless the Associated ICOL is and remains valid and effective.
- 3.4** Nothing in this Licence shall relieve the Licensee of the obligation to comply with any other requirement of law or practice to obtain additional consents, permissions, authorizations, licences or permits as may be necessary to operate Radio Apparatus or Radio Stations, establish, construct and operate an Electronic Communications Network, or provide Electronic Communications Services.

4 GRANT AND DURATION OF THE LICENCE

This Licence is valid and effective from the date hereof and shall remain in effect, provided that the Associated ICOL is valid and effective, until the earlier of:

- (a) [date] [18 months after issue];
- (b) the date on which the Licensee surrenders this Licence; or
- (c) the date on which this Licence is revoked pursuant to Section 93(5) of the RAA.

5 RENEWAL

- 5.1** This Licence may be renewed, at the discretion of the Authority for a term not to exceed 10 years, provided that the duration of the renewed Licence shall not exceed that of the Associated ICOL.
- 5.2** This Licence may only be renewed if the Associated ICOL remains valid and effective.

6 MODIFICATION

This Licence, including its Schedules, may be modified by the Authority:

- (a) with the consent of the Licensee;
- (b) pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA;

- (c) to conform to the terms and conditions of the Associated ICOL, including any modifications thereto;
- (d) to bring the terms of the Licence into conformity with international treaty obligations or regulations or the Applicable Regulatory Framework (including the Bermuda Frequency Allocation Table);
- (e) following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA; or
- (f) following the conclusion of a spectrum investigation pursuant to Section 78 of the ECA or following an adjudication pursuant to Section 41 of the ECA.

7 OBLIGATIONS UNDER THE LICENCE

- 7.1** The Licensee shall comply with existing and future international coordination requirements and procedures, including the relevant international Radio Regulations issued by the ITU. Upon request of the Authority, the Licensee shall provide technical assistance and support to the Minister and the Authority in connection with the Government of Bermuda's participation in regional and international governmental organizations for purposes of spectrum management and coordination.
- 7.2** The Licensee shall coordinate, when necessary, with other Radio Spectrum licensees in Bermuda to avoid Harmful Interference. In the event of a disagreement between or among licensees regarding the prevention or causation of Harmful Interference, the affected licensees shall be responsible for resolving such disputes expeditiously and, if such efforts are unsuccessful, one or more of the licensees involved may request that the Authority intervene to resolve the dispute.
- 7.3** The Licensee shall assist the Authority in the coordination and management of Radio Spectrum and shall make efficient use of the Assigned Frequencies for the Authorized Use or Uses. The Licensee shall notify the Authority promptly if the Licensee no longer requires the use of any or all of the Assigned Frequencies.
- 7.4** The Licensee shall cooperate fully with the Authority in identifying whether and to what extent the Assigned Frequencies are being used efficiently and whether the Licensee has a reasonable need for all or a portion of the Assigned Frequencies in accordance with Section 78 of the ECA, including as follows:
- (a) The Licensee shall promptly provide any information requested by the Authority concerning the Licensee's actual or proposed use of the Assigned Frequencies and other Radio Spectrum resources.
 - (b) The Licensee shall submit to the Authority, no later than six months following the effective date of this Licence, a report approved by the Licensee's Board of Directors containing a detailed analysis of spectrum usage by the Licensee, in the format prescribed by the Authority, in relation to services that were provided using the Assigned Frequencies for the Authorized Uses as at the date of the commencement of Part 12 of the ECA.
 - (c) The Licensee shall comply fully with any timetables established by the Authority for the release of any of the Assigned Frequencies if required by the

Authority, provided that the timetable for release shall commence no sooner than [Licence expiry date/18 months].

7.5 The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises or premises used by the Licensee to inspect, examine, investigate or audit the Licensee's use of Radio Apparatus and Radio Spectrum.

7.6 The Licensee shall accept distress signals and messages with absolute priority as required by Section 43(5) of the ECA and take any necessary actions as required by the Convention.

8 FEES AND PENALTIES

8.1 The Licensee shall pay to the Authority any Government Authorization Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(1) of the ECA, Section 52 of the RAA, and the Government Fees Act 1965.

8.2 The Licensee shall pay to the Authority any Regulatory Authority Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(3) of the ECA, Section 44 of the RAA, and the Government Fees Act 1965.

8.3 The Licensee shall pay all applicable fees for Radio Apparatus using the Assigned Frequencies.

8.4 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under this Licence and for any other contraventions of this Licence or the Applicable Regulatory Framework.

9 COMPLIANCE

Failure to comply with the terms of this Licence shall constitute a violation of the conditions of this Licence and the Associated ICOL, and violations shall be dealt with in accordance with the procedures set forth in the ECA.

10 ENFORCEMENT AND REVOCATION

The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA if there is reason to believe that the Licensee has contravened the conditions of this Licence or the Applicable Regulatory Framework, including failure to pay any fees prescribed for use of the Assigned Frequencies in full on a timely basis.

11 ASSIGNMENT

The Licensee shall not transfer, assign, Sub-License or lease, in whole or in part, this Licence or the spectrum usage rights granted herein to any third party, including any Affiliate, without the prior written authorization of the Authority acting with the written consent of the Minister. For purposes of this condition, "assignment" shall be deemed to include a change of Control of the Licensee.

12 RECORD-KEEPING OBLIGATIONS

The Licensee shall maintain the following records up-to date and promptly provide the Authority with copies upon request:

- (a) the equipment specifications of all Radio Stations and other Radio Apparatus operating under this Licence;
- (b) the coverage area of the Licensee's Electronic Communications Network and of each Radio Station;
- (c) the effective radiated power of any Radio Station and its location and height;
- (d) the measures taken to ensure that each Radio Station is not a source of harmful radiation to the public, and the Licensee's employees and contractors;
- (e) any information necessary for the Authority to develop and keep updated the Bermuda Frequency Allocation Table and Bermuda Frequency Assignment Register;
- (f) the emission designation of each Radio Station, as prescribed by the Applicable Regulatory Framework; and
- (g) the types of services provided to the Licensee's End-Users and Subscribers using the Assigned Frequencies.

13 NOTICES

The notice provisions of the Associated ICOL shall apply to this Licence.

SCHEDULE A

ASSIGNMENT OF RADIO FREQUENCY SPECTRUM

The frequency bands listed in the Schedule below have been assigned for use by the Licensee for point-to-multipoint links from the specified geographic base/repeater station location. "Assigned Frequencies" means, unless otherwise specified below, the paired radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits of the radio frequency bands specified in the table below.

		Frequency (MHz)			
Geographic Coverage Area	Band	From	To	Base/Repeater Station Location	Base/Repeater Station GPS



Spectrum Licence

Granted to

[Name]

[Address]

WIRELESS CABLE SERVICE

Dated: _____

Licence Number: _____

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ this Radio Spectrum licence, which provides the right to use the assigned Radio Spectrum in accordance with the terms and conditions of this Licence and its Schedules, the terms and conditions of the Licensee's associated Integrated Communications Operating Licence, the Electronic Communications Act 2011, the Regulatory Authority Act 2012, and any Regulations, General Determinations, Adjudicative Decisions, Orders or Directives made or issued in accordance with these Acts and applicable international treaties and regulations.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Licence, unless the context otherwise requires:

“Assigned Frequencies” means the frequencies assigned to the Licensee, as set forth in Schedule A attached hereto;

“Associated ICOL” means the Integrated Communications Operating Licence granted to the Licensee;

“Authority” means the Regulatory Authority;

“Authorized Use” means the use of the Assigned Frequencies as described in Condition 3.1 of this License;

“Bermuda Frequency Assignment Register” means a register containing a table of radio frequency spectrum assignments, including the name of the licensee, the frequencies assigned, the Authorized Use(s) and any other relevant information contained in Schedule A;

“Co-Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence to use specified frequencies, subject to the condition that the licensee shall coordinate with other Co-Primary licensees to limit Harmful Interference to existing links and services operating in the relevant frequency bands, and facilitate the introduction of additional links and services in the relevant frequencies. Co-Primary licensees shall refrain from causing Harmful Interference to, and may not require protection from, the links and services of other Co-Primary licensees that were previously authorized and operating in the licensed frequencies. All Co-Primary licensees are authorized to use the frequencies covered by their respective licences subject to protection from: (1) Harmful Interference caused by any other licensee that may be authorized to use the same Radio Spectrum on a Secondary Basis, and (2) claims of Harmful Interference from holders of secondary licences with respect to the frequencies;

“Control” means:

- (a) the power, whether held directly or indirectly, to exercise decisive influence over the Licensee, including by directing its management and policies, whether through ownership of shares, stocks or other securities or voting rights, or through an agreement or arrangement of any type, or otherwise; and

- (b) shall, in any event, be deemed to exist in any case involving the ownership of 25 per cent or more of the shares, stock or other securities or voting rights, including through an agreement or arrangement of any type;

“Distress signal” means radio signals broadcast to indicate that a person, ship, aircraft or other vehicle is in distress and requires immediate assistance;

“ECA” means the Electronic Communications Act 2011;

“ITU” means the International Telecommunication Union;

“Licence” means this Radio Spectrum licence granted to the Licensee;

“Licensee” means [NAME of COMPANY], [Address], and [Company Reg. No.] and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence, pursuant to which the licensee is the only Person authorized to use the specified frequency bands who is also entitled to protection from: (1) Harmful Interference caused by any other licensee who may be authorized to use the same spectrum on a Secondary Basis; and (2) claims of Harmful Interference by any such licensee;

“RAA” means the Regulatory Authority Act 2011;

“Secondary Basis” means the nature of a right granted to a holder of a Radio Spectrum licence that is authorized to use specified frequencies subject to the condition that such licensee does not cause any Harmful Interference to, or claim protection from any Harmful Interference caused by, other licensees who have been granted the right to use the same frequency bands on a Primary or Co-Primary Basis; and

“Sub-license” means any segregation or partition of the radio frequency usage rights granted herein and shall include any arrangement by the Licensee to share radio frequency rights with one or more third parties, including any Affiliate.

- 1.2** For the purpose of interpreting this Licence, words or expressions shall have the meaning assigned to them in the Associated ICOL, unless otherwise specified, and the rules of interpretation in Condition 2 of the Associated ICOL shall apply.

2 ASSIGNED FREQUENCIES AND USAGE RIGHTS

- 2.1** Subject to the Applicable Regulatory Framework, the Associated ICOL and the terms and conditions of this Licence, the Licensee is hereby authorized to use the Assigned Frequencies. The Licensee shall have the right to use the Assigned Frequencies on a Primary Basis. Schedule A shall be revised and updated, as necessary, to reflect the assignment of frequencies under this Licence.
- 2.2** The Licensee shall comply with any technical or other requirements that the Authority may adopt in respect of the Authorized Use.

- 2.3** The Licensee shall utilize the Assigned Frequencies in full conformity with the Bermuda Frequency Allocation Table and the Bermuda Frequency Assignment Register maintained by the Authority, including any amendments thereto, subject to Condition 3 of this Licence.

3 SCOPE OF LICENCE

- 3.1** This Licence grants the Licensee the right to use the Assigned Frequencies in conjunction with the Associated ICOL, exclusively in the provision of Wireless Cable Service, including:

[as authorized by TA 86 licences/frequency authorizations]

- 3.2** This Licence does not grant the Licensee any ownership rights in the Assigned Frequencies, and no such rights shall be created or implied by virtue of the Licensee's use of the Assigned Frequencies.
- 3.3** The Licensee shall not use the Assigned Frequencies in the provision of Public Electronic Communications Services unless the Associated ICOL is and remains valid and effective.
- 3.4** Nothing in this Licence shall relieve the Licensee of the obligation to comply with any other requirement of law or practice to obtain additional consents, permissions, authorizations, licences or permits as may be necessary to operate Radio Apparatus or Radio Stations, establish, construct and operate an Electronic Communications Network, or provide Electronic Communications Services.

4 GRANT AND DURATION OF THE LICENCE

This Licence is valid and effective from the date hereof and shall remain in effect, provided that the Associated ICOL is valid and effective, until the earlier of:

- (a) [date] [18 months thereafter];
- (b) the date on which the Licensee surrenders this Licence; or
- (c) the date on which this Licence is revoked pursuant to Section 93(5) of the RAA.

5 RENEWAL

- 5.1** This Licence may be renewed, at the discretion of the Authority for a term not to exceed 10 years, provided that the duration of the renewed Licence shall not exceed that of the Associated ICOL.
- 5.2** This Licence may only be renewed if the Associated ICOL remains valid and effective.

6 MODIFICATION

This Licence, including its Schedules, may be modified by the Authority:

- (a) with the consent of the Licensee;
- (b) pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA;
- (c) to conform to the terms and conditions of the Associated ICOL, including any modifications thereto;
- (d) to bring the terms of the Licence into conformity with international treaty obligations or regulations or the Applicable Regulatory Framework (including the Bermuda Frequency Allocation Table);
- (e) following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA; or
- (f) following the conclusion of a spectrum investigation pursuant to Section 78 of the ECA or following an adjudication pursuant to Section 41 of the ECA.

7 OBLIGATIONS UNDER THE LICENCE

- 7.1** The Licensee shall comply with existing and future international coordination requirements and procedures, including the relevant international Radio Regulations issued by the ITU. Upon request of the Authority, the Licensee shall provide technical assistance and support to the Minister and the Authority in connection with the Government of Bermuda's participation in regional and international governmental organizations for purposes of spectrum management and coordination.
- 7.2** The Licensee shall coordinate, when necessary, with other Radio Spectrum licensees in Bermuda to avoid Harmful Interference. In the event of a disagreement between or among licensees regarding the prevention or causation of Harmful Interference, the affected licensees shall be responsible for resolving such disputes expeditiously and, if such efforts are unsuccessful, one or more of the licensees involved may request that the Authority intervene to resolve the dispute.
- 7.3** The Licensee shall assist the Authority in the coordination and management of Radio Spectrum and shall make efficient use of the Assigned Frequencies for the Authorized Use or Uses. The Licensee shall notify the Authority promptly if the Licensee no longer requires the use of any or all of the Assigned Frequencies.
- 7.4** The Licensee shall cooperate fully with the Authority in identifying whether and to what extent the Assigned Frequencies are being used efficiently and whether the Licensee has a reasonable need for all or a portion of the Assigned Frequencies in accordance with Section 78 of the ECA, including as follows:
- (a) The Licensee shall promptly provide any information requested by the Authority concerning the Licensee's actual or proposed use of the Assigned Frequencies and other Radio Spectrum resources.

- (b) The Licensee shall submit to the Authority, no later than six months following the effective date of this Licence, a report approved by the Licensee's Board of Directors containing a detailed analysis of spectrum usage by the Licensee, in the format prescribed by the Authority, in relation to services that were provided using the Assigned Frequencies for the Authorized Uses as at the date of the commencement of Part 12 of the ECA.
- (c) The Licensee shall comply fully with any timetables established by the Authority for the release of any of the Assigned Frequencies if required by the Authority, provided that the timetable for release shall commence no sooner than [Licence expiry date/18 months].

7.5 The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises, and shall facilitate access by them to premises used by the Licensee, in order to inspect, examine, investigate or audit the Licensee's use of Radio Apparatus and Radio Spectrum.

7.6 The Licensee shall accept distress signals and messages with absolute priority as required by Section 43(5) of the ECA and take any necessary actions as required by the Convention.

8 FEES AND PENALTIES

8.1 The Licensee shall pay to the Authority any Government Authorization Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(1) of the ECA, Section 52 of the RAA, and the Government Fees Act 1965.

8.2 The Licensee shall pay to the Authority any Regulatory Authority Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(3) of the ECA, Section 44 of the RAA, and the Government Fees Act 1965.

8.3 The Licensee shall pay all applicable fees for Radio Apparatus using the Assigned Frequencies.

8.4 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under this Licence and for any other contraventions of this Licence or the Applicable Regulatory Framework.

9 COMPLIANCE

Failure to comply with the terms of this Licence shall constitute a violation of the conditions of this Licence and the Associated ICOL, and violations shall be dealt with in accordance with the procedures set forth in the ECA.

10 ENFORCEMENT AND REVOCATION

The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA if there is reason to believe that the Licensee has contravened the conditions of this Licence or the Applicable Regulatory Framework, including failure to pay any fees prescribed for use of the Assigned Frequencies in full on a timely basis.

11 ASSIGNMENT

The Licensee shall not transfer, assign, Sub-License or lease, in whole or in part, this Licence or the spectrum usage rights granted herein to any third party, including any Affiliate, without the prior written authorization of the Authority acting with the written consent of the Minister. For purposes of this condition, "assignment" shall be deemed to include a change of Control of the Licensee.

12 RECORD-KEEPING OBLIGATIONS

The Licensee shall maintain the following records up-to date and promptly provide the Authority with copies upon request:

- (a) the equipment specifications of all Radio Stations and other Radio Apparatus operating under this Licence;
- (b) the coverage area of the Licensee's Electronic Communications Network and of each Radio Station;
- (c) the effective radiated power of any Radio Station and its location and height;
- (d) the measures taken to ensure that each Radio Station is not a source of harmful radiation to the public, and the Licensee's employees and contractors;
- (e) any information necessary for the Authority to develop and keep updated the Bermuda Frequency Allocation Table and Bermuda Frequency Assignment Register;
- (f) the emission designation of each Radio Station, as prescribed by the Applicable Regulatory Framework; and
- (g) the types of services provided to the Licensee's End-Users and Subscribers using the Assigned Frequencies.

13 NOTICES

The notice provisions of the Associated ICOL shall apply to this Licence.

SCHEDULE A

ASSIGNMENT OF RADIO FREQUENCY SPECTRUM

The frequency bands listed in the Schedule below have been assigned for use by the Licensee for point-to-multipoint links from the specified geographic base/repeater station location. "Assigned Frequencies" means, unless otherwise specified below, the paired radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits of the radio frequency bands specified in the table below.

		Frequency (MHz)			
Geographic Coverage Area	Band	From	To	Base/Repeater Station Location	Base/Repeater Station GPS



Spectrum Licence

Granted to

[Name]

[Address]

MOBILE

Dated: _____

Licence Number: _____

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ this Radio Spectrum licence, which provides the right to use the assigned Radio Spectrum in accordance with the terms and conditions of this Licence and its Schedules, the terms and conditions of the Licensee's associated Integrated Communications Operating Licence, the Electronic Communications Act 2011, the Regulatory Authority Act 2012, and any Regulations, General Determinations, Adjudicative Decisions, Orders or Directives made or issued in accordance with these Acts and applicable international treaties and regulations.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Licence, unless the context otherwise requires:

"Assigned Frequencies" means the frequencies assigned to the Licensee, as set forth in Schedule A attached hereto;

"Associated ICOL" means the Integrated Communications Operating Licence granted to the Licensee;

"Authority" means the Regulatory Authority;

"Authorised Use" means the use of the Assigned Frequencies as described in Condition 3.1 of this Licence;

"Bermuda Frequency Assignment Register" means a register containing a table of radio frequency spectrum assignments, including the name of the licensee, the frequencies assigned, the Authorized Use(s) and any other relevant information contained in Schedule A;

"Co-Primary Basis" means the nature of a right granted to the holder of a Radio Spectrum licence to use specified frequencies, subject to the condition that the licensee shall coordinate with other Co-Primary licensees to limit Harmful Interference to existing links and services operating in the relevant frequency bands, and facilitate the introduction of additional links and services in the relevant frequencies. Co-Primary licensees shall refrain from causing Harmful Interference to, and may not require protection from, the links and services of other Co-Primary licensees that were previously authorized and operating in the licensed frequencies. All Co-Primary licensees are authorized to use the frequencies covered by their respective licences subject to protection from: (1) Harmful Interference caused by any other licensee that may be authorized to use the same Radio Spectrum on a Secondary Basis, and (2) claims of Harmful Interference from holders of secondary licenses with respect to the frequencies;

"Control" means:

- (a) the power, whether held directly or indirectly, to exercise decisive influence over the Licensee, including by directing its management and policies, whether through ownership of shares, stocks or other securities or voting rights, or through an agreement or arrangement of any type, or otherwise; and

- (b) shall, in any event, be deemed to exist in any case involving the ownership of 25 per cent or more of the shares, stock or other securities or voting rights, including through an agreement or arrangement of any type;

“Distress signal” means radio signals broadcast to indicate that a person, ship, aircraft or other vehicle is in distress and requires immediate assistance;

“ECA” means the Electronic Communications Act 2011;

“ITU” means the International Telecommunication Union;

“Licence” means this Radio Spectrum licence granted to the Licensee;

“Licensee” means [NAME of COMPANY], [Address], and [Company Reg. No.] and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence, pursuant to which the licensee is the only Person authorized to use the specified frequency bands who is also entitled to protection from: (1) Harmful Interference caused by any other licensee who may be authorized to use the same spectrum on a Secondary Basis; and (2) claims of Harmful Interference by any such licensee;

“RAA” means the Regulatory Authority Act 2011;

“Secondary Basis” means the nature of a right granted to a holder of a Radio Spectrum licence that is authorized to use specified frequencies subject to the condition that such licensee does not cause any Harmful Interference to, or claim protection from any Harmful Interference caused by, other licensees who have been granted the right to use the same frequency bands on a Primary or Co-Primary Basis; and

“Sub-license” means any segregation or partition of the radio frequency usage rights granted herein and shall include any arrangement by the Licensee to share radio frequency rights with one or more third parties, including any Affiliate.

- 1.2** For the purpose of interpreting this Licence, words or expressions shall have the meaning assigned to them in the Associated ICOL, unless otherwise specified, and the rules of interpretation in Condition 2 of the Associated ICOL shall apply.

2 ASSIGNED FREQUENCIES AND USAGE RIGHTS

- 2.1** Subject to the Applicable Regulatory Framework, the Associated ICOL and the terms and conditions of this Licence, the Licensee is hereby authorized to use the Assigned Frequencies. The Licensee shall have the right to use the Assigned Frequencies on a Primary Basis. Schedule A shall be revised and updated, as necessary, to reflect the assignment of frequencies under this Licence.

- 2.2** The Licensee shall comply with any technical or other requirements that the Authority may adopt in respect of the Authorized Use.

- 2.3** The Licensee shall utilize the Assigned Frequencies in full conformity with the Bermuda Frequency Allocation Table and the Bermuda Frequency Assignment Register maintained by the Authority, including any amendments thereto, subject to Condition 3 of this Licence.

3 SCOPE OF LICENCE

- 3.1** This Licence grants the Licensee the right to use the Assigned Frequencies in conjunction with the Associated ICOL, solely for the provision of commercial mobile radio services, including:

[as authorized by TA 86 licences/frequency authorizations]

- 3.2** This Licence does not grant the Licensee any ownership rights in the Assigned Frequencies, and no such rights shall be created or implied by virtue of the Licensee's use of the Assigned Frequencies.
- 3.3** The Licensee shall not use the Assigned Frequencies in the provision of Public Electronic Communications Services unless the Associated ICOL is and remains valid and effective.
- 3.4** Nothing in this Licence shall relieve the Licensee of the obligation to comply with any other requirement of law or practice to obtain additional consents, permissions, authorizations, licenses or permits as may be necessary to operate Radio Apparatus or Radio Stations, establish, construct and operate an Electronic Communications Network, or provide Electronic Communications Services.

4 GRANT AND DURATION OF THE LICENCE

This Licence is valid and effective from the date hereof and shall remain in effect, provided that the Associated ICOL is valid and effective, until the earlier of:

- (a) [date] [18 months after issue];
- (b) the date on which the Licensee surrenders this Licence; or
- (c) the date on which this Licence is revoked pursuant to Section 93(5) of the RAA.

5 RENEWAL

- 5.1** This Licence may be renewed, at the discretion of the Authority, for a term not to exceed 10 years, provided that the duration of the renewed Licence shall not exceed that of the Associated ICOL.
- 5.2** This Licence may only be renewed if the Associated ICOL remains valid and effective.

6 MODIFICATION

This Licence, including its Schedules, may be modified by the Authority:

- (a) with the consent of the Licensee;
- (b) pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA;
- (c) to conform to the terms and conditions of the Associated ICOL, including any modifications thereto;
- (d) to bring the terms of the Licence into conformity with international treaty obligations or regulations or the Applicable Regulatory Framework (including the Bermuda Frequency Allocation Table);
- (e) following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA; or
- (f) following the conclusion of a spectrum investigation pursuant to Section 78 of the ECA or following an adjudication pursuant to Section 41 of the ECA.

7 OBLIGATIONS UNDER THE LICENCE

- 7.1** The Licensee shall comply with existing and future international coordination requirements and procedures, including the relevant international Radio Regulations issued by the ITU. Upon request of the Authority, the Licensee shall provide technical assistance and support to the Minister and the Authority in connection with the Government of Bermuda's participation in regional and international governmental organizations for purposes of spectrum management and coordination.
- 7.2** The Licensee shall coordinate, when necessary, with other Radio Spectrum licensees in Bermuda to avoid Harmful Interference. In the event of a disagreement between or among licensees regarding the prevention or causation of Harmful Interference, the affected licensees shall be responsible for resolving such disputes expeditiously and, if such efforts are unsuccessful, one or more of the licensees involved may request that the Authority intervene to resolve the dispute.
- 7.3** The Licensee shall assist the Authority in the coordination and management of Radio Spectrum and shall make efficient use of the Assigned Frequencies for the Authorised Use or Uses. The Licensee shall notify the Authority promptly if the Licensee no longer requires the use of any or all of the Assigned Frequencies.
- 7.4** The Licensee shall cooperate fully with the Authority in identifying whether and to what extent the Assigned Frequencies are being used efficiently and whether the Licensee has a reasonable need for all or a portion of the Assigned Frequencies in accordance with Section 78 of the ECA, including as follows:
 - (a) The Licensee shall promptly provide any information requested by the Authority concerning the Licensee's actual or proposed use of the Assigned Frequencies and other Radio Spectrum resources.

- (b) The Licensee shall submit to the Authority, no later than six months following the effective date of this Licence, a report approved by the Licensee's Board of Directors containing a detailed analysis of spectrum usage by the Licensee, in the format prescribed by the Authority, in relation to services that were provided using the Assigned Frequencies for the Authorized Uses as at the date of the commencement of Part 12 of the ECA.
- (c) The Licensee shall comply fully with any timetables established by the Authority for the release of any of the Assigned Frequencies if required by the Authority, provided that the timetable for release shall commence no sooner than [Licence expiry date/18 months].

7.5 The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises or premises used by the Licensee to inspect, examine, investigate or audit the Licensee's use of Radio Apparatus and Radio Spectrum.

7.6 The Licensee shall accept distress signals and messages with absolute priority as required by Section 43(5) of the ECA and take any necessary actions as required by the Convention.

8 FEES AND PENALTIES

8.1 The Licensee shall pay to the Authority any Government Authorization Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(1) of the ECA, Section 52 of the RAA, and the Government Fees Act 1965.

8.2 The Licensee shall pay to the Authority any Regulatory Authority Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(3) of the ECA, Section 44 of the RAA, and the Government Fees Act 1965.

8.3 The Licensee shall pay all applicable fees for Radio Apparatus using the Assigned Frequencies.

8.4 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under this Licence and for any other contraventions of this Licence or the Applicable Regulatory Framework.

9 COMPLIANCE

Failure to comply with the terms of this Licence shall constitute a violation of the conditions of this Licence and the Associated ICOL, and violations shall be dealt with in accordance with the procedures set forth in the ECA.

10 ENFORCEMENT AND REVOCATION

The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA if there is reason to believe that the Licensee has contravened the conditions of this Licence or the Applicable Regulatory Framework, including failure to pay any fees prescribed for use of the Assigned Frequencies in full on a timely basis.

11 ASSIGNMENT

The Licensee shall not transfer, assign, Sub-License or lease, in whole or in part, this Licence or the spectrum usage rights granted herein to any third party, including any Affiliate, without the prior written authorization of the Authority acting with the written consent of the Minister. For purposes of this condition, "assignment" shall be deemed to include a change of Control of the Licensee.

12 RECORD-KEEPING OBLIGATIONS

The Licensee shall maintain the following records up-to date and promptly provide the Authority with copies upon request:

- (a) the equipment specifications of all Radio Stations and other Radio Apparatus operating under this Licence;
- (b) the coverage area of the Licensee's Electronic Communications Network and of each Radio Station;
- (c) the effective radiated power of any Radio Station and its location and height;
- (d) the measures taken to ensure that each Radio Station is not a source of harmful radiation to the public, and the Licensee's employees and contractors;
- (e) any information necessary for the Authority to develop and keep updated the Bermuda Frequency Allocation Table and Bermuda Frequency Assignment Register;
- (f) the emission designation of each Radio Station, as prescribed by the Applicable Regulatory Framework; and
- (g) the types of services provided to the Licensee's End-Users and Subscribers using the Assigned Frequencies.

13 NOTICES

The notice provisions of the Associated ICOL shall apply to this Licence.

SCHEDULE A

ASSIGNMENT OF RADIO FREQUENCY SPECTRUM

The frequency bands listed in the Schedule below have been assigned for use by the Licensee in the provision of mobile services. “Assigned Frequencies” means, unless otherwise specified below, the paired radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits of the radio frequency bands specified in the table below.

		Frequency (MHz)			Frequency (MHz)		
Geographic Coverage Area	Band ²	Mobile to Base station		Block Size (MHz) ³	Base station to Mobile		Block Size (MHz) ³



Spectrum Licence

Granted to

[Name]

[Address]

POINT-TO-POINT MICROWAVE

Dated: _____

Licence Number: _____

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ this Radio Spectrum licence, which provides the right to use the assigned Radio Spectrum in accordance with the terms and conditions of this Licence and its Schedules, the terms and conditions of the Licensee's associated Integrated Communications Operating Licence, the Electronic Communications Act 2011, the Regulatory Authority Act 2012, and any Regulations, General Determinations, Adjudicative Decisions, Orders or Directives made or issued in accordance with these Acts and applicable international treaties and regulations.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Licence, unless the context otherwise requires:

“Assigned Frequencies” means the frequencies assigned to the Licensee, as set forth in Schedule A attached hereto;

“Associated ICOL” means the Integrated Communications Operating Licence granted to the Licensee;

“Authority” means the Regulatory Authority;

“Authorized Use” means the use of the Assigned Frequencies as described in Condition 3.1 of this Licence;

“Bermuda Frequency Assignment Register” means a register containing a table of radio frequency spectrum assignments, including the name of the licensee, the frequencies assigned, the Authorized Use(s) and any other relevant information contained in Schedule A;

“Co-Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence to use the specified frequency bands, subject to the condition that the licensee shall coordinate with other Co-Primary licensees to limit Harmful Interference to existing links and services operating in the relevant frequency bands, and facilitate the introduction of additional links and services in the relevant frequency bands. Co-Primary licensees shall refrain from causing Harmful Interference to, and may not require protection from, the links and services of other Co-Primary licensees that were previously authorized and operating in the licensed frequencies. All Co-Primary licensees are authorized to use the frequency bands covered by their respective licenses subject to protection from: (1) Harmful Interference caused by any other licensee that may be authorized to use the same Radio Spectrum on a Secondary Basis, and (2) claims of Harmful Interference from holders of secondary licenses with respect to the frequencies;

“Control” means:

- (a) the power, whether held directly or indirectly, to exercise decisive influence over the Licensee, including by directing its management and policies, whether

through ownership of shares, stocks or other securities or voting rights, or through an agreement or arrangement of any type, or otherwise; and

- (b) shall, in any event, be deemed to exist in any case involving the ownership of 25 per cent or more of the shares, stock or other securities or voting rights, including through an agreement or arrangement of any type;

“Distress signal” means radio signals broadcast to indicate that a person, ship, aircraft or other vehicle is in distress and requires immediate assistance;

“ECA” means the Electronic Communications Act 2011;

“ITU” means the International Telecommunication Union;

“Licence” means this Radio Spectrum licence granted to the Licensee;

“Licensee” means [NAME of COMPANY], [Address], and [Company Reg. No.] and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Microwave Link” means the microwave transmission path between two fixed geographical points;

“Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence, pursuant to which the licensee is the only Person authorized to use the specified frequency bands who is also entitled to protection from: (1) Harmful Interference caused by any other licensee who may be authorized to use the same spectrum on a Secondary Basis; and (2) claims of Harmful Interference by any such licensee;

“RAA” means the Regulatory Authority Act 2011;

“Secondary Basis” means the nature of a right granted to a holder of a Radio Spectrum licence who is authorized to use the specified frequency bands subject to the condition that such licensee does not cause any Harmful Interference to, or claim protection from any Harmful Interference caused by other, licensees who have been granted the right to use the same frequency bands on an Primary or Co-Primary Basis; and

“Sub-license” means any segregation or partition of the radio frequency usage rights granted herein and shall include any arrangement by the Licensee to share radio frequency rights with one or more third parties, including any Affiliate.

- 1.2 For the purpose of interpreting this Licence, words or expressions shall have the meaning assigned to them in the Associated ICOL, unless otherwise specified, and the rules of interpretation in Condition 2 of the Associated ICOL shall apply.

2 ASSIGNED FREQUENCIES AND USAGE RIGHTS

- 2.1 Subject to the Applicable Regulatory Framework, the Associated ICOL and the terms and conditions of this Licence, the Licensee is hereby authorized to use the Assigned Frequencies, subject to the fixed geographical points identified in Schedule A, on a Co-

Primary Basis. Schedule A shall be revised and updated, as necessary, to reflect the assignment of frequencies under this Licence.

- 2.2 The Licensee shall coordinate with any other licensee that is authorized by the Authority to operate in the relevant spectrum to ensure that Harmful Interference is not caused to any authorized Co-Primary licensee.
- 2.3 The Licensee shall comply with any technical or other requirements that the Authority may adopt in respect of the Authorized Use.
- 2.4 The Licensee shall utilize the Assigned Frequencies in full conformity with the Bermuda Frequency Allocation Table and the Bermuda Frequency Assignment Register maintained by the Authority, including any amendments thereto, subject to Condition 3 of this Licence.

3 SCOPE OF THE LICENCE

- 3.1 This Licence grants the Licensee the right to use the Assigned Frequencies in conjunction with the Associated ICOL, exclusively for the provision of Fixed Point-to-Point Microwave services, including:

[as authorized by TA86 licences/frequency authorizations].

- 3.2 This Licence does not grant the Licensee any ownership rights in the Assigned Frequencies, and no such rights shall be created or implied by virtue of the Licensee's use of the Assigned Frequencies.
- 3.3 The Licensee shall not use the Assigned Frequencies in the provision of Public Electronic Communications Services unless the Associated ICOL is and remains valid and effective.
- 3.4 Nothing in this License shall relieve the Licensee of the obligation to comply with any other requirement of law or practice to obtain additional consents, permissions, authorizations, licenses or permits as may be necessary to operate Radio Apparatus or Radio Stations, establish, construct and operate an Electronic Communications Network, or provide Electronic Communications Services.

4 GRANT AND DURATION OF THE LICENCE

This Licence is valid and effective from the date hereof and shall remain in effect, provided that the Associated ICOL is valid and effective until the earlier of:

- (a) [date] [18 months after issue];
- (b) the date on which the Licensee surrenders this Licence; or
- (c) the date on which this Licence is revoked pursuant to section 93(5) of the RAA.

5 RENEWAL

- 5.1** This Licence may be renewed, at the discretion of the Authority, for a term not to exceed 10 years, provided that the duration of the renewed Licence shall not exceed that of the Associated ICOL.
- 5.2** This Licence may only be renewed if the Associated ICOL remains valid and effective.

6 MODIFICATION

This Licence, including its Schedules, may be modified by the Authority:

- (a) with the consent of the Licensee;
- (b) pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA;
- (c) to conform to the terms and conditions of the Associated ICOL, including any modifications thereto;
- (d) to bring the terms of the Licence into conformity with international treaty obligations or regulations or the Applicable Regulatory Framework (including the Bermuda Frequency Allocation Table);
- (e) following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA; or
- (f) following the conclusion of a spectrum investigation pursuant to Section 78 of the ECA or following an adjudication pursuant to Section 41 of the ECA.

7 OBLIGATIONS UNDER THE LICENCE

- 7.1** The Licensee shall comply with existing and future international coordination requirements and procedures, including the relevant international Radio Regulations issued by the ITU. Upon request of the Authority, the Licensee shall provide technical assistance and support to the Minister and Authority in connection with the Government of Bermuda's participation in regional and international governmental organisations for the purposes of spectrum management and coordination.
- 7.2** The Licensee shall coordinate, when necessary, with other Radio Spectrum licensees in Bermuda to avoid Harmful Interference. In the event of a disagreement between or among licensees regarding the prevention or causation of Harmful Interference, the affected licensees shall be responsible for resolving such disputes expeditiously and, if such efforts are unsuccessful, one or more of the licensees involved may request that the Authority intervene to resolve the dispute.
- 7.3** The Licensee shall assist the Authority in the coordination and management of Radio Spectrum and shall make efficient use of the Assigned Frequencies for the Authorized

Use or Uses. The Licensee shall notify the Authority promptly if the Licensee no longer requires the use of any portion of the Assigned Frequencies.

7.4 The Licensee shall cooperate fully with the Authority in identifying whether and to what extent the Assigned Frequencies are being used efficiently and whether the Licensee has a reasonable need for all or a portion of the Assigned Frequencies in accordance with Section 78 of the ECA, including as follows:

- (a) The Licensee shall promptly provide any information requested by the Authority concerning the Licensee's actual or proposed use of the Assigned Frequencies and other Radio Spectrum resources.
- (b) The Licensee shall submit to the Authority no later than six months following the effective date of this Licence, a report approved by the Licensee's Board of Directors containing a detailed analysis of spectrum usage by the Licensee, in the format prescribed by the Authority, in relation to services that were provided using the Assigned Frequencies for the Authorized Uses as at the date of the commencement of Part 12 of the ECA.
- (c) The Licensee shall comply fully with any timetables established by the Authority for the release of any of the Assigned Frequencies if required by the Authority, provided that the timetable for release shall commence no sooner than [Licence expiry date/18 months].

7.5 The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises or premises used by the Licensee to inspect, examine, investigate or audit the Licensee's use of Radio Apparatus and Radio Spectrum.

7.6 The Licensee shall accept distress signals and messages with absolute priority as required by Section 43(5) of the ECA and take any necessary action as required by the Convention.

8 FEES AND PENALTIES

8.1 The Licensee shall pay to the Authority any Government Authorization Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(1) of the ECA, Section 52 of the RAA, and the Government Fees Act 1965.

8.2 The Licensee shall pay to the Authority any Regulatory Authority Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(3) of the ECA, Section 44 of the RAA, and the Government Fees Act 1965.

8.3 The Licensee shall pay all applicable fees for Radio Apparatus using the Assigned Frequencies.

8.4 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under this Licence

and for any other contraventions of this Licence or the Applicable Regulatory Framework.

9 COMPLIANCE

- 9.1** Failure to comply with the terms of this Licence shall constitute a violation of the terms of this Licence and the Associated ICOL, and violations shall be dealt with in accordance with the procedures set forth in the ECA.

10 ENFORCEMENT AND REVOCATION

- 10.1** The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA if there is reason to believe that the Licensee has contravened the conditions of this Licence or the Applicable Regulatory Framework, including failure to pay any fees prescribed for use of the assigned spectrum in full on a timely basis.

11 ASSIGNMENT

- 11.1** The Licensee shall not transfer, assign, Sub-License or lease, in whole or in part, this Licence or the spectrum usage rights granted herein to any third party, including any Affiliate, without the prior written authorization of the Authority acting with the written consent of the Minister. For purposes of this condition, "assignment" shall be deemed to include a change of Control of the Licensee.

12 RECORD-KEEPING OBLIGATIONS

The Licensee shall maintain the following records up-to date and promptly supply the Authority with copies upon request:

- (a) the equipment specifications of all Radio Stations and other Radio Apparatus operating under this Licence;
- (b) the effective radiated power of any Radio Station and its location and height;
- (c) the measures taken to ensure that each Radio Station is not a source of harmful radiation to the public, and the Licensee's employees and contractors;
- (d) any information necessary for the Authority to develop and keep updated the Bermuda Frequency Allocation Table and Bermuda Frequency Assignment Register;
- (e) the emission designation of each Radio Station, as prescribed by the Applicable Regulatory Framework; and
- (f) the types of services provided to the Licensee's End-Users using the Assigned Frequencies.

13 NOTICES

The notice provisions of the Associated ICOL shall apply to this Licence.

SCHEDULE A

ASSIGNMENT OF FREQUENCIES

The frequency links listed in the Schedule below have been assigned for use by the Licensee for fixed microwave service between the specified geographic locations. Unless otherwise specified below, "Assigned Frequencies" means the paired radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits of the radio frequency bands specified in the table below.

	Assigned Frequencies (MHz)						
Link Number	Receive	Transmit	Site Name 1	GPS (Site Name 1)	Site Name 2	GPS (Site Name 2)	Date

APPENDIX D

QUESTIONS PRESENTED IN CONSULTATION DOCUMENT

1. Interested parties are invited to comment on the structure of the proposed ICOL.
2. Interested parties are invited to comment on the proposed definitions and rules of interpretation contained in Conditions 1 and 2.
3. Interested parties are invited to comment on proposed Condition 3.
4. Interested parties are invited to comment on proposed Condition 4.
5. Interested parties are invited to comment on proposed Conditions 5.
6. Interested parties are invited to comment on proposed Condition 6.
7. Interested parties are invited to comment on proposed Condition 7.
8. Interested parties are invited to comment on proposed Condition 8 and, in particular, whether ICOL holders should be required to provide calling line or any other additional information to emergency service providers.
9. Interested parties are invited to comment on proposed Condition 9.
10. Interested parties are invited to comment on proposed Condition 10.
11. Interested parties are invited to comment on proposed Condition 11.
12. Interested parties are invited to comment on proposed Condition 12.
13. Interested parties are invited to comment on proposed Condition 13.
14. Interested parties are invited to comment on:
 - 14A. Whether the provisions of Condition 14 adequately protect the interests of consumers, particularly residential and small business subscribers?
 - 14B. Whether the definitions of residential and small business subscribers set forth in Condition 1 are appropriate or should be revised?
 - 14C. Whether the provisions that apply to residential and small business subscribers should be extended to all end-users?
 - 14D. Whether additional consumer protection provisions, such as those addressing the needs of disabled users, should be included in Condition 14?
15. Interested parties are invited to comment on proposed Condition 15.
16. Interested parties are invited to comment on proposed Condition 16.
17. Interested parties are invited to comment on proposed Condition 17.
18. Interested parties are invited to comment on:
 - 18A. Whether ICOL holders should be permitted to discontinue the general provision of a public electronic communications service after giving advance notice to the Regulatory Authority? Whether 120 days is an appropriate notice period? Whether an ICOL holder should be required to obtain the Regulatory Authority's prior consent before terminating service?
 - 18B. Whether ICOL holders should be required to obtain the Regulatory Authority's prior approval before surrendering the ICOL? Whether 180 days is an appropriate notice period?
19. Interested parties are invited to comment on proposed Condition 19.
20. Interested parties are invited to comment on proposed Condition 20.

21. Interested parties are invited to comment on proposed Condition 21.
22. Interested parties are invited to comment on proposed Condition 22.
23. Interested parties are invited to comment on proposed Condition 23.
24. Interested parties are invited to comment on proposed Transitional Condition A1.
25. Interested parties are invited to comment on proposed Transitional Condition A2.
26. Interested parties are invited to comment on:
 - 26A. Whether the disclosure requirements of Transitional Conditions A3.1 and A3.2 are adequate to protect consumers from excessive charges when making calls from pay telephones or making operator assisted calls?
 - 26B. Whether other obligations should be imposed on ICOL holders that provide pay telephones and operator services and, if so, what those obligations should be?
27. Interested parties are invited to comment on:
 - 27A. Whether the requirement of Transitional Condition A4.1 that ICOL holders permit subscribers to opt out of directories and directory enquiry services is adequate? Whether any other obligations should be imposed on ICOL holders offering such services?
 - 27B. Whether the obligation of Transitional Condition A4.2 to cooperate with other licensees that wish to provide such service is appropriate and whether that obligation should be revised or supplemented?
 - 27C. Whether Transitional Condition A4 should expressly permit or prohibit ICOL holders that provide such services from imposing charges for these services?
28. Interested parties are invited to comment on the proposed spectrum licences. Where interested parties wish to propose specific changes to the language of the spectrum licences, the Regulatory Authority requests that the proposed edits clearly indicate proposed additions and deletions. (A Word version of the spectrum licences is being provided for this purpose.)
29. Interested parties are invited to comment on:
 - 29A. The proposed timetable and process for reaching decisions regarding the efficient use of the assigned frequencies.
 - 29B. The factors and criteria that should be considered by the Regulatory Authority in assessing efficient use.
30. Interested parties are invited to comment on the regulations and other instruments issued under the TA86 that require review and the relative priority with which such a review should be undertaken. In particular, the Regulatory Authority solicits comments on the following instruments:
 - 30A. Cable Television Service Regulations 1987;
 - 30B. Cable Television Amendment Regulations 2008;
 - 30C. Subscription Radio Service Regulations 2003;
 - 30D. Class Four Radio (Two-Way Radiotelephone Services) Regulations 1987;
 - 30E. Wireless Telegraphy (Licence) Regulations 1961; and
 - 30F. DOT Cable Television Leased Channel Policy.

31. Interested parties are invited to identify other regulations and instruments the review of which that should be accorded priority by the Regulatory Authority.
32. Interested parties are invited to raise any matters, not addressed herein, that the Regulatory Authority should consider in preparing its proposal to the Minister.



**IMPLEMENTATION OF ELECTRONIC COMMUNICATIONS ACT 2011
CONSULTANTS' PRELIMINARY RECOMMENDATIONS**

**Integrated Communications
Operating Licence Issued to
[Name]
[Address]**

_____ 2013

Licence Number: _____

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ANNEX B -- EXCERPTS FROM TELECOMMUNICATIONS ACT 1986

ANNEX C -- RADIO FREQUENCY SPECTRUM

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ a licence to establish, construct and operate Electronic Communications Networks, on an integrated basis, and provide Electronic Communications Services within the territorial limits of Bermuda and between Bermuda and other countries, subject to the terms of this Licence, any associated Spectrum licences, the Electronic Communications Act 2011, the Regulatory Authority Act 2011, and any Regulations, General Determinations, Adjudicative Decisions, Orders, and Directions made or issued in accordance with these Acts.

1 DEFINITIONS

In this Licence, unless the context otherwise requires:

“Authority” means the Regulatory Authority;

“Condition” means a condition, including a Transitional Condition set forth in Annex A, of this Licence.

“Directory” means a printed or electronic directory containing the name, address and Number of the Subscriber to an Electronic Communications Service;

“Directory Enquiry Service” means the provision by a live operator or on an automated basis of the Number of a Subscriber to an Electronic Communications Service;

“ECA” means the Electronic Communications Act 2011;

“Licence” means this Integrated Communications Operating Licence granted to _____;

“Licensee” means _____ and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Mast” means a tower or similar structure upon which Radiocommunication Equipment is installed;

“Number” means a number assigned to the Licensee by the Authority in accordance with the Numbering Plan;

“Other Licensee” means another licensee that holds an Individual Licence;

“Operator Service” means an Electronic Communications Service, including domestic and international voice calls, provided using any fixed or mobile telephone, either with the assistance of a human operator or on an automated basis, payment for which may be made with a commercial credit card or a calling card issued by the Licensee, if service is not provided on a subscription basis;

“Public Pay Telephone Service” means an Electronic Communications Service, including domestic and international voice, data and teletext calls, provided from stationary pay telephones situated in public locations, available to all Users, payment

for which may be made by coins, a commercial credit card or a calling card issued by the Licensee;

“Person” means a natural person or any company or association or body of persons, whether corporate or unincorporate, including an Affiliate thereof;

“RAA” means the Regulatory Authority Act 2011;

“Residential Subscriber” means an End-User or Subscriber who is a natural person and who uses the Licensee’s Electronic Communications Services at a place of residence;

“Slamming” means a practice whereby a Subscriber is switched from an Other Licensee to the Licensee without the express knowledge and consent of the Subscriber;

“Small Business Subscriber” means an End-User or Subscriber that is a business with twenty or fewer employees that uses the Licensee’s Electronic Communications Services at its place of business; and

“Transitional Condition” means a Condition set forth in Annex A of this Licence.

2 INTERPRETATION

For the purpose of interpreting this Licence:

- (a) unless the context otherwise requires, words or expressions shall have the meaning assigned to them in the Licence, the ECA, the RAA and the Interpretation Act 1951;
- (b) where there is any conflict between the provisions of this Licence and the ECA or RAA, the provisions of the ECA or the RAA, as the case may be, shall prevail;
- (c) terms defined herein and in the ECA and RAA have been capitalised;
- (d) references to Conditions and Annexes are to Conditions and Annexes of the Licence, as modified from time to time in accordance with the Licence and the ECA;
- (e) a document referred to in this Licence shall be incorporated into and form part of the Licence and a reference to a document is to the document as modified from time to time;
- (f) headings and titles used in this Licence are for reference only and shall not affect its interpretation or construction;
- (g) references to any law or statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
- (h) expressions cognate with those used in this Licence shall be construed accordingly;

- (i) use of the word “include” or “including” is to be construed as being without limitation; and
- (j) words importing the singular shall include the plural and vice versa, and words importing the whole shall be treated as including a reference to any part unless explicitly limited.

3 SCOPE OF THE LICENCE

- 3.1** This Licence grants the Licensee the right to establish, construct and operate, on an integrated basis, one or more Electronic Communications Networks, with the exception of wireless networks operating in the frequency band allocated for Broadcasting, and to provide Electronic Communications Services, with the exception of non-Subscription Audiovisual Services, within the territorial limits of Bermuda and between Bermuda and other countries.

ALTERNATE PROVISION FOR BLDC

This Licence grants the Licensee the right to:

- (a) establish, construct and operate, on an integrated basis, one or more Electronic Communications Networks, with the exception of wireless networks operating in the frequency band allocated for Broadcasting, within the territorial limits of Bermuda co-extensive with the properties identified by the Schedule to the Base Lands Development Act 1996; and
- (b) provide Electronic Communications Services, with the exception of non-Subscription Audiovisual Services, to End-Users and Subscribers that are tenants occupying one or more of the scheduled properties referred to in Condition 3.1(a) for their use in connection with such property, or to Other Licensees serving or seeking to serve such End-Users or Subscribers.

- 3.2** Notwithstanding the provisions of Condition 3.1, this Licence does not grant the Licensee the right to establish, construct and operate an Electronic Communications Network or provide an Electronic Communications Service if the Authority has made an Administrative Determination that:

- (a) such Electronic Communications Network or such Electronic Communications Service is exempt from the obligation to hold a communications operating licence; or
- (b) such Electronic Communications Network or such Electronic Communications Service should be authorized pursuant to a Class Licence.

In such cases, the Licensee’s Electronic Communications Network or Electronic Communications Service shall be subject to the terms and conditions of the relevant exemption or Class Licence. In cases where the Licensee’s Electronic Communications Network or Electronic Communications Service may appear to be authorized by both this Licence and the exemption or Class Licence, as the case may be, the terms and conditions of this Licence shall apply unless and until the Authority makes an Administrative Determination to the contrary. Nothing in any exemption or Class Licence shall be interpreted to relieve the Licensee of the

obligation to comply with any Ex Ante Remedy or obligation imposed on the Licensee by the Authority pursuant to Sections 23 and 24 of the ECA.

3.3 This Licence does not grant the Licensee, and shall not be construed as an entitlement on the part of the Licensee to, any licences or permits for the use of Radio Spectrum, Radio Stations or Radio Apparatus.

3.4 Nothing in this Licence shall relieve the Licensee of the obligation to comply with any other requirement at law or practice to obtain any additional consents, permissions, authorizations, licences or permits as may be necessary to establish, construct or operate Electronic Communications Networks, provide Electronic Communications Services or exercise the Licensee's rights or discharge its obligations under the Licence, including obtaining any licences or permits required by the ECA for the use of Radio Spectrum, Radio Stations or Radio Apparatus.

4 GRANT AND DURATION OF THE LICENCE

4.1 The Licence is valid and effective from the date hereof and shall remain in effect until the earlier of:

- (a) ____ 2033;
- (b) the date on which the Licensee surrenders the Licence in accordance with Condition 18.2; or
- (c) the date on which the Licence is revoked pursuant to Sections 18(5) or 18(6) of the ECA or Section 93 of the RAA.

4.2 The Licence may be renewed for an additional term or terms pursuant to Section 18(4) of the ECA.

5 FEES, CONTRIBUTIONS AND PENALTIES

5.1 The Licensee shall pay to the Authority such Government Authorization Fees in such amounts and at such times as may be prescribed pursuant to Section 52 of the RAA and the Government Fees Act 1965.

5.2 The Licensee shall pay to the Authority such Regulatory Authority Fees in such amounts and at such times as may be prescribed pursuant to Section 44 of the RAA and the Government Fees Act 1965.

5.3 The Licensee shall make such contributions to support the provision of Universal Service as may be specified in a Regulation made by the Minister pursuant to Section 34 of the ECA.

5.4 The Licensee shall make such payments to support the establishment and provision of number portability, or the equivalent, as may be specified in a Regulation made by the Minister pursuant to Section 47 of the ECA.

5.5 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under

this Licence and for any other contraventions of this Licence or the Applicable Regulatory Framework.

6 COMPLIANCE

The Licensee shall comply with:

- (a) the terms of this Licence, including the Annexes;
- (b) the terms of any associated licences, authorizations and permits issued to the Licensee for the use of Radio Spectrum, Radio Stations and Radio Apparatus;
- (c) the Applicable Regulatory Framework, including, but not limited to, any:
 - (i) Regulations made by the Minister;
 - (ii) Administrative Determinations made by the Authority pursuant to Section 9(2)(c) of the ECA;
 - (iii) Universal Service obligations imposed in accordance with Part 6 of the ECA;
 - (iv) obligations imposed by the Authority to interconnect with the Electronic Communications Networks of other ICOL holders and any Other Licensees that may be designated by the Authority for this purpose by the Authority, promptly and on reasonable terms and conditions;
 - (v) Ex Ante Remedies that may be imposed in accordance with Part 4 of the ECA;
 - (vi) obligations imposed by the Authority in respect of emergency call services;
 - (vii) obligations imposed by the Authority in respect of Public Pay Telephones and Operator Services;
 - (viii) obligations imposed by the Authority in respect of Directory information and Directory Enquiry facilities;
 - (ix) obligations imposed by the Authority to provide performance bonds in respect of compliance with any of the conditions of the Licence.
- (d) the Convention and any other international agreements relating to Electronic Communications to which Bermuda is a party; and
- (e) the ECA, the RAA and any other applicable law, enactment, regulation or order in effect in Bermuda to which the Licensee is subject.

Where there is an irreconcilable conflict among any of the instruments identified above, the following order of precedence shall apply: acts of Parliament (including

international agreements to which Bermuda is a party), Regulations and Orders made by the Minister, General or other Administrative Determinations made by the Authority, and this Licence.

7 OPERATION OF NETWORKS AND PROVISION OF SERVICES

7.1 The Licensee shall establish, construct and operate the Electronic Communications Networks and provide the Electronic Communications Services authorized by the Licence in a manner that:

- (a) does not prejudice or obstruct, or is likely to prejudice or obstruct, navigation by ships at sea or aircraft on the ground or in the air;
- (b) does not interfere with the operation of Electronic Communications Networks and the provision of Electronic Communications Services by Other Licensees; and
- (c) complies with the terms and conditions of any associated licences or permits for the use of Radio Spectrum, Radio Stations and Radio Apparatus that the Authority may grant to the Licensee.

7.2 The Licensee shall, where technically feasible, construct and share with Other Licensees that may be designated by the Authority Masts and other support structures suitable for the placement of Radiocommunication Equipment in an efficient manner that allows for the sharing of such facilities on terms and conditions that are fair, reasonable and transparent. The Licensee shall not enter into any leases, covenants or other agreements that restrict, or have the effect of restricting, the Licensee's ability to comply with the foregoing requirement.

7.3 The Licensee shall ensure that substantially all of the personnel, Electronic Communications Network facilities, Associated Facilities and Associated Services relating to the provision of the Electronic Communications Services authorized by this Licence are located in Bermuda. The Authority may waive this Condition in whole or in part if, and to the extent that, the Authority determines that:

- (a) there are insufficient human or other resources available in Bermuda to enable the Licensee to comply with this Condition;
- (b) compliance with this Condition would be economically infeasible; or
- (c) a waiver would be in the public interest and not unduly discriminatory in respect of other similarly situated licensees.

7.4 The Licensee shall report planned and unplanned outages of the Electronic Communications Networks and Electronic Communications Services authorized by this Licence in accordance with any requirements established by the Authority.

7.5 The Licensee shall procure such insurance or post such performance bonds as the Authority may reasonably require to ensure that any works undertaken by the Licensee are completed and that any property abandoned by the Licensee or that has fallen into disrepair is removed from public property.

- 7.6** Upon the termination of the Licence, the Licensee shall make reasonable efforts to sell the Licensee's Electronic Communications business and assets, and facilitate the transfer of the Licensee's Bermudian staff employed in Bermuda, to another provider of Electronic Communications.

8 EMERGENCY CALL SERVICES

If the Licensee has been assigned Numbers under the Numbering Plan, the Licensee shall:

- (a) make available to Users, free of charge, access to the national three-digit number or numbers for emergency purposes from any fixed or mobile terminal connected to the Licensee's network, and provide any User possessing a fixed or mobile terminal or using a pay telephone with automatic access to the Licensee's network for the purpose of making emergency calls by means of the three-digit national number or numbers, without regard to whether such User is the Licensee's Subscriber;
- (b) to the extent technically feasible, provide Location Data for all calls to the national three-digit number or numbers for emergency purposes; and
- (c) comply with such technical and other requirements relating to the provision of emergency call services as the Authority may adopt.

9 NUMBERING

- 9.1** The Licensee shall be eligible to participate in, and shall comply with, the Numbering Plan. The Licensee shall use only those Numbers assigned to it by the Authority and those Numbers assigned to Subscribers that elect to transfer from Other Licensees to the Licensee.
- 9.2** The Licensee shall manage any Numbers that it has been assigned by the Authority in a manner that ensures the efficient use of those Numbers.
- 9.3** The Licensee shall not charge its Subscribers for the assignment of Numbers, except as otherwise permitted by the Authority.
- 9.4** The Licensee shall comply with any General Determinations made by the Authority in respect of the Numbering Plan and the allocation, reclamation, re-assignment, sale and use of Numbers.

10 NATIONAL SECURITY, EMERGENCIES AND LAW ENFORCEMENT

- 10.1** The Licensee shall cooperate with, and at the Direction of the Governor, Minister or Authority shall provide assistance to, the relevant Government ministries responsible for national security and emergency services.
- 10.2** The Licensee shall, at the Direction of the Governor, Minister or the Authority, give Telecommunications of the relevant Government ministries responsible for national security and emergency services priority over all other Telecommunications.

- 10.3** The Licensee shall comply with the Authority's Directions regarding the location and concealment of the Licensee's Electronic Communications Networks to protect them from accidental or malicious injury or from destruction by Bermuda's enemies.
- 10.4** If the Licensee receives distress signals and requests for assistance from ships, aircraft and light stations, the Licensee shall re-transmit them, as promptly as possible, to the relevant Government bodies.
- 10.5** The Licensee shall comply with the requirements of Schedule 2 of the ECA.

11 SIGNIFICANT MARKET POWER

- 11.1** If the Authority determines that the Licensee possesses Significant Market Power in a relevant market, the Licensee shall promptly comply with each Ex Ante Remedy or obligation imposed on the Licensee by the Authority pursuant to Sections 23 and 24 of the ECA, until the remedy or obligation is removed pursuant to Section 25 of the ECA.
- 11.2** With regard to any market in which the Licensee has been determined to possess Significant Market Power, the Licensee shall comply with the following requirements unless they are specifically waived by an Administrative Determination of the Authority:
- (a) not to unduly discriminate in relation to the provision of Interconnection or access, in particular, by applying equivalent conditions in equivalent circumstances to Other Licensees providing equivalent services, and providing them with services and information (including technical specifications and network-related information) under the same conditions and of the same quality as it provides for its own services or those of its Affiliates, subsidiaries or partners;
 - (b) not to adopt any technical specifications that would obstruct or impede the ability of Other Licensees to interconnect with the Licensee's facilities or access parts of the Licensee's network that are subject to ex ante regulation; and
 - (c) not to unreasonably bundle services subject to ex ante price controls with any other services.

12 PRIVACY OF COMMUNICATIONS

- 12.1** The Licensee shall take all reasonable measures to ensure the privacy of all Telecommunications.
- 12.2** Except as otherwise provided in the ECA or any other applicable enactment, the Licensee may not intercept, or wilfully divulge the content of, any Telecommunications.

13 CONFIDENTIALITY OF PERSONAL DATA

- 13.1** Subject to Conditions 13.2 and 13.3 and Section 31 of the ECA, the Licensee:

- (a) may not without an End-User's or Subscriber's informed consent collect, use, maintain or disclose Personal Data about an End-User or Subscriber for any purpose; and
 - (b) shall apply appropriate security safeguards to prevent the collection, use, maintenance or disclosure of such Personal Data.
- 13.2** The Licensee shall comply with any General Determinations made by the Authority requiring the Licensee to retain, or prohibiting the Licensee from retaining, specified Personal Data relating to End-Users and Subscribers, including information about billing, beyond a specified period.
- 13.3** The Licensee shall take reasonable steps to ensure that any Personal Data it discloses or retains concerning an End-User or Subscriber is accurate and complete for its intended use.
- 13.4** The Licensee shall permit an End-User or Subscriber to inspect its records regarding Electronic Communications provided to that End-User or Subscriber and shall respond promptly to requests to correct or remove information that is shown to be incorrect.
- 13.5** The Licensee shall disclose to End-Users and Subscribers, in a clear and transparent manner, the purpose for requesting or collecting any information about the End-User or Subscriber and may not use or maintain information about the End-User or Subscriber for any undisclosed purposes.
- 13.6** The Licensee shall take appropriate steps to transfer relevant Personal Data relating to End-Users or Subscribers to an Other Licensee that has been selected by an End-User or Subscriber, as the case may be, to replace the Licensee as the provider of an Electronic Communications Service where necessary to facilitate the change in providers, in accordance with any procedures that may be established by the Authority.
- 13.7** The Licensee shall not make use of any End-User or Subscriber information, network and traffic data, or any other information obtained from Other Licensees as a result of entering into Interconnection and other agreements with such Other Licensees, other than for the purpose for which such information and data were provided. The Licensee shall implement reasonable internal measures, including by limiting access to physical records, systems and processes where appropriate, to safeguard and maintain the confidentiality of any such data that is commercially or competitively sensitive.
- 14 CONSUMER PROTECTION**
- 14.1** The Licensee shall, in offering to provide, or providing, Electronic Communications Services, publish clear, transparent and up-to-date information regarding its rates, terms and conditions. Publication shall be effected by:
 - (a) placing such information on any relevant website operated by the Licensee or, if no such website exists, placing a copy of such information in every major office of the Licensee such that it is readily available for inspection free of charge by members of the general public during normal office hours; and

- (b) sending a copy of such information or any appropriate parts of it to any Subscriber who requests such information.
- 14.2** The Licensee shall ensure that the standard terms and conditions of any contract between the Licensee and a Residential Subscriber or Small Business Subscriber include the following minimum requirements:
- (a) the identity and address of the Licensee;
 - (b) the services provided, details of the service quality levels offered and the time required to initiate service;
 - (c) details of maintenance services offered;
 - (d) particulars of prices and tariffs, and the means by which up-to-date information on all applicable tariffs, discounts and maintenance charges may be obtained;
 - (e) the duration of the contract, provided that Subscribers shall have the option of entering into a contract with a fixed term of no more than twelve months on fair and reasonable terms;
 - (f) the conditions, including any charges, for the renewal and termination of services and of the contract;
 - (g) compensation and refund arrangements if quality of service levels to which the Licensee has committed are not met;
 - (h) the procedures for initiating and resolving disputes in respect of the contract; and
 - (i) any other information that may be required by the Authority.
- 14.3** Subject to any alternative requirements that may be established by the Authority, where the Licensee intends to modify a condition in a contract with a Residential Subscriber or Small Business Subscriber, the Licensee shall:
- (a) provide the Subscriber with at least one month's notice of its intention detailing the proposed modification; and
 - (b) inform the Subscriber of the ability to terminate the contract without penalty if the proposed modification is materially adverse to the Subscriber.
- 14.4** The Licensee shall not render any bill to a Subscriber in respect of the provision of any Electronic Communications Services unless every amount stated in that bill represents and does not exceed the true extent of the service actually provided to the Subscriber. The Licensee shall retain such records as may be necessary for the purpose of establishing the Licensee's compliance with this requirement for at least one year or such other period determined by the Authority.
- 14.5** The Licensee may only charge a Subscriber for the specific Electronic Communications Services or equipment that the Subscriber has ordered, and the

Subscriber shall have no liability to pay for any Electronic Communications Service or equipment that it has not ordered.

14.6 In the case of Residential Subscribers and Small Business Subscribers who have contracted for Electronic Communications Services for which they will pay after usage, the Licensee shall provide such Subscriber with bills:

- (a) in writing, which may be transmitted electronically if the Subscriber consents;
- (b) on a regular basis no less than monthly;
- (c) in a plain and simple format;
- (d) that provide accurate information about the Electronic Communications Services provided and the amounts due for each Electronic Communications Service; and
- (e) that clearly indicate the method of calculation of prices for any Electronic Communications Service for which bills are based on the duration of calls or other measure of usage.

14.7 The Licensee shall provide Residential Subscribers and Small Business Subscribers, on request, and either at no extra charge or for a reasonable fee, a basic level of itemised billing. The Licensee shall ensure that each itemised bill contains a sufficient level of detail to allow the Subscriber to:

- (a) verify and control the charges incurred by the Subscriber in using the Licensee's Electronic Communications Services; and
- (b) monitor the Subscriber's usage and expenditure and thereby exercise a reasonable degree of control over the Subscriber's bills.

The Licensee shall ensure that calls which are made from a Residential Subscriber's telephone which are free of charge, including calls to distress hotlines, are not included in the Subscriber's itemised bill. The requirements of this Condition shall not apply to Electronic Communications Services provided to Subscribers for a flat monthly or other periodic fee.

14.8 The Licensee shall not be obligated to comply with Condition 14.7 when:

- (a) the Licensee provides Electronic Communications Services to the Subscriber on a pre-paid basis; and
- (b) the Subscriber has an alternative means, free of charge, to monitor the Subscriber's usage and expenditure.

14.9 The Licensee shall, as determined by the Authority, publish up-to-date information regarding the quality of its Electronic Communications Services in a format that may be used by Residential Subscribers and Small Business Subscribers to make industry comparisons.

- 14.10** Prior to any planned interruption to or suspension of service, the Licensee shall give reasonable advance notice to any Subscriber that will be affected by the interruption or suspension.
- 14.11** Subject to any General Determinations, including codes of practice, that the Authority may adopt pursuant to Section 26 of the ECA, the Licensee shall establish, publish and thereafter maintain fair and reasonable procedures for the handling of complaints made by Residential Subscribers or Small Business Subscribers in relation to the provision of the Licensee's Electronic Communications Services.
- 14.12** Where a Residential Subscriber or Small Business Subscriber has not paid the Licensee all or part of a bill for the Electronic Communications Services provided by the Licensee, any measures taken by the Licensee to effect payment or disconnection shall:
- (a) be proportionate and not unduly discriminatory;
 - (b) give prior warning to the Subscriber of any consequent service interruption or disconnection; and
 - (c) except in cases of fraud, persistent late payment or non-payment, confine any service interruption to the Electronic Communications Service concerned, as far as technically feasible.
- 14.13** The Licensee shall publish the details of measures it may generally take against Residential Subscribers and Small Business Subscribers to effect payment or disconnection in accordance with Condition 14.12 by:
- (a) placing such information on any relevant website operated by the Licensee or, if no such website exists, placing a copy of such information in every major office of the Licensee such that it is readily available for inspection free of charge by members of the general public during normal office hours; and
 - (b) sending a copy of such information or any appropriate parts of it to any Subscriber who requests such information.
- 14.14** The Licensee shall not make or cause to be made any claim or suggestion regarding the availability, price or quality of its Electronic Communications Networks or Electronic Communications Services or equipment or that of an Other Licensee if the Licensee knows or reasonably ought to know that the statement or claim is false or misleading.
- 14.15** Subject to any General Determinations, including codes of practice, made by the Authority pursuant to Section 26 of the ECA, the Licensee shall not engage in any Slamming activities and shall obtain each Subscriber's authorization and verification of the authorization prior to executing any change from an Other Licensee to the Licensee. Where the Authority prescribes any form or manner for verification of a Subscriber's authorization for the prevention of Slamming, the Licensee shall maintain records of verification in such a form or manner for a minimum period of twelve months.

- 14.16** The Licensee shall comply with such other determinations made by the Regulatory Authority to protect the interest of consumers pursuant to Part 5 of the ECA.

15 INFORMATION, AUDITS AND INSPECTION

- 15.1** In addition to the information required by Section 53 of the RAA, the Licensee shall promptly provide the Authority with any documents, accounts, reports, returns, estimates or other information requested by the Authority, including information regarding the services or equipment provided to Users, Other Licensees and Persons with Class Licences, the rates and charges for such services and equipment, copies of contracts with Other Licensees, and statistics regarding usage of the Licensee's Electronic Communications Networks and Electronic Communications Services.
- 15.2** The Licensee shall permit the Authority or Persons designated by the Authority to examine, investigate or audit, or procure such assistance as the Authority may require to conduct an examination, investigation or audit of, any aspect of the Licensee's business.
- 15.3** The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises to conduct an inspection, examination, investigation or audit of the Licensee.
- 15.4** The Licensee shall place a complete copy of this Licence and any associated Radio Spectrum licences on the Licensee's website or, if no such website exists, in a conspicuous place in the Licensee's principal place of business such that it is readily available for inspection free of charge by members of the general public during normal office hours

16 MODIFICATION OF THE LICENCE

The Licence may be modified:

- (a) with the mutual consent of the Licensee and the Authority;
- (b) by the Authority pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA; and
- (c) by the Authority following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA.

17 ENFORCEMENT AND REVOCATION

- 17.1** The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA and Section 18(5) of the ECA if there is reason to believe that the Licensee has contravened the terms of this Licence or the Applicable Regulatory Framework.
- 17.2** The Authority may revoke this Licence in accordance with the provisions of Sections 18(5) and 18(6) of the ECA. If this Licence is revoked, the Licensee shall make reasonable efforts to transition affected Subscribers and Other Licensees to alternative providers of Electronic Communications Service.

18 DISCONTINUATION OF SERVICE; SURRENDER OF LICENCE

18.1 Subject to any Ex Ante Remedies imposed on the Licensee pursuant to Sections 23 and 24 of the ECA, the Licensee shall not discontinue the general provision of any Electronic Communications Service unless the Licensee first provides the Authority and affected Subscribers and Other Licensees with 120 days advance notice of the discontinuation of service. The Licensee shall make such reasonable efforts as the Authority may require to transition affected Subscribers and Other Licensees from the discontinued Electronic Communications Service to a reasonable alternative service provided by either the Licensee or an Other Licensee.

18.2 The Licensee may surrender the Licence, with the agreement of the Authority. The Licensee shall submit a request to surrender the Licence 180 days in advance of the date on which the Licensee proposes to surrender the Licence. If the Authority agrees to the surrender of the Licence, the Licensee shall make such reasonable efforts as the Authority may require to transition affected Subscribers and Other Licensees to alternative providers of Electronic Communications Services.

19 ASSIGNMENT

The Licensee shall not sub-license, assign or grant any right, interest or entitlement in the Licence nor transfer the Licence to any other Person without the prior written authorization of the Authority acting with the written consent of the Minister.

20 CHANGE OF CONTROL

The Licensee shall not complete any proposed change in control of the Licensee without first obtaining the prior written authorization of the Authority, acting with the written consent of the Minister, in accordance with Sections 18(6) and 18(7) of the ECA.

21 INDEMNIFICATION

21.1 The Licensee shall indemnify the Government of Bermuda against all actions, claims and demands which may be brought or made by any Person in respect of any injury or death of any Person or damage to any property arising from any act of the Licensee permitted or authorized by the Licence.

21.2 The Licensee shall indemnify the Government of Bermuda for the reasonable costs of repairing, restoring or replacing any Electronic Communications Networks or Electronic Communications Services used by the Government that are damaged, interrupted or otherwise interfered with, either directly or indirectly, by the Licensee.

22 FORCE MAJEURE

If the Licensee is prevented from complying with the Licence by acts of God, war, warlike operations, civil commotion, major strikes or any other significant or protracted industrial action, fire, tempest or any other causes beyond the Licensee's control:

- (a) the Licensee shall notify the Authority, as promptly as reasonably practicable, of the obligations of the Licence with which the Licensee cannot comply, the

expected duration of the event of force majeure, and the measures the Licensee is taking to overcome the consequences of the event of force majeure; and

- (b) the Authority may suspend such obligations of the License as the Authority concludes the Licensee cannot comply with for as long as the event of force majeure continues.

23 NOTICES

- 23.1** Unless the Authority determines otherwise, notices to the Licensee under the Licence shall be in writing and sent by registered letter to the address shown on the cover page of the Licence to the attention of _____.
- 23.2** Unless the Authority determines otherwise, notices to the Authority under the Licence shall be in writing and sent by registered letter to the Secretary of the Authority at the business address of the Authority.

ANNEX A

TRANSITIONAL CONDITIONS

The Licensee shall comply with each of the Transitional Conditions set forth below until such time as the Authority makes an Administrative Determination in respect of the subject matter of each such Transitional Condition.

A1 SCOPE OF LICENCE ; CHANGE OF OWNERSHIP; TRANSFER OF ASSETS

A1.1 Notwithstanding the provisions of Condition 3.1, the Licensee may not establish, construct or operate any Electronic Communications Networks or provide any Electronic Communications Services [that were not authorized by the Licensee's pre-existing Public Telecommunications Licence] [that were not lawfully permitted] as at the date of commencement of Part 12 of the ECA, pending a determination by the Authority whether:

- (a) the Licensee has Significant Market Power in one or more relevant markets and until such time as the Authority confirms that the Licensee has complied with any Ex Ante Remedies imposed on the Licensee by the Authority; or
- (b) the Licensee has failed to pay any fees due and payable under its pre-existing licence and until such time as the Authority confirms that all amounts in arrears, including any applicable interest and penalties, have been paid in full to the Authority.

A1.2 Notwithstanding the provisions of Condition 20, the Licensee shall obtain the prior approval of the Authority, acting with the written consent of the Minister, for (i) any increase in the ownership of the shares, stocks or other securities or voting rights, or (ii) any transfer of assets relating to the provision of Electronic Communications Services, of another ICOL holder in which the Licensee has an ownership interest:

- (a) until such time as the Authority determines that the Licensee does not possess Significant Market Power in one or more relevant markets; and
- (b) if the Authority determines that the Licensee possesses Significant Market Power in one or more relevant markets, until such time as the Authority confirms that the Licensee has complied with any Ex Ante Remedies imposed on the Licensee by the Authority.

A2 COMPLIANCE

A2.1 The Licensee shall comply with the provisions of Sections 21 and 23A of the Telecommunications Act 1986, which are reproduced in Annex B, until the later of the following events:

- (a) the Authority determines that the Licensee does not possess Significant Market Power in one or more relevant markets; or

- (b) if the Authority determines that the Licensee possesses Significant Market Power, the Authority confirms that the Licensee has complied with any Ex Ante Remedies imposed on the Licensee by the Authority.

For purposes of this Transitional Condition, references in Annex B to “Carrier” shall mean the Licensee and references to “the Department” and “the Commission” shall mean the Authority.

A2.2 If the Licensee was designated as a Specified Carrier in the First Schedule of the Telecommunications Act 1986, the Licensee may not, without the prior written approval of the Authority, modify the tariffs or prices of Electronic Communications Services in effect as at the commencement date of the Licence, and shall otherwise comply with the provisions of Section 23 of the Telecommunications Act 1986, which is reproduced in Annex B, until the later of the following events:

- (a) the Authority determines that the Licensee does not possess Significant Market Power in one or more relevant markets; or
- (b) if the Authority determines that the Licensee possesses Significant Market Power, the Authority confirms that the Licensee has complied with any Ex Ante Remedies imposed on the Licensee by the Authority.

Notwithstanding the foregoing, the Authority may eliminate the prior approval requirement for individual Electronic Communications Services provided by the Licensee.

For purposes of this Transitional Condition, references in Annex B to “Carrier” shall mean the Licensee, references to “the Commission” shall mean the Authority, and references to “Section 24” shall mean the Authority’s Administrative Rules.

A2.3 The Licensee shall comply with all statutory instruments, administrative determinations, authorizations and adjudicative decisions and orders or their equivalent that relate to Electronic Communications that were made or given effect in accordance with the Telecommunications Act 1986 and that were in operation as at the date of commencement of the ECA, until such time as their disposition is determined by the Minister or the Authority. Notwithstanding the foregoing, in the case of an irreconcilable conflict between the ECA and any such legal instruments, the Licensee shall comply with the requirements of the ECA.

A3 PAY TELEPHONES AND OPERATOR SERVICES

A3.1 The Licensee may provide Public Pay Telephone Service, provided, however, that the Licensee:

- (a) shall conspicuously post on or near each pay telephone:
 - (i) the charges, including surcharges, that will be incurred by Users for all domestic and international voice and data calls,

including operator-assisted calls and access to toll-free numbers; and

(ii) the name, business address, email address and toll-free number of the Licensee;

(b) may not knowingly charge for unanswered calls; and

(c) shall immediately connect all calls to emergency services without charge.

If the Licensee is providing Pay Telephone Service as at the date of commencement of the ECA, the Licensee shall continue to provide such service until such time as the Authority approves the discontinuation of such service.

A3.2 The Licensee may provide Operator Services, provided, however, the Licensee:

(a) shall identify itself to the User, verbally for voice calls and otherwise for non-voice calls, at the beginning of each call before the call is connected and billed;

(b) shall provide a mechanism to inform the User of the price of each call, including any surcharges, before the call is connected and billed;

(c) may not knowingly charge for unanswered calls; and

(d) shall immediately connect all calls to emergency services without charge.

If the Licensee is providing Operator Services as at the date of commencement of the ECA, the Licensee shall continue to provide such service until such time as the Authority approves the discontinuation of such service.

A4 DIRECTORIES AND DIRECTORY ENQUIRY SERVICE

A4.1 The Licensee may publish Directories and provide Directory Enquiry Service, provided, however, that the Licensee shall provide Subscribers, including Subscribers of Other Licensees, with the option to be excluded from a Directory and Directory Enquiry Service; and provided further that if the Licensee obtains Subscriber data from Other Licensees pursuant to Transitional Condition A4.2 below, the Licensee may not use that data for any purpose other than providing Directories or Directory Enquiry Services.

A4.2 Subject to the requirements of Condition 13 of this Licence, the Licensee shall, at its own expense, maintain a complete and accurate database of its Subscribers' Numbers and make that data (including Numbers that Subscribers have asked be excluded from Directories and Directory Enquiry Services) available to licensees, designated by the Authority, that wish to provide Directories and Directory Enquiry Services on reasonable terms and

conditions, in a format agreed between the Licensee and the other licensee requesting the data.

- A4.3** If the Licensee is providing Directories or Directory Enquiry Service as at the date of commencement of the ECA, the Licensee shall continue to provide such service until such time as the Authority approves the discontinuation of such Directories and service.

ANNEX B

Excerpts from Telecommunications Act 1986

Duties of Carriers

- 21 (1) Subject to this section, it shall be the duty of every Carrier—
- (a) to furnish telecommunication service upon any reasonable request therefor and upon reasonable terms and conditions;
 - (b) to establish, upon reasonable terms and conditions, interconnection, at any technically feasible point within its network, with other Carriers; and such interconnection shall be at least equal in quality to that provided to itself, a subsidiary, affiliate or any other Carrier, to which it provides interconnection;
 - (c) to provide, on reasonable terms and conditions, for physical collocation of interconnection at its premises;
 - (d) to establish, and provide facilities for operating, through routes, on reasonable terms and conditions;
 - (e) subject to subsection (1A), to maintain the confidentiality of any information provided by a customer or another Carrier;
 - (f) to refrain from any act or practice which is intended, or is likely, to have the effect of lessening competition;
 - (g) to refrain from marketing practices or advertisements which are false or misleading in a material respect;
 - (h) to provide to other Carriers, upon reasonable terms and conditions, access to support structures including telephone poles, underground conduits and communication towers;
 - (i) to maintain existing services unless permitted by the Commission to discontinue such services;
 - (j) to display—
 - (i) in a conspicuous place in the Carrier's principal place of business or in such other place as may be specified in writing by the Minister; and
 - (ii) in such a manner that all the terms and conditions subject to which the licence is granted are visible and legible,
- every licence granted under this Act or authorized by law to establish, maintain or operate a public telecommunication service;

- (k) to submit to the Commission either prior to, or not later than ten days after, execution, and in such form as the Commission may specify, copies of all agreements in respect of interconnection or access to support structures between that Carrier and another Carrier, including any amendments to any existing agreements between Carriers.

(1A) Subsection (1)(e) does not apply—

- (a) where one Carrier wishes to transfer certain classes of services to another Carrier;
- (b) in respect public telecommunication services which are directly connected with the delivery of emergency services; or
- (c) where in the special circumstances of a particular case the Minister determines that it is in the public interest that such confidentiality should not apply.

(2) A carrier shall comply with a request under paragraph (1)(a), (b), (c) or (d) within thirty days of the request being made or within such longer period as the Commission may allow, and a Carrier is not relieved of the duty imposed by those paragraphs by reason only of the Carrier's inability to comply with the request within the time specified.

(3) For the purpose of paragraph (1)(k) any Carrier that is party to an agreement may furnish a copy of the agreement to the Commission on behalf of all the Carriers that are party to the agreement.

(4) Upon receipt of a copy of an agreement under paragraph (1)(k) the Commission shall within ten days either indicate its approval of such agreement or its intention to enquire into the agreement.

(5) Where the Commission approves an agreement and informs the Carrier in writing of such approval, the agreement shall either be executed within seven business days by all parties or remain in force as the case may be.

(6) If the Commission decides to enquire into any aspect of an agreement the Commission shall conclude its enquiries as expeditiously as possible and in no case in more than thirty days or such longer period as the Minister may allow and give a direction—

- (a) approving the agreement;
- (b) approving the agreement on a provisional basis;
- (c) changing the agreement in whole or in part; or
- (d) suspending the agreement or postponing the date upon which the agreement is intended to be executed to such other date as may be specified,

and the Carriers shall comply therewith.

(7) Where a Carrier has established to the satisfaction of the Commission that an existing service is unprofitable or loss-making, the Commission shall not refuse permission to discontinue that service unless—

- (a) the Commission considers that it is in the public interest to refuse permission, having regard to the utility of the service, the availability of suitable substitutes and the degree of reliance on the service by the public or segments of the public; and
- (b) the Commission is satisfied that the Carrier will be adequately compensated for the loss involved in continuing the service by the rates and charges it charges for other services it provides.

(8) No Carrier may disconnect another Carrier without the consent in writing of that Carrier or the Minister.

(9) A Carrier may only seek the permission of the Minister to disconnect another Carrier if—

- (a) that Carrier fails to settle its accounts due within a period of thirty days after receipt of a written warning notice and within a further period of thirty days after receipt of a written notice of intention to seek permission for disconnection;
- (b) that Carrier fails to comply with any term of the contract or agreement for the provision of the service;
- (c) that Carrier fails to conform to the agreed technical specification for the provision and operation of the service; or
- (d) there is other just and reasonable cause for disconnection.

(10) A Carrier which seeks the Minister's permission to disconnect another Carrier shall give notice to the Minister in writing not less than thirty days before the date of the proposed disconnection, informing the Minister of the reasons for the proposed disconnection, and the Minister shall forthwith refer the matter to the Commission for enquiry and report.

(11) Upon referral of a matter to the Commission under subsection (10), the Commission shall conclude its enquiry as expeditiously as possible and report to the Minister with recommendations within twenty days of the date of referral by the Minister.

(12) The Minister shall render a decision on a proposed disconnection of one Carrier by another within thirty days of receipt by the Minister of the notice by the Carrier under subsection (10).

Specified Carriers must give notice to Commission of charges

23 (1) Subject to this Act, no specified Carrier shall initiate a new telecommunication service or vary its rates and charges for existing telecommunication services unless it gives notice in writing of the new service and the proposed rates and charges therefor, the proposed variation in the rates and charges for the existing service and the amount thereof to the Commission and publishes a notice in accordance with subsection (2).

(2) A notice under subsection (1) shall be published in such form approved by the Commission on two separate days in not less than one local newspaper approved by the Commission and shall specify therein that any person may make objections and forward such objections to the Commission within twenty-one days from the second date of publication of the notice.

(3) Where a notice under subsection (1) is given, then subject to subsection (4) or subject to the Commission giving a direction under section 24 a new service and the rates and charges therefor or a variation in the existing rates and charges shall not be introduced.

(4) Where the Commission is satisfied with the notice given under subsection (1) and informs the specified Carrier in writing or by notice published in the Gazette that it does not intend to inquire into the matter, the specified Carrier may introduce the new service and the rates and charges therefor or the variation in the existing rates and charges, as the case may be.

Carriers to maintain lists of rates and charges

23A (1) A Carrier shall at all times keep at its place of business in Bermuda or such other place approved by the Commission, and on its website if any, a current list of all its rates and charges and shall make the list available for inspection by any person without charge during business hours subject to such reasonable restrictions as the Carrier may impose.

(2) A Carrier shall prior to initiating a new telecommunication service or varying the rates or charges for existing telecommunication services as the case may be furnish to the Department in such form as may be specified by the Commission, notice in writing of the new service and the rates and charges therefor or the revised rates and charges for the existing service as the case may be and such information shall be available for inspection at the offices of the Department or such other location as maybe specified by the Commission.

(3) A Carrier which contravenes any provision of this section is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding five thousand dollars and, in the case of a continuing offence, is liable to a further fine of five hundred dollars for each day during which the contravention continues.

ANNEX C

RADIO FREQUENCY SPECTRUM

Set forth below are the frequencies assigned to the Licensee as at _____.

Exclusive Assignments

Radio Frequency	Radio Service	Geographic Coverage Area

Non-Exclusive Assignments

Radio Frequency	Radio Service	Geographic Coverage Area



Spectrum Licence

Granted to

[Name]

[Address]

FIXED WIRELESS ACCESS

Dated: _____

Licence Number: _____

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ this Radio Spectrum licence, which provides the right to use the assigned Radio Spectrum in accordance with the terms and conditions of this Licence and its Schedules, the terms and conditions of the Licensee's associated Integrated Communications Operating Licence, the Electronic Communications Act 2011, the Regulatory Authority Act 2012, and any Regulations, General Determinations, Adjudicative Decisions, Orders or Directives made or issued in accordance with these Acts and applicable international treaties and regulations.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Licence, unless the context otherwise requires:

“Assigned Frequencies” means the frequencies assigned to the Licensee, as set forth in Schedule A attached hereto;

“Associated ICOL” means the Integrated Communications Operating Licence granted to the Licensee;

“Authority” means the Regulatory Authority;

“Authorized Use” means the use of the Assigned Frequencies as described in Condition 3.1 of this Licence;

“Bermuda Frequency Assignment Register” means a register containing a table of radio frequency spectrum assignments, including the name of the licensee, the frequencies assigned, the Authorized Use(s) and any other relevant information contained in Schedule A;

“Co-Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence to use specified frequencies, subject to the condition that the licensee shall coordinate with other Co-Primary licensees to limit Harmful Interference to existing links and services operating in the relevant frequency bands, and facilitate the introduction of additional links and services in the relevant frequencies. Co-Primary licensees shall refrain from causing Harmful Interference to, and may not require protection from, the links and services of other Co-Primary licensees that were previously authorized and operating in the licensed frequencies. All Co-Primary licensees are authorized to use the frequencies covered by their respective licences subject to protection from: (1) Harmful Interference caused by any other licensee that may be authorized to use the same Radio Spectrum on a Secondary Basis, and (2) claims of Harmful Interference from holders of secondary licences with respect to the frequencies;

“Control” means:

- (a) the power, whether held directly or indirectly, to exercise decisive influence over the Licensee, including by directing its management and policies, whether through ownership of shares, stocks or other securities or voting rights, or through an agreement or arrangement of any type, or otherwise; and
- (b) shall, in any event, be deemed to exist in any case involving the ownership of 25 per cent or more of the shares, stock or other securities or voting rights, including through an agreement or arrangement of any type;

“Distress signal” means radio signals broadcast to indicate that a person, ship, aircraft or other vehicle is in distress and requires immediate assistance;

“ECA” means the Electronic Communications Act 2011;

“ITU” means the International Telecommunication Union;

“Licence” means this Radio Spectrum licence granted to the Licensee;

“Licensee” means [NAME of COMPANY], [Address], and [Company Reg. No.] and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence, pursuant to which the licensee is the only Person authorized to use the specified frequency bands who is also entitled to protection from: (1) Harmful Interference caused by any other licensee who may be authorized to use the same spectrum on a Secondary Basis; and (2) claims of Harmful Interference by any such licensee;

“RAA” means the Regulatory Authority Act 2011;

“Secondary Basis” means the nature of a right granted to a holder of a Radio Spectrum licence that is authorized to use specified frequencies subject to the condition that such licensee does not cause any Harmful Interference to, or claim protection from any Harmful Interference caused by, other licensees who have been granted the right to use the same frequency bands on a Primary or Co-Primary Basis; and

“Sub-license” means any segregation or partition of the radio frequency usage rights granted herein and shall include any arrangement by the Licensee to share radio frequency rights with one or more third parties, including any Affiliate.

- 1.2** For the purpose of interpreting this Licence, words or expressions shall have the meaning assigned to them in the Associated ICOL, unless otherwise specified, and the rules of interpretation in Condition 2 of the Associated ICOL shall apply.

2 ASSIGNED FREQUENCIES AND USAGE RIGHTS

- 2.1** Subject to the Applicable Regulatory Framework, the Associated ICOL and the terms and conditions of this Licence, the Licensee is hereby authorized to use the Assigned Frequencies. The Licensee shall have the right to use the Assigned Frequencies on a Primary Basis. Schedule A shall be revised and updated, as necessary, to reflect the assignment of frequencies under this Licence.
- 2.2** The Licensee shall comply with any technical or other requirements that the Authority may adopt in respect of the Authorized Use.
- 2.3** The Licensee shall utilize the Assigned Frequencies in full conformity with the Bermuda Frequency Allocation Table and the Bermuda Frequency Assignment Register maintained by the Authority, including any amendments thereto, subject to Condition 3 of this Licence.

3 SCOPE OF LICENCE

- 3.1** This Licence grants the Licensee the right to use the Assigned Frequencies in conjunction with the Associated ICOL, exclusively in the provision of Fixed Wireless Access, including:

[as authorized by TA 86 licences/frequency authorizations]

- 3.2** This Licence does not grant the Licensee any ownership rights in the Assigned Frequencies, and no such rights shall be created or implied by virtue of the Licensee's use of the Assigned Frequencies.
- 3.3** The Licensee shall not use the Assigned Frequencies in the provision of Public Electronic Communications Services unless the Associated ICOL is and remains valid and effective.
- 3.4** Nothing in this Licence shall relieve the Licensee of the obligation to comply with any other requirement of law or practice to obtain additional consents, permissions, authorizations, licences or permits as may be necessary to operate Radio Apparatus or Radio Stations, establish, construct and operate an Electronic Communications Network, or provide Electronic Communications Services.

4 GRANT AND DURATION OF THE LICENCE

This Licence is valid and effective from the date hereof and shall remain in effect, provided that the Associated ICOL is valid and effective, until the earlier of:

- (a) [date] [18 months after issue];
- (b) the date on which the Licensee surrenders this Licence; or
- (c) the date on which this Licence is revoked pursuant to Section 93(5) of the RAA.

5 RENEWAL

- 5.1** This Licence may be renewed, at the discretion of the Authority for a term not to exceed 10 years, provided that the duration of the renewed Licence shall not exceed that of the Associated ICOL.
- 5.2** This Licence may only be renewed if the Associated ICOL remains valid and effective.

6 MODIFICATION

This Licence, including its Schedules, may be modified by the Authority:

- (a) with the consent of the Licensee;
- (b) pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA;

- (c) to conform to the terms and conditions of the Associated ICOL, including any modifications thereto;
- (d) to bring the terms of the Licence into conformity with international treaty obligations or regulations or the Applicable Regulatory Framework (including the Bermuda Frequency Allocation Table);
- (e) following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA; or
- (f) following the conclusion of a spectrum investigation pursuant to Section 78 of the ECA or following an adjudication pursuant to Section 41 of the ECA.

7 OBLIGATIONS UNDER THE LICENCE

- 7.1** The Licensee shall comply with existing and future international coordination requirements and procedures, including the relevant international Radio Regulations issued by the ITU. Upon request of the Authority, the Licensee shall provide technical assistance and support to the Minister and the Authority in connection with the Government of Bermuda's participation in regional and international governmental organizations for purposes of spectrum management and coordination.
- 7.2** The Licensee shall coordinate, when necessary, with other Radio Spectrum licensees in Bermuda to avoid Harmful Interference. In the event of a disagreement between or among licensees regarding the prevention or causation of Harmful Interference, the affected licensees shall be responsible for resolving such disputes expeditiously and, if such efforts are unsuccessful, one or more of the licensees involved may request that the Authority intervene to resolve the dispute.
- 7.3** The Licensee shall assist the Authority in the coordination and management of Radio Spectrum and shall make efficient use of the Assigned Frequencies for the Authorized Use or Uses. The Licensee shall notify the Authority promptly if the Licensee no longer requires the use of any or all of the Assigned Frequencies.
- 7.4** The Licensee shall cooperate fully with the Authority in identifying whether and to what extent the Assigned Frequencies are being used efficiently and whether the Licensee has a reasonable need for all or a portion of the Assigned Frequencies in accordance with Section 78 of the ECA, including as follows:
 - (a) The Licensee shall promptly provide any information requested by the Authority concerning the Licensee's actual or proposed use of the Assigned Frequencies and other Radio Spectrum resources.
 - (b) The Licensee shall submit to the Authority, no later than six months following the effective date of this Licence, a report approved by the Licensee's Board of Directors containing a detailed analysis of spectrum usage by the Licensee, in the format prescribed by the Authority, in relation to services that were provided using the Assigned Frequencies for the Authorized Uses as at the date of the commencement of Part 12 of the ECA.
 - (c) The Licensee shall comply fully with any timetables established by the Authority for the release of any of the Assigned Frequencies if required by the

Authority, provided that the timetable for release shall commence no sooner than [Licence expiry date/18 months].

7.5 The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises or premises used by the Licensee to inspect, examine, investigate or audit the Licensee's use of Radio Apparatus and Radio Spectrum.

7.6 The Licensee shall accept distress signals and messages with absolute priority as required by Section 43(5) of the ECA and take any necessary actions as required by the Convention.

8 FEES AND PENALTIES

8.1 The Licensee shall pay to the Authority any Government Authorization Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(1) of the ECA, Section 52 of the RAA, and the Government Fees Act 1965.

8.2 The Licensee shall pay to the Authority any Regulatory Authority Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(3) of the ECA, Section 44 of the RAA, and the Government Fees Act 1965.

8.3 The Licensee shall pay all applicable fees for Radio Apparatus using the Assigned Frequencies.

8.4 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under this Licence and for any other contraventions of this Licence or the Applicable Regulatory Framework.

9 COMPLIANCE

Failure to comply with the terms of this Licence shall constitute a violation of the conditions of this Licence and the Associated ICOL, and violations shall be dealt with in accordance with the procedures set forth in the ECA.

10 ENFORCEMENT AND REVOCATION

The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA if there is reason to believe that the Licensee has contravened the conditions of this Licence or the Applicable Regulatory Framework, including failure to pay any fees prescribed for use of the Assigned Frequencies in full on a timely basis.

11 ASSIGNMENT

The Licensee shall not transfer, assign, Sub-License or lease, in whole or in part, this Licence or the spectrum usage rights granted herein to any third party, including any Affiliate, without the prior written authorization of the Authority acting with the written consent of the Minister. For purposes of this condition, "assignment" shall be deemed to include a change of Control of the Licensee.

12 RECORD-KEEPING OBLIGATIONS

The Licensee shall maintain the following records up-to date and promptly provide the Authority with copies upon request:

- (a) the equipment specifications of all Radio Stations and other Radio Apparatus operating under this Licence;
- (b) the coverage area of the Licensee's Electronic Communications Network and of each Radio Station;
- (c) the effective radiated power of any Radio Station and its location and height;
- (d) the measures taken to ensure that each Radio Station is not a source of harmful radiation to the public, and the Licensee's employees and contractors;
- (e) any information necessary for the Authority to develop and keep updated the Bermuda Frequency Allocation Table and Bermuda Frequency Assignment Register;
- (f) the emission designation of each Radio Station, as prescribed by the Applicable Regulatory Framework; and
- (g) the types of services provided to the Licensee's End-Users and Subscribers using the Assigned Frequencies.

13 NOTICES

The notice provisions of the Associated ICOL shall apply to this Licence.

SCHEDULE A

ASSIGNMENT OF RADIO FREQUENCY SPECTRUM

The frequency bands listed in the Schedule below have been assigned for use by the Licensee for point-to-multipoint links from the specified geographic base/repeater station location. "Assigned Frequencies" means, unless otherwise specified below, the paired radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits of the radio frequency bands specified in the table below.

		Frequency (MHz)			
Geographic Coverage Area	Band	From	To	Base/Repeater Station Location	Base/Repeater Station GPS



Spectrum Licence

Granted to

[Name]

[Address]

WIRELESS CABLE SERVICE

Dated: _____

Licence Number: _____

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ this Radio Spectrum licence, which provides the right to use the assigned Radio Spectrum in accordance with the terms and conditions of this Licence and its Schedules, the terms and conditions of the Licensee's associated Integrated Communications Operating Licence, the Electronic Communications Act 2011, the Regulatory Authority Act 2012, and any Regulations, General Determinations, Adjudicative Decisions, Orders or Directives made or issued in accordance with these Acts and applicable international treaties and regulations.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Licence, unless the context otherwise requires:

"Assigned Frequencies" means the frequencies assigned to the Licensee, as set forth in Schedule A attached hereto;

"Associated ICOL" means the Integrated Communications Operating Licence granted to the Licensee;

"Authority" means the Regulatory Authority;

"Authorized Use" means the use of the Assigned Frequencies as described in Condition 3.1 of this Licence;

"Bermuda Frequency Assignment Register" means a register containing a table of radio frequency spectrum assignments, including the name of the licensee, the frequencies assigned, the Authorized Use(s) and any other relevant information contained in Schedule A;

"Co-Primary Basis" means the nature of a right granted to the holder of a Radio Spectrum licence to use specified frequencies, subject to the condition that the licensee shall coordinate with other Co-Primary licensees to limit Harmful Interference to existing links and services operating in the relevant frequency bands, and facilitate the introduction of additional links and services in the relevant frequencies. Co-Primary licensees shall refrain from causing Harmful Interference to, and may not require protection from, the links and services of other Co-Primary licensees that were previously authorized and operating in the licensed frequencies. All Co-Primary licensees are authorized to use the frequencies covered by their respective licences subject to protection from: (1) Harmful Interference caused by any other licensee that may be authorized to use the same Radio Spectrum on a Secondary Basis, and (2) claims of Harmful Interference from holders of secondary licences with respect to the frequencies;

"Control" means:

- (a) the power, whether held directly or indirectly, to exercise decisive influence over the Licensee, including by directing its management and policies, whether through ownership of shares, stocks or other securities or voting rights, or through an agreement or arrangement of any type, or otherwise; and

- (b) shall, in any event, be deemed to exist in any case involving the ownership of 25 per cent or more of the shares, stock or other securities or voting rights, including through an agreement or arrangement of any type;

“Distress signal” means radio signals broadcast to indicate that a person, ship, aircraft or other vehicle is in distress and requires immediate assistance;

“ECA” means the Electronic Communications Act 2011;

“ITU” means the International Telecommunication Union;

“Licence” means this Radio Spectrum licence granted to the Licensee;

“Licensee” means [NAME of COMPANY], [Address], and [Company Reg. No.] and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence, pursuant to which the licensee is the only Person authorized to use the specified frequency bands who is also entitled to protection from: (1) Harmful Interference caused by any other licensee who may be authorized to use the same spectrum on a Secondary Basis; and (2) claims of Harmful Interference by any such licensee;

“RAA” means the Regulatory Authority Act 2011;

“Secondary Basis” means the nature of a right granted to a holder of a Radio Spectrum licence that is authorized to use specified frequencies subject to the condition that such licensee does not cause any Harmful Interference to, or claim protection from any Harmful Interference caused by, other licensees who have been granted the right to use the same frequency bands on a Primary or Co-Primary Basis; and

“Sub-license” means any segregation or partition of the radio frequency usage rights granted herein and shall include any arrangement by the Licensee to share radio frequency rights with one or more third parties, including any Affiliate.

- 1.2** For the purpose of interpreting this Licence, words or expressions shall have the meaning assigned to them in the Associated ICOL, unless otherwise specified, and the rules of interpretation in Condition 2 of the Associated ICOL shall apply.

2 ASSIGNED FREQUENCIES AND USAGE RIGHTS

- 2.1** Subject to the Applicable Regulatory Framework, the Associated ICOL and the terms and conditions of this Licence, the Licensee is hereby authorized to use the Assigned Frequencies. The Licensee shall have the right to use the Assigned Frequencies on a Primary Basis. Schedule A shall be revised and updated, as necessary, to reflect the assignment of frequencies under this Licence.
- 2.2** The Licensee shall comply with any technical or other requirements that the Authority may adopt in respect of the Authorized Use.

- 2.3** The Licensee shall utilize the Assigned Frequencies in full conformity with the Bermuda Frequency Allocation Table and the Bermuda Frequency Assignment Register maintained by the Authority, including any amendments thereto, subject to Condition 3 of this Licence.

3 SCOPE OF LICENCE

- 3.1** This Licence grants the Licensee the right to use the Assigned Frequencies in conjunction with the Associated ICOL, exclusively in the provision of Wireless Cable Service, including:

[as authorized by TA 86 licences/frequency authorizations]

- 3.2** This Licence does not grant the Licensee any ownership rights in the Assigned Frequencies, and no such rights shall be created or implied by virtue of the Licensee's use of the Assigned Frequencies.
- 3.3** The Licensee shall not use the Assigned Frequencies in the provision of Public Electronic Communications Services unless the Associated ICOL is and remains valid and effective.
- 3.4** Nothing in this Licence shall relieve the Licensee of the obligation to comply with any other requirement of law or practice to obtain additional consents, permissions, authorizations, licences or permits as may be necessary to operate Radio Apparatus or Radio Stations, establish, construct and operate an Electronic Communications Network, or provide Electronic Communications Services.

4 GRANT AND DURATION OF THE LICENCE

This Licence is valid and effective from the date hereof and shall remain in effect, provided that the Associated ICOL is valid and effective, until the earlier of:

- (a) [date] [18 months thereafter];
- (b) the date on which the Licensee surrenders this Licence; or
- (c) the date on which this Licence is revoked pursuant to Section 93(5) of the RAA.

5 RENEWAL

- 5.1** This Licence may be renewed, at the discretion of the Authority for a term not to exceed 10 years, provided that the duration of the renewed Licence shall not exceed that of the Associated ICOL.
- 5.2** This Licence may only be renewed if the Associated ICOL remains valid and effective.

6 MODIFICATION

This Licence, including its Schedules, may be modified by the Authority:

- (a) with the consent of the Licensee;
- (b) pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA;
- (c) to conform to the terms and conditions of the Associated ICOL, including any modifications thereto;
- (d) to bring the terms of the Licence into conformity with international treaty obligations or regulations or the Applicable Regulatory Framework (including the Bermuda Frequency Allocation Table);
- (e) following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA; or
- (f) following the conclusion of a spectrum investigation pursuant to Section 78 of the ECA or following an adjudication pursuant to Section 41 of the ECA.

7 OBLIGATIONS UNDER THE LICENCE

- 7.1** The Licensee shall comply with existing and future international coordination requirements and procedures, including the relevant international Radio Regulations issued by the ITU. Upon request of the Authority, the Licensee shall provide technical assistance and support to the Minister and the Authority in connection with the Government of Bermuda's participation in regional and international governmental organizations for purposes of spectrum management and coordination.
- 7.2** The Licensee shall coordinate, when necessary, with other Radio Spectrum licensees in Bermuda to avoid Harmful Interference. In the event of a disagreement between or among licensees regarding the prevention or causation of Harmful Interference, the affected licensees shall be responsible for resolving such disputes expeditiously and, if such efforts are unsuccessful, one or more of the licensees involved may request that the Authority intervene to resolve the dispute.
- 7.3** The Licensee shall assist the Authority in the coordination and management of Radio Spectrum and shall make efficient use of the Assigned Frequencies for the Authorized Use or Uses. The Licensee shall notify the Authority promptly if the Licensee no longer requires the use of any or all of the Assigned Frequencies.
- 7.4** The Licensee shall cooperate fully with the Authority in identifying whether and to what extent the Assigned Frequencies are being used efficiently and whether the Licensee has a reasonable need for all or a portion of the Assigned Frequencies in accordance with Section 78 of the ECA, including as follows:
 - (a) The Licensee shall promptly provide any information requested by the Authority concerning the Licensee's actual or proposed use of the Assigned Frequencies and other Radio Spectrum resources.

- (b) The Licensee shall submit to the Authority, no later than six months following the effective date of this Licence, a report approved by the Licensee's Board of Directors containing a detailed analysis of spectrum usage by the Licensee, in the format prescribed by the Authority, in relation to services that were provided using the Assigned Frequencies for the Authorized Uses as at the date of the commencement of Part 12 of the ECA.
- (c) The Licensee shall comply fully with any timetables established by the Authority for the release of any of the Assigned Frequencies if required by the Authority, provided that the timetable for release shall commence no sooner than [Licence expiry date/18 months].

7.5 The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises, and shall facilitate access by them to premises used by the Licensee, in order to inspect, examine, investigate or audit the Licensee's use of Radio Apparatus and Radio Spectrum.

7.6 The Licensee shall accept distress signals and messages with absolute priority as required by Section 43(5) of the ECA and take any necessary actions as required by the Convention.

8 FEES AND PENALTIES

8.1 The Licensee shall pay to the Authority any Government Authorization Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(1) of the ECA, Section 52 of the RAA, and the Government Fees Act 1965.

8.2 The Licensee shall pay to the Authority any Regulatory Authority Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(3) of the ECA, Section 44 of the RAA, and the Government Fees Act 1965.

8.3 The Licensee shall pay all applicable fees for Radio Apparatus using the Assigned Frequencies.

8.4 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under this Licence and for any other contraventions of this Licence or the Applicable Regulatory Framework.

9 COMPLIANCE

Failure to comply with the terms of this Licence shall constitute a violation of the conditions of this Licence and the Associated ICOL, and violations shall be dealt with in accordance with the procedures set forth in the ECA.

10 ENFORCEMENT AND REVOCATION

The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA if there is reason to believe that the Licensee has contravened the conditions of this Licence or the Applicable Regulatory Framework, including failure to pay any fees prescribed for use of the Assigned Frequencies in full on a timely basis.

11 ASSIGNMENT

The Licensee shall not transfer, assign, Sub-License or lease, in whole or in part, this Licence or the spectrum usage rights granted herein to any third party, including any Affiliate, without the prior written authorization of the Authority acting with the written consent of the Minister. For purposes of this condition, "assignment" shall be deemed to include a change of Control of the Licensee.

12 RECORD-KEEPING OBLIGATIONS

The Licensee shall maintain the following records up-to date and promptly provide the Authority with copies upon request:

- (a) the equipment specifications of all Radio Stations and other Radio Apparatus operating under this Licence;
- (b) the coverage area of the Licensee's Electronic Communications Network and of each Radio Station;
- (c) the effective radiated power of any Radio Station and its location and height;
- (d) the measures taken to ensure that each Radio Station is not a source of harmful radiation to the public, and the Licensee's employees and contractors;
- (e) any information necessary for the Authority to develop and keep updated the Bermuda Frequency Allocation Table and Bermuda Frequency Assignment Register;
- (f) the emission designation of each Radio Station, as prescribed by the Applicable Regulatory Framework; and
- (g) the types of services provided to the Licensee's End-Users and Subscribers using the Assigned Frequencies.

13 NOTICES

The notice provisions of the Associated ICOL shall apply to this Licence.

SCHEDULE A

ASSIGNMENT OF RADIO FREQUENCY SPECTRUM

The frequency bands listed in the Schedule below have been assigned for use by the Licensee for point-to-multipoint links from the specified geographic base/repeater station location. "Assigned Frequencies" means, unless otherwise specified below, the paired radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits of the radio frequency bands specified in the table below.

		Frequency (MHz)			
Geographic Coverage Area	Band	From	To	Base/Repeater Station Location	Base/Repeater Station GPS



Spectrum Licence

Granted to

[Name]

[Address]

MOBILE

Dated: _____

Licence Number: _____

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ this Radio Spectrum licence, which provides the right to use the assigned Radio Spectrum in accordance with the terms and conditions of this Licence and its Schedules, the terms and conditions of the Licensee's associated Integrated Communications Operating Licence, the Electronic Communications Act 2011, the Regulatory Authority Act 2012, and any Regulations, General Determinations, Adjudicative Decisions, Orders or Directives made or issued in accordance with these Acts and applicable international treaties and regulations.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Licence, unless the context otherwise requires:

"Assigned Frequencies" means the frequencies assigned to the Licensee, as set forth in Schedule A attached hereto;

"Associated ICOL" means the Integrated Communications Operating Licence granted to the Licensee;

"Authority" means the Regulatory Authority;

"Authorised Use" means the use of the Assigned Frequencies as described in Condition 3.1 of this License;

"Bermuda Frequency Assignment Register" means a register containing a table of radio frequency spectrum assignments, including the name of the licensee, the frequencies assigned, the Authorized Use(s) and any other relevant information contained in Schedule A;

"Co-Primary Basis" means the nature of a right granted to the holder of a Radio Spectrum licence to use specified frequencies, subject to the condition that the licensee shall coordinate with other Co-Primary licensees to limit Harmful Interference to existing links and services operating in the relevant frequency bands, and facilitate the introduction of additional links and services in the relevant frequencies. Co-Primary licensees shall refrain from causing Harmful Interference to, and may not require protection from, the links and services of other Co-Primary licensees that were previously authorized and operating in the licensed frequencies. All Co-Primary licensees are authorized to use the frequencies covered by their respective licences subject to protection from: (1) Harmful Interference caused by any other licensee that may be authorized to use the same Radio Spectrum on a Secondary Basis, and (2) claims of Harmful Interference from holders of secondary licenses with respect to the frequencies;

"Control" means:

- (a) the power, whether held directly or indirectly, to exercise decisive influence over the Licensee, including by directing its management and policies, whether through ownership of shares, stocks or other securities or voting rights, or through an agreement or arrangement of any type, or otherwise; and

- (b) shall, in any event, be deemed to exist in any case involving the ownership of 25 per cent or more of the shares, stock or other securities or voting rights, including through an agreement or arrangement of any type;

“Distress signal” means radio signals broadcast to indicate that a person, ship, aircraft or other vehicle is in distress and requires immediate assistance;

“ECA” means the Electronic Communications Act 2011;

“ITU” means the International Telecommunication Union;

“Licence” means this Radio Spectrum licence granted to the Licensee;

“Licensee” means [NAME of COMPANY], [Address], and [Company Reg. No.] and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence, pursuant to which the licensee is the only Person authorized to use the specified frequency bands who is also entitled to protection from: (1) Harmful Interference caused by any other licensee who may be authorized to use the same spectrum on a Secondary Basis; and (2) claims of Harmful Interference by any such licensee;

“RAA” means the Regulatory Authority Act 2011;

“Secondary Basis” means the nature of a right granted to a holder of a Radio Spectrum licence that is authorized to use specified frequencies subject to the condition that such licensee does not cause any Harmful Interference to, or claim protection from any Harmful Interference caused by, other licensees who have been granted the right to use the same frequency bands on a Primary or Co-Primary Basis; and

“Sub-license” means any segregation or partition of the radio frequency usage rights granted herein and shall include any arrangement by the Licensee to share radio frequency rights with one or more third parties, including any Affiliate.

- 1.2** For the purpose of interpreting this Licence, words or expressions shall have the meaning assigned to them in the Associated ICOL, unless otherwise specified, and the rules of interpretation in Condition 2 of the Associated ICOL shall apply.

2 ASSIGNED FREQUENCIES AND USAGE RIGHTS

- 2.1** Subject to the Applicable Regulatory Framework, the Associated ICOL and the terms and conditions of this Licence, the Licensee is hereby authorized to use the Assigned Frequencies. The Licensee shall have the right to use the Assigned Frequencies on a Primary Basis. Schedule A shall be revised and updated, as necessary, to reflect the assignment of frequencies under this Licence.
- 2.2** The Licensee shall comply with any technical or other requirements that the Authority may adopt in respect of the Authorized Use.

- 2.3** The Licensee shall utilize the Assigned Frequencies in full conformity with the Bermuda Frequency Allocation Table and the Bermuda Frequency Assignment Register maintained by the Authority, including any amendments thereto, subject to Condition 3 of this Licence.

3 SCOPE OF LICENCE

- 3.1** This Licence grants the Licensee the right to use the Assigned Frequencies in conjunction with the Associated ICOL, solely for the provision of commercial mobile radio services, including:

[as authorized by TA 86 licences/frequency authorizations]

- 3.2** This Licence does not grant the Licensee any ownership rights in the Assigned Frequencies, and no such rights shall be created or implied by virtue of the Licensee's use of the Assigned Frequencies.
- 3.3** The Licensee shall not use the Assigned Frequencies in the provision of Public Electronic Communications Services unless the Associated ICOL is and remains valid and effective.
- 3.4** Nothing in this Licence shall relieve the Licensee of the obligation to comply with any other requirement of law or practice to obtain additional consents, permissions, authorizations, licenses or permits as may be necessary to operate Radio Apparatus or Radio Stations, establish, construct and operate an Electronic Communications Network, or provide Electronic Communications Services.

4 GRANT AND DURATION OF THE LICENCE

This Licence is valid and effective from the date hereof and shall remain in effect, provided that the Associated ICOL is valid and effective, until the earlier of:

- (a) [date] [18 months after issue];
- (b) the date on which the Licensee surrenders this Licence; or
- (c) the date on which this Licence is revoked pursuant to Section 93(5) of the RAA.

5 RENEWAL

- 5.1** This Licence may be renewed, at the discretion of the Authority, for a term not to exceed 10 years, provided that the duration of the renewed Licence shall not exceed that of the Associated ICOL.
- 5.2** This Licence may only be renewed if the Associated ICOL remains valid and effective.

6 MODIFICATION

This Licence, including its Schedules, may be modified by the Authority:

- (a) with the consent of the Licensee;
- (b) pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA;
- (c) to conform to the terms and conditions of the Associated ICOL, including any modifications thereto;
- (d) to bring the terms of the Licence into conformity with international treaty obligations or regulations or the Applicable Regulatory Framework (including the Bermuda Frequency Allocation Table);
- (e) following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA; or
- (f) following the conclusion of a spectrum investigation pursuant to Section 78 of the ECA or following an adjudication pursuant to Section 41 of the ECA.

7 OBLIGATIONS UNDER THE LICENCE

- 7.1** The Licensee shall comply with existing and future international coordination requirements and procedures, including the relevant international Radio Regulations issued by the ITU. Upon request of the Authority, the Licensee shall provide technical assistance and support to the Minister and the Authority in connection with the Government of Bermuda's participation in regional and international governmental organizations for purposes of spectrum management and coordination.
- 7.2** The Licensee shall coordinate, when necessary, with other Radio Spectrum licensees in Bermuda to avoid Harmful Interference. In the event of a disagreement between or among licensees regarding the prevention or causation of Harmful Interference, the affected licensees shall be responsible for resolving such disputes expeditiously and, if such efforts are unsuccessful, one or more of the licensees involved may request that the Authority intervene to resolve the dispute.
- 7.3** The Licensee shall assist the Authority in the coordination and management of Radio Spectrum and shall make efficient use of the Assigned Frequencies for the Authorised Use or Uses. The Licensee shall notify the Authority promptly if the Licensee no longer requires the use of any or all of the Assigned Frequencies.
- 7.4** The Licensee shall cooperate fully with the Authority in identifying whether and to what extent the Assigned Frequencies are being used efficiently and whether the Licensee has a reasonable need for all or a portion of the Assigned Frequencies in accordance with Section 78 of the ECA, including as follows:
 - (a) The Licensee shall promptly provide any information requested by the Authority concerning the Licensee's actual or proposed use of the Assigned Frequencies and other Radio Spectrum resources.

- (b) The Licensee shall submit to the Authority, no later than six months following the effective date of this Licence, a report approved by the Licensee's Board of Directors containing a detailed analysis of spectrum usage by the Licensee, in the format prescribed by the Authority, in relation to services that were provided using the Assigned Frequencies for the Authorized Uses as at the date of the commencement of Part 12 of the ECA.
- (c) The Licensee shall comply fully with any timetables established by the Authority for the release of any of the Assigned Frequencies if required by the Authority, provided that the timetable for release shall commence no sooner than [Licence expiry date/18 months].

7.5 The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises or premises used by the Licensee to inspect, examine, investigate or audit the Licensee's use of Radio Apparatus and Radio Spectrum.

7.6 The Licensee shall accept distress signals and messages with absolute priority as required by Section 43(5) of the ECA and take any necessary actions as required by the Convention.

8 FEES AND PENALTIES

8.1 The Licensee shall pay to the Authority any Government Authorization Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(1) of the ECA, Section 52 of the RAA, and the Government Fees Act 1965.

8.2 The Licensee shall pay to the Authority any Regulatory Authority Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(3) of the ECA, Section 44 of the RAA, and the Government Fees Act 1965.

8.3 The Licensee shall pay all applicable fees for Radio Apparatus using the Assigned Frequencies.

8.4 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under this Licence and for any other contraventions of this Licence or the Applicable Regulatory Framework.

9 COMPLIANCE

Failure to comply with the terms of this Licence shall constitute a violation of the conditions of this Licence and the Associated ICOL, and violations shall be dealt with in accordance with the procedures set forth in the ECA.

10 ENFORCEMENT AND REVOCATION

The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA if there is reason to believe that the Licensee has contravened the conditions of this Licence or the Applicable Regulatory Framework, including failure to pay any fees prescribed for use of the Assigned Frequencies in full on a timely basis.

11 ASSIGNMENT

The Licensee shall not transfer, assign, Sub-License or lease, in whole or in part, this Licence or the spectrum usage rights granted herein to any third party, including any Affiliate, without the prior written authorization of the Authority acting with the written consent of the Minister. For purposes of this condition, "assignment" shall be deemed to include a change of Control of the Licensee.

12 RECORD-KEEPING OBLIGATIONS

The Licensee shall maintain the following records up-to date and promptly provide the Authority with copies upon request:

- (a) the equipment specifications of all Radio Stations and other Radio Apparatus operating under this Licence;
- (b) the coverage area of the Licensee's Electronic Communications Network and of each Radio Station;
- (c) the effective radiated power of any Radio Station and its location and height;
- (d) the measures taken to ensure that each Radio Station is not a source of harmful radiation to the public, and the Licensee's employees and contractors;
- (e) any information necessary for the Authority to develop and keep updated the Bermuda Frequency Allocation Table and Bermuda Frequency Assignment Register;
- (f) the emission designation of each Radio Station, as prescribed by the Applicable Regulatory Framework; and
- (g) the types of services provided to the Licensee's End-Users and Subscribers using the Assigned Frequencies.

13 NOTICES

The notice provisions of the Associated ICOL shall apply to this Licence.

SCHEDULE A

ASSIGNMENT OF RADIO FREQUENCY SPECTRUM

The frequency bands listed in the Schedule below have been assigned for use by the Licensee in the provision of mobile services. "Assigned Frequencies" means, unless otherwise specified below, the paired radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits of the radio frequency bands specified in the table below.

		Frequency (MHz)			Frequency (MHz)		
Geographic Coverage Area	Band ²	Mobile to Base station		Block Size (MHz) ³	Base station to Mobile		Block Size (MHz) ³



Spectrum Licence

Granted to

[Name]

[Address]

POINT-TO-POINT MICROWAVE

Dated: _____

Licence Number: _____

The Regulatory Authority of Bermuda, in the exercise of the authority conferred upon it by the Electronic Communications Act 2011, hereby grants to _____ this Radio Spectrum licence, which provides the right to use the assigned Radio Spectrum in accordance with the terms and conditions of this Licence and its Schedules, the terms and conditions of the Licensee's associated Integrated Communications Operating Licence, the Electronic Communications Act 2011, the Regulatory Authority Act 2012, and any Regulations, General Determinations, Adjudicative Decisions, Orders or Directives made or issued in accordance with these Acts and applicable international treaties and regulations.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Licence, unless the context otherwise requires:

“Assigned Frequencies” means the frequencies assigned to the Licensee, as set forth in Schedule A attached hereto;

“Associated ICOL” means the Integrated Communications Operating Licence granted to the Licensee;

“Authority” means the Regulatory Authority;

“Authorized Use” means the use of the Assigned Frequencies as described in Condition 3.1 of this Licence;

“Bermuda Frequency Assignment Register” means a register containing a table of radio frequency spectrum assignments, including the name of the licensee, the frequencies assigned, the Authorized Use(s) and any other relevant information contained in Schedule A;

“Co-Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence to use the specified frequency bands, subject to the condition that the licensee shall coordinate with other Co-Primary licensees to limit Harmful Interference to existing links and services operating in the relevant frequency bands, and facilitate the introduction of additional links and services in the relevant frequency bands. Co-Primary licensees shall refrain from causing Harmful Interference to, and may not require protection from, the links and services of other Co-Primary licensees that were previously authorized and operating in the licensed frequencies. All Co-Primary licensees are authorized to use the frequency bands covered by their respective licenses subject to protection from: (1) Harmful Interference caused by any other licensee that may be authorized to use the same Radio Spectrum on a Secondary Basis, and (2) claims of Harmful Interference from holders of secondary licenses with respect to the frequencies;

“Control” means:

- (a) the power, whether held directly or indirectly, to exercise decisive influence over the Licensee, including by directing its management and policies, whether

through ownership of shares, stocks or other securities or voting rights, or through an agreement or arrangement of any type, or otherwise; and

- (b) shall, in any event, be deemed to exist in any case involving the ownership of 25 per cent or more of the shares, stock or other securities or voting rights, including through an agreement or arrangement of any type;

“Distress signal” means radio signals broadcast to indicate that a person, ship, aircraft or other vehicle is in distress and requires immediate assistance;

“ECA” means the Electronic Communications Act 2011;

“ITU” means the International Telecommunication Union;

“Licence” means this Radio Spectrum licence granted to the Licensee;

“Licensee” means [NAME of COMPANY], [Address], and [Company Reg. No.] and, for the avoidance of doubt, does not include any Affiliates of the Licensee;

“Microwave Link” means the microwave transmission path between two fixed geographical points;

“Primary Basis” means the nature of a right granted to the holder of a Radio Spectrum licence, pursuant to which the licensee is the only Person authorized to use the specified frequency bands who is also entitled to protection from: (1) Harmful Interference caused by any other licensee who may be authorized to use the same spectrum on a Secondary Basis; and (2) claims of Harmful Interference by any such licensee;

“RAA” means the Regulatory Authority Act 2011;

“Secondary Basis” means the nature of a right granted to a holder of a Radio Spectrum licence who is authorized to use the specified frequency bands subject to the condition that such licensee does not cause any Harmful Interference to, or claim protection from any Harmful Interference caused by other, licensees who have been granted the right to use the same frequency bands on an Primary or Co-Primary Basis; and

“Sub-license” means any segregation or partition of the radio frequency usage rights granted herein and shall include any arrangement by the Licensee to share radio frequency rights with one or more third parties, including any Affiliate.

- 1.2 For the purpose of interpreting this Licence, words or expressions shall have the meaning assigned to them in the Associated ICOL, unless otherwise specified, and the rules of interpretation in Condition 2 of the Associated ICOL shall apply.

2 ASSIGNED FREQUENCIES AND USAGE RIGHTS

- 2.1 Subject to the Applicable Regulatory Framework, the Associated ICOL and the terms and conditions of this Licence, the Licensee is hereby authorized to use the Assigned Frequencies, subject to the fixed geographical points identified in Schedule A, on a Co-

Primary Basis. Schedule A shall be revised and updated, as necessary, to reflect the assignment of frequencies under this Licence.

- 2.2 The Licensee shall coordinate with any other licensee that is authorized by the Authority to operate in the relevant spectrum to ensure that Harmful Interference is not caused to any authorized Co-Primary licensee.
- 2.3 The Licensee shall comply with any technical or other requirements that the Authority may adopt in respect of the Authorized Use.
- 2.4 The Licensee shall utilize the Assigned Frequencies in full conformity with the Bermuda Frequency Allocation Table and the Bermuda Frequency Assignment Register maintained by the Authority, including any amendments thereto, subject to Condition 3 of this Licence.

3 SCOPE OF THE LICENCE

- 3.1 This Licence grants the Licensee the right to use the Assigned Frequencies in conjunction with the Associated ICOL, exclusively for the provision of Fixed Point-to-Point Microwave services, including:

[as authorized by TA86 licences/frequency authorizations].

- 3.2 This Licence does not grant the Licensee any ownership rights in the Assigned Frequencies, and no such rights shall be created or implied by virtue of the Licensee's use of the Assigned Frequencies.
- 3.3 The Licensee shall not use the Assigned Frequencies in the provision of Public Electronic Communications Services unless the Associated ICOL is and remains valid and effective.
- 3.4 Nothing in this License shall relieve the Licensee of the obligation to comply with any other requirement of law or practice to obtain additional consents, permissions, authorizations, licenses or permits as may be necessary to operate Radio Apparatus or Radio Stations, establish, construct and operate an Electronic Communications Network, or provide Electronic Communications Services.

4 GRANT AND DURATION OF THE LICENCE

This Licence is valid and effective from the date hereof and shall remain in effect, provided that the Associated ICOL is valid and effective until the earlier of:

- (a) [date] [18 months after issue];
- (b) the date on which the Licensee surrenders this Licence; or
- (c) the date on which this Licence is revoked pursuant to section 93(5) of the RAA.

5 RENEWAL

- 5.1** This Licence may be renewed, at the discretion of the Authority, for a term not to exceed 10 years, provided that the duration of the renewed Licence shall not exceed that of the Associated ICOL.
- 5.2** This Licence may only be renewed if the Associated ICOL remains valid and effective.

6 MODIFICATION

This Licence, including its Schedules, may be modified by the Authority:

- (a) with the consent of the Licensee;
- (b) pursuant to the provisions of Section 51 of the RAA and Section 9(2)(c)(i) of the ECA;
- (c) to conform to the terms and conditions of the Associated ICOL, including any modifications thereto;
- (d) to bring the terms of the Licence into conformity with international treaty obligations or regulations or the Applicable Regulatory Framework (including the Bermuda Frequency Allocation Table);
- (e) following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA; or
- (f) following the conclusion of a spectrum investigation pursuant to Section 78 of the ECA or following an adjudication pursuant to Section 41 of the ECA.

7 OBLIGATIONS UNDER THE LICENCE

- 7.1** The Licensee shall comply with existing and future international coordination requirements and procedures, including the relevant international Radio Regulations issued by the ITU. Upon request of the Authority, the Licensee shall provide technical assistance and support to the Minister and Authority in connection with the Government of Bermuda's participation in regional and international governmental organisations for the purposes of spectrum management and coordination.
- 7.2** The Licensee shall coordinate, when necessary, with other Radio Spectrum licensees in Bermuda to avoid Harmful Interference. In the event of a disagreement between or among licensees regarding the prevention or causation of Harmful Interference, the affected licensees shall be responsible for resolving such disputes expeditiously and, if such efforts are unsuccessful, one or more of the licensees involved may request that the Authority intervene to resolve the dispute.
- 7.3** The Licensee shall assist the Authority in the coordination and management of Radio Spectrum and shall make efficient use of the Assigned Frequencies for the Authorized

Use or Uses. The Licensee shall notify the Authority promptly if the Licensee no longer requires the use of any portion of the Assigned Frequencies.

7.4 The Licensee shall cooperate fully with the Authority in identifying whether and to what extent the Assigned Frequencies are being used efficiently and whether the Licensee has a reasonable need for all or a portion of the Assigned Frequencies in accordance with Section 78 of the ECA, including as follows:

- (a) The Licensee shall promptly provide any information requested by the Authority concerning the Licensee's actual or proposed use of the Assigned Frequencies and other Radio Spectrum resources.
- (b) The Licensee shall submit to the Authority no later than six months following the effective date of this Licence, a report approved by the Licensee's Board of Directors containing a detailed analysis of spectrum usage by the Licensee, in the format prescribed by the Authority, in relation to services that were provided using the Assigned Frequencies for the Authorized Uses as at the date of the commencement of Part 12 of the ECA.
- (c) The Licensee shall comply fully with any timetables established by the Authority for the release of any of the Assigned Frequencies if required by the Authority, provided that the timetable for release shall commence no sooner than [Licence expiry date/18 months].

7.5 The Licensee shall permit the Authority or Persons designated by the Authority to enter upon the Licensee's premises or premises used by the Licensee to inspect, examine, investigate or audit the Licensee's use of Radio Apparatus and Radio Spectrum.

7.6 The Licensee shall accept distress signals and messages with absolute priority as required by Section 43(5) of the ECA and take any necessary action as required by the Convention.

8 FEES AND PENALTIES

8.1 The Licensee shall pay to the Authority any Government Authorization Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(1) of the ECA, Section 52 of the RAA, and the Government Fees Act 1965.

8.2 The Licensee shall pay to the Authority any Regulatory Authority Fees relating to the Assigned Frequencies in such amounts and at such times as may be prescribed pursuant to Section 40(3) of the ECA, Section 44 of the RAA, and the Government Fees Act 1965.

8.3 The Licensee shall pay all applicable fees for Radio Apparatus using the Assigned Frequencies.

8.4 The Licensee shall pay to the Authority any penalties and interest that may be imposed on the Licensee by the Authority for failure to make any payment due under this Licence

and for any other contraventions of this Licence or the Applicable Regulatory Framework.

9 COMPLIANCE

- 9.1** Failure to comply with the terms of this Licence shall constitute a violation of the terms of this Licence and the Associated ICOL, and violations shall be dealt with in accordance with the procedures set forth in the ECA.

10 ENFORCEMENT AND REVOCATION

- 10.1** The Authority may initiate enforcement proceedings pursuant to Section 93 of the RAA if there is reason to believe that the Licensee has contravened the conditions of this Licence or the Applicable Regulatory Framework, including failure to pay any fees prescribed for use of the assigned spectrum in full on a timely basis.

11 ASSIGNMENT

- 11.1** The Licensee shall not transfer, assign, Sub-License or lease, in whole or in part, this Licence or the spectrum usage rights granted herein to any third party, including any Affiliate, without the prior written authorization of the Authority acting with the written consent of the Minister. For purposes of this condition, "assignment" shall be deemed to include a change of Control of the Licensee.

12 RECORD-KEEPING OBLIGATIONS

The Licensee shall maintain the following records up-to date and promptly supply the Authority with copies upon request:

- (a) the equipment specifications of all Radio Stations and other Radio Apparatus operating under this Licence;
- (b) the effective radiated power of any Radio Station and its location and height;
- (c) the measures taken to ensure that each Radio Station is not a source of harmful radiation to the public, and the Licensee's employees and contractors;
- (d) any information necessary for the Authority to develop and keep updated the Bermuda Frequency Allocation Table and Bermuda Frequency Assignment Register;
- (e) the emission designation of each Radio Station, as prescribed by the Applicable Regulatory Framework; and
- (f) the types of services provided to the Licensee's End-Users using the Assigned Frequencies.

13 NOTICES

The notice provisions of the Associated ICOL shall apply to this Licence.

SCHEDULE A

ASSIGNMENT OF FREQUENCIES

The frequency links listed in the Schedule below have been assigned for use by the Licensee for fixed microwave service between the specified geographic locations. Unless otherwise specified below, "Assigned Frequencies" means the paired radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits of the radio frequency bands specified in the table below.

Assigned Frequencies (MHz)							
Link Number	Receive	Transmit	Site Name 1	GPS (Site Name 1)	Site Name 2	GPS (Site Name 2)	Date

