

## **FORM OF CLASS LICENSE FOR INTERNET SERVICES INTENDED TO BE GRANTED BY THE TELECOMMUNICATIONS REGULATORY AUTHORITY**

### **1. GRANT OF LICENSE**

- 1.1 The Telecommunications Regulatory Authority (the “**Regulator**”) hereby grants this License, under section (32) of the Telecommunication Law promulgated by Legislative Decree No. 48 of 2002, to [ ] (the “**licensee**”) by virtue of which the Regulator authorizes the licensee to provide the telecommunications services described herein in the Licensed area set out herein (the “**license**”).
- 1.2 This license shall be subject to the provisions herein stated, the Telecommunications Law and any regulations issued thereunder.

### **2. DEFINITIONS**

- 2.1 For the purposes of this license :

- a. A meaning or definition provided for any word, phrase or expression under the Telecommunications Law shall also be applicable to such word, phrase or expression in this license; unless the context requires otherwise.
- b. The following terms and expressions shall have the following meanings unless the context requires otherwise :

“**Affiliate**” means, as used with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with, that person. In the case where one person owns, directly or indirectly, 50% or more of the share capital, voting rights, securities or other ownership interest of another person, both such persons shall be deemed an affiliate;

“**Basic voice service**” means a telecommunications service involving the transmission of two-way real-time speech, excluding:

- a. any additional service having been provided in respect of the real-time two-way speech conversation;

- b. any deliberate removal or addition to the information content of that real-time two-way speech conversation; and
- c. mobile radiocommunications;

**“Call”** include communications conveying voice and data;

**“Control”** means, as applied to any person, the possession, directly or indirectly, of the power to direct or cause the direction of the management of that person, whether through ownership, voting or other means and **“controlling”** and **“controlled”** shall be construed accordingly;

**“Effective date”** means the date referred to in section 14.1;

**“Force Majeure”** means any cause affecting the performance by the licensee of any obligation hereunder arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control including (but without limiting the generality thereof) governmental or States’ acts or regulations, fire, flood, inclement weather, terrorism or any disaster or an industrial dispute (other than relating to the licensee’s own workforce) affecting the provision of Licensed services. Any act, event, omission, happening or non-happening only will be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the licensee, its officers, contractors, sub-contractors, agents, servants or employees;

**“International telecommunications services”** means the provision of telecommunications services between the Kingdom of Bahrain and other countries;

**“Internet”** means an integrated computer network through which users are connected to each other by means of the TCP/IP family of protocols;

**“Internet services”** means services provided to the public whose provision consists of subscriber interaction with the Internet or the transmission of information to or over the Internet;

**“Licensed area”** means the territory of the Kingdom of Bahrain;

**“Licensed services”** means all telecommunications services described in section 3.1.

### **3. LICENSED SERVICES**

- 3.1 The licensee is authorised on a non-exclusive basis to provide internet services in the licensed area; provided, however, the licensee may not offer a basic voice service between the Kingdom of Bahrain and other countries, nor may it facilitate by the use of its telecommunications network the offer by a third party of such a service, unless and until such time as it is granted an international telecommunications license in accordance with the Telecommunications Law.
- 3.2 The licensee may, with the prior written approval of the Regulator, provide any of the licensed services through an affiliate or sub-contract the provision of any licensed services to another person; provided, however, that the licensee shall continue to be fully liable for any obligation arising in relation to the provision of such licensed services. The Regulator may revoke its approval at any time by providing reasonable advance notice to the licensee in writing. The prior written approval of the Regulator shall not be required if such affiliate is and remains wholly-owned by the licensee, provided always that the Regulator shall be notified of such arrangement.

### **4. TELECOMMUNICATIONS FACILITIES AND NETWORKS**

- 4.1 The licensee shall have the right to access the telecommunications facilities and interconnect with the telecommunications network of public telecommunications operators in accordance with section 57 of the Telecommunications Law and the terms of any license granted to any such operator pursuant to sections 25 and 80(a) of the Telecommunications Law.
- 4.2 The licensee shall have the right to access any Fixed Telecommunications Infrastructure Network in line with any agreements entered into with any holder of a Fixed Telecommunications Infrastructure Network License;
- 4.3 Until the second anniversary of the granting of the internet exchange license in accordance with section 41(c) of the Telecommunications Law, the licensee shall exclusively use facilities provided by the Bahrain Internet Exchange for the aggregation and exchange of internet traffic with the holders of internet services licenses in the Kingdom of Bahrain; provided, however, that if such facilities are not available or are insufficient to support the existing and immediately projected volume of traffic the licensee may, to the extent and so long as such situation prevails, use alternative facilities.

## **5. RELATIONS WITH SUBSCRIBERS**

- 5.1 Without derogating from section 55 and section 56 of the Telecommunications Law, the licensee shall publish a code of practice for subscriber affairs approved in writing by the Regulator, giving guidance to the licensee's subscribers in respect of any disputes and complaints relating to the provision by the licensee of the services.
- 5.2 The licensee shall prepare an initial draft of the code of practice on subscriber affairs and submit it for review by the Regulator within three (3) months of the effective date.
- 5.3 The code of practice on subscriber affairs shall contain guidelines on the following issues:
  - (a) complaints;
  - (b) dispute settlement;
  - (c) location of customer service departments;
  - (d) quality of service;
  - (e) provision of ancillary services;
  - (f) other matters dealt with in the terms of service of the standard subscriber agreement referred to in section 5.5; and
  - (g) guidelines on service termination.
- 5.4 After approval of the code of practice by the Regulator, the licensee shall report to the Regulator on an annual basis (within one (1) month of the end of the licensee's accounting period) on the performance of the licensee in meeting the guidelines set out in the code of practice on subscriber affairs, and on the progress made in implementing the guidelines.
- 5.5 Within three (3) months of the effective date, the licensee shall submit to the Regulator for its review a form of standard agreement containing the terms for the provision of

licensed services to subscribers (the “**standard subscriber agreement**”). The Regulator may raise objections and require the introduction of such modifications as the Regulator deems necessary. If no objections are raised or modifications required by the Regulator within thirty (30) days of the submission of such form, such form may be used by the licensee.

- 5.6 Any modifications to such agreement also are subject to the foregoing provisions. In addition, the Regulator may subsequently order the introduction of any modification to such agreement after it becomes aware of any fact or circumstance which requires such modification in order to safeguard the interests of subscribers.

## **6. TARIFFS OF LICENSED SERVICES**

- 6.1 The licensee’s tariffs for the provision of licensed services shall be subject to section 58 of the Telecommunications Law and any regulation made thereunder.
- 6.2 Within three (3) months of the effective date, the licensee shall file, in a form to be agreed with the Regulator, the tariffs and the terms upon which it proposes to offer the licensed services in accordance with this license. Until such tariffs and terms have been approved in accordance with this license, the licensee’s prevailing tariffs and terms shall remain in effect.
- 6.3 If the licensee wishes subsequently to change the tariffs of licensed service, it must file the proposed change with the Regulator at least forty-five (45) days prior to the date on which it is proposing that the change is to come into effect.
- 6.4 The Regulator must approve or disapprove the tariffs of the licensed services within thirty (30) days from the date on which they are filed with the Regulator and in the case of disapproval, it shall notify the licensee of such disapproval stating the reasons therefor within such period. The Regulator may disapprove the proposed tariffs only if:
  - (a) the calculations are incomplete, lack sufficient supporting documents or contain mathematical errors; or

(b) the tariffs violate any other provision of this license, any regulation on tariff controls or any applicable law.

6.5 If the Regulator disapproves the tariffs filed in accordance with section 6.2 or 6.3, the licensee may re-file the tariffs for that licensed service with the Regulator in which case the procedure specified in section 6.4 shall apply.

## 7. BILLING

7.1 The licensee shall upon issuing any bill in respect of any licensed service ensure that every amount stated as due in the bill is no higher than the amount that represents the true extent of any such service lawfully provided by the licensee to the subscriber in question.

7.2 The licensee shall, no later than six (6) months from the effective date, establish a procedure to ensure the accuracy of its billing system in accordance with section 7.1 above which must be submitted for prior written approval to the Regulator within four (4) months from the effective date. The Regulator shall issue its decision with respect to such procedure within two (2) months of such submission.

7.3 The licensee shall keep such records as may be necessary or may be determined by the Regulator to be necessary for the purpose of satisfying the Regulator that the billing process has the characteristics required above and the licensee shall for purposes of this license retain all records for at least two (2) years from the date on which they came into being.

7.4 For the purpose of giving the Regulator assurance from time to time that the billing process meets the requirements of section 7.1, the licensee shall:

(a) furnish the Regulator with any information it requires;

(b) on reasonable notice, allow the Regulator (or any person authorised by the Regulator) access to any relevant premises of the licensee; and

(c) on reasonable notice, allow the Regulator (or any person authorised by the Regulator) to examine or test the whole or any part of the billing process.

7.5 The licensee shall, no later than twelve (12) months from the effective date, provide itemised billing information to any subscriber upon request in respect of the tariffs for any licensed service provided to such subscriber. If the regulator permits the licensee to charge for itemised billing information, any such charge is subject to the prior written approval of the Regulator.

## **8. INTEROPERABILITY AND TECHNICAL STANDARDS**

8.1 The licensee shall comply with relevant regulations and technical specifications issued by the Regulator in order to ensure interoperability of the licensed services and the telecommunications facilities of the licensee with telecommunications services and telecommunications networks provided by other licensed operators to the extent technically feasible.

## **9. PRIVACY AND CONFIDENTIALITY**

9.1 The licensee shall use all reasonable endeavours to ensure the privacy and confidentiality of information and business secrets obtained in the course of its business from any person to whom it provides the licensed services by establishing and implementing reasonable procedures for maintaining privacy and confidentiality of such information subject to any requirement under law.

9.2 The licensee shall maintain sufficient information on its privacy and confidentiality procedures to satisfy the Regulator, at its reasonable request, that the requirements of section 9.1 are being met.

9.3 The licensee shall not use or allow to be used any apparatus which is capable of recording, monitoring, or intruding into calls unless it complies with applicable law.

## **10. ANTI-COMPETITIVE PRACTICES**

10.1 Without derogating from section 65 of the Telecommunications Law, the licensee will not, alone or together with others, engage in or continue or knowingly acquiesce in any anti-competitive practices and, in particular, the licensee shall:

- (a) not engage in anti-competitive cross-subsidisation;
- (b) if applicable, as determined by the Regulator, not abuse its dominant position;
- (c) if it has significant market power, not enter into exclusive arrangements with third parties for the location of its facilities that are required to provide any of the licensed services;
- (d) not enter into any agreements, arrangements or undertakings with any person, including any supplier of services that compete with any of the licensed services, which have as their objective or effect the fixing of prices or other restraint on competition;
- (e) not use information obtained from competitors if the objective or effect of such use is anti-competitive;
- (f) make available to other licensed operators on a timely basis technical information about essential facilities and other commercially relevant information that is necessary for them to provide telecommunications services; and
- (g) not (whether in respect of the tariffs, charges or other terms applied or otherwise) show undue discrimination against particular persons or persons of any class or description as respects the provision of any licensed service.

## **11. ACCOUNTING REQUIREMENTS**

11.1 If the licensee is the holder of multiple telecommunications licenses, within six (6) months of the effective date and on an ongoing basis, the licensee shall in a manner to be approved in writing in advance by the Regulator, keep, draw up, submit to independent audit by an external auditor approved by the Regulator and present in written form, separate accounts for licensed telecommunications activities, to the extent that would be required if the licensed telecommunications activities in question were carried out by legally independent companies, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to such licensed telecommunications activities, and the accounts shall include an itemised breakdown of fixed assets.

11.2 If the licensee is the holder of multiple telecommunications licenses, the Regulator may request the licensee to submit other accounting information it may require in order to effectively supervise and enforce the terms of this license and the provisions of the Telecommunications Law and the regulations issued thereunder.

11.3 If the licensee, by virtue of its being the holder of multiple telecommunications licenses, fails to comply with its obligations under section 11.1 or 11.2 or if the accounting system presented by the licensee fails to achieve the objectives set forth in these subsections and the Regulator deems it necessary and appropriate in accordance with the provisions of section 3(c) of the Telecommunications Law, it may order the licensee to implement separation within a period to be determined by the Regulator.

## **12. REQUIREMENT TO PROVIDE INFORMATION AND INSPECTION**

12.1 Without derogating from section 53 and 77 of the Telecommunications Law, the licensee is required to maintain such information as will enable the Regulator to carry out its functions under the Telecommunications Law in such manner as the Regulator may from time to time request. The Regulator shall have the right to request the licensee to submit periodic reports, statistics and other data as well as request additional information in order to effectively supervise and enforce the terms of this license, the provisions of the Telecommunications Law and the regulations issued thereunder.

## **13. LICENSE FEES**

13.1 The annual license fee for the initial year of the license from the effective date shall be BD [●].

13.2 The annual license fee for each subsequent year shall be BD [●].

13.3 The applicable annual license fee shall be paid to the Regulator in dinars:

- (a) for the period from the effective date until the end of the year in which this license is issued, on a pro rata basis for such period, within thirty (30) days of the effective date; and

(b) annually in advance no later than 31 January of each year thereafter.

## **14. DURATION AND RENEWAL**

14.1 The effective date of this license is [●] (the “**effective date**”). It shall be valid for a term of fifteen (15) years.

14.2 Upon expiration of the current license term the licensee may apply to the Regulator pursuant to section 33 of the Telecommunications Law for an additional term of ten (10) years.

## **15. MODIFICATION, REVOCATION AND TERMINATION**

15.1 The license may be modified in any of the following ways at any time:

- (a) Written agreement between the Regulator and the licensee.
- (b) By the Regulator if the Regulator determines that such modification is necessary to make the conditions of the licence consistent with terms being imposed generally in respect of all licences issued in the same category, for the purpose of ensuring fair competition between licensees in that category or to the extent necessitated by technological development, provided that the Regulator shall have:
  - i. given the licensee six (6) months written notice of the proposed modification; and
  - ii. consulted with the licensee;
- (c) an order of modification by the Regulator in accordance with section 35 of the Telecommunications Law.
- (d) a determination of the Regulator if the Regulator believes that such modification(s) is / are necessary to comply with the Telecommunications Law.

15.2 The license may be revoked in any of the following ways at any time:

- (a) Written agreement between the Regulator and the licensee.

(b) An order of revocation by the Regulator in accordance with section 35 of the Telecommunications Law.

(c) If the licensee is dissolved, or enters into liquidation, bankruptcy or equivalent proceedings or makes a general assignment for the benefit of creditors.

15.3 The license shall terminate automatically upon the expiry of its term if it is not renewed in accordance with section 14.2 above.

## **16. FORCE MAJEURE**

16.1 If the licensee is prevented from performing any of its obligations under this license because of Force Majeure, the licensee shall notify the Regulator of the obligations it is prevented from performing as soon as practicable after it becomes aware of such Force Majeure.

16.2 The Regulator may suspend the obligations referred to under section 16.1 and the licensee will not be liable to perform those obligations, for so long as the Force Majeure continues, only if and to the extent that the inability to perform could not have been prevented by taking steps specifically required under the law or this license or other reasonable precautions and the inability cannot reasonably be circumvented by the licensee at its expense through the use of alternate sources, work-around plans or other means.

## **17. DISPUTE RESOLUTION**

17.1 All disputes between the licensee and the Regulator arising out of this license shall be resolved in accordance with the provisions of Chapter XVI of the Telecommunications Law.

17.2 The courts of the Kingdom of Bahrain shall have jurisdiction over disputes between the licensee and other licensees in connection with telecommunications activities which they are licensed to conduct, provided, however, that a party to such dispute may require the dispute to be referred to arbitration, in which case, unless the parties agree otherwise and provided that such agreement is not contrary to Chapter VII of the Civil and Commercial Procedural Law of 1971, the provisions of sections 67 to 71 of the Telecommunications Law shall apply *mutatis mutandis*.

## **18. COMPLIANCE**

18.1 If the licensee fails to comply with its obligations under this license, the Regulator may take such action as it deems necessary and appropriate in accordance with the provisions of Article 3(c), 35 and/or 65 of the Telecommunications Law (as appropriate).

## **19. NOTICES**

19.1 All notices to be sent by the Licensee to the Regulator shall be satisfied if sent by Registered mail with acknowledgement of delivery to the following addresses:

*[insert address of Regulator]*

19.2 All notices to be sent by the Regulator to the Licensee shall be satisfied if sent by registered mail with acknowledgement of delivery to the address provided by the licensee in his license application.

Where the subject of the notice concerns the entire class of the Licensees, the Regulator may instead publish the notice in the official gazette or such other manner that ensures that such notice is brought to the knowledge of the Licensees.

19.3 The Regulator may change the address in section 18.1 provided it shall make announcement to such effect in the official gazette, or by any other manner that ensures that such change is brought to the knowledge of the Licensee, at least fifteen (15) days before such change takes effect.

19.4 The Licensee may change the address provided in its License application, provided it notifies the regulator by registered mail with acknowledgement of delivery at least fifteen (15) days before such change takes effect.