



FINAL DETERMINATION ON:

CLASS LICENCES,

EXEMPTIONS AND

TYPES OF FEES

ECS - 24/2009

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UTILITIES REGULATION & COMPETITION AUTHORITY

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FINAL DETERMINATION

HAVING REGARD TO THE COMMUNICATIONS ACT, 2009, THE MAIN OBJECTIVES OF THE ELECTRONIC COMMUNICATIONS POLICY IN THE BAHAMAS; AND

HAVING REGARD TO THE PRELIMINARY DETERMINATION ON CLASS LICENCES, EXEMPTIONS AND TYPES OF FEES CONSULTATION DOCUMENT – ECS 03/2009 ISSUED BY THE UTILITIES REGULATION AND COMPETITION AUTHORITY ON 1 SEPTEMBER, 2009, AND THE COMMENTS SUBMITTED IN RESPONSE THERETO BY INTERESTED PARTIES;

THE UTILITIES REGULATION AND COMPETITION AUTHORITY IN EXERCISE OF ITS POWERS PURSUANT TO SECTION 100 OF THE COMMUNICATIONS ACT, 2009, HEREBY MAKES THE FOLLOWING FINAL DETERMINATION:

For the reasoning and reasons set out in Annex A to this Final Determination, the Utilities Regulation and Competition Authority (URCA) determines that:

1. Class Operating Licence Requiring Registration

1.1 The Terms and Conditions for a Class Operating Licence Requiring Registration as contained in Annex B to this Determination are final and shall take effect from the date of publication thereof on the URCA website;

2. Class Spectrum Licence Requiring Registration

2.1 The Terms and Conditions for a Class Spectrum Licence Requiring Registration as contained in Annex C to this Final Determination are final and shall take effect from the date of publication thereof on the URCA website;

3. Class Operating Licence Not Requiring Registration

3.1 The Terms and Conditions for a Class Operating Licence Not Requiring Registration as contained in Annex D to this Final Determination are final and shall take effect from the date of publication thereof on the URCA website;

4. Class Spectrum Licence Not Requiring Registration

4.1 The Terms and Conditions for a Class Spectrum Licence Not Requiring Registration as contained in Annex E to this Final Determination are final and shall take effect from the date of publication thereof on the URCA website;

5. Operating Exemption

5.1 Subject to paragraph 5.2, the criteria set out in the Operating Exemption as contained in Annex F to this Final Determination are final and any person who fulfils such criteria shall be exempt from obtaining a licence under Section 16(1) of the Communications Act, 2009;

- 5.2 Nothing in the Operating Exemption shall relieve any person of any legal requirement to firstly obtain any additional consents, permissions, authorisations or other licences that are necessary for the establishment, operation, maintenance or improvement of a Network or the provision of a Carriage Service, including obtaining any licences required under the Communications Act, 2009 for the use of Radiocommunications;
6. Spectrum Exemption
- 6.1 Subject to paragraph 6.2, the criteria set out in the Spectrum Exemption as contained in Annex G to this Final Determination are final and any person who fulfils such criteria shall be exempt from obtaining a licence under Section 16(1) of the Communications Act, 2009 for Low Power Devices;
- 6.2 Nothing in the Spectrum Exemption shall relieve any person of any legal requirement to firstly obtain any additional consents, permissions, authorisations or other licences that are necessary for the establishment, operation, maintenance or improvement of a Network or the provision of a Carriage Service;
7. Types of Fees and Charges to be levied by URCA
- 7.1 URCA will levy the fees and charges as contained in Annex H to this Final Determination;
- 7.2 URCA will levy the fees and charges in accordance with the high level principles specified in Section 92(2) of the Communications Act, 2009;
- 7.3 URCA will publish on its website the amount of the fees and charges to be levied, as a Fee Schedule, such fees and charges will be updated from time to time;
8. This Final Determination will be reviewed when conditions, as determined by URCA, warrant it;
9. This Final Determination is without prejudice to URCA's powers under the Communications Act, 2009, the outcome of any ongoing or future consultation, regulatory or other measures carried out by URCA pursuant to such powers;
10. This Final Determination shall come into effect from the date of its issuance; and
11. Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in the Communications Act, 2009.

For the Utilities Regulation and Competition Authority
Michael J. Symonette
Chief Executive Officer
November 2, 2009

**Annex A: Reasoning and Reasons for the Final Determination on Class Licences,
Exemptions and Types of Fees**

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A. Purpose of this Final Determination

1. This Final Determination summarises the representations and objections received in response to the Preliminary Determination by all persons having interest in the subject matter therein.
2. It provides the Utilities Regulation and Competition Authority's (URCA's) analysis of and comments on the representations and objections received in response to the Preliminary Determination from persons having interest in the subject matter therein.
3. Further, it gives URCA's reasoning behind the Final Determination in sufficient detail to enable it to be understood and the reasons for it to be known.
4. Finally, this Final Determination set out the finalised text of the terms and conditions for class licences and of the exemption criteria and the types of fees to be levied by URCA.

B. Introduction

1. URCA issued its Preliminary Determinations on Class Licences, Exemptions and Types of Fees Consultation Document – ECS 03/2009 (“the Preliminary Determination”) for the electronic communications sector on 1 September, 2009. The period for submission of responses closed on 1 October, 2009 and URCA is now pleased to publish a summary of responses to the consultation, its analysis of and comments on the responses, and its Final Determination. The full text of the responses received to the consultation can be found on the URCA website at www.urbahamas.bs.
2. The Preliminary Determination set out the proposed terms and conditions for class licences, the criteria for licence exemptions and the types of fees to be levied by URCA under the Communications Act, 2009 (the “Comms Act”). The Preliminary Determination provided the formal mechanism through which stakeholders and the general public were able to make representations and objections to the subject matter contained therein.
3. URCA recognises the importance of an open and transparent consultation process. URCA is therefore satisfied that it has complied with its statutory duty under Section 100 of the Comms Act to afford all persons having interest in the subject matter of the Preliminary Determination a reasonable opportunity to make such representations and objections.
4. The terms and conditions for the various class licences, the criteria for licence exemptions and the types of fees to be levied by URCA under the Comms Act will remain in force until such time as they are repealed and replaced by a subsequent Final Determination issued by URCA or pursuant to the Comms Act.

5. URCA re-emphasises that this Final Determination, the terms and conditions for the various class licences, the criteria for licence exemptions and the types of fees to be levied by URCA should be read in conjunction with the Comms Act and the Licensing Guidelines published by URCA on 1 September, 2009 also available on the URCA website.
6. The Annexes to this Final Determination set out the terms and conditions for class licences and of the exemption criteria and the types of fees to be levied by URCA.

C. Overview

1. The level of participation in this Preliminary Determination consultation process was significantly below what URCA had anticipated. At the time that the Preliminary Determination was published, URCA exhausted every practical effort to inform stakeholders, licensees and the general public of the importance of their participation in the process. URCA issued notices on its website and in the print media with regard to the Preliminary Determination. It conducted licensing workshops in New Providence and the Family Islands. URCA sent emails, faxes and made telephone calls to licensees to create awareness about the significance of the subject matter of the Preliminary Determination. However, the overall response was less than enthusiastic.
2. The subject matter of the Preliminary Determination will impact the approximately four thousand (4,000) local licensees that were licensed under the Telecommunications Act, 1999 and the Broadcasting Act, Chapter 305 as well as new licensees that will have to be licensed under the Comms Act. Notwithstanding this, URCA only received response from one (1) licensee, namely the Bahamas Telecommunications Company Limited (BTC). URCA therefore wishes to thank BTC for investing its time in responding to the consultation process.
3. URCA also wishes to thank Cable Bahamas Limited (CBL) for its expressed interest in and intention to make representation to the Preliminary Determination. While CBL commended URCA for its “assiduous” publication of consultation documents over the recent months, CBL indicated that it was not able to avail itself of the opportunity to make representations within the prescribed timeline for responses to be submitted to the Preliminary Determination. Two (2) days prior to the close of submissions, CBL requested an extension to be able to properly consider the document.
4. URCA was unable to accede to such a short request for an extension by CBL for the following reason: Section 5(d) of the Comms Act requires that all regulatory measures introduced by URCA are done “in a manner that is transparent, fair and non-discriminatory.” The established timeline for the close of responses to the Preliminary Determination affected all interested parties.
5. URCA’s high level overview of the response by BTC is that it was generally insightful.

6. BTC welcomed the opportunity to comment on the Preliminary Determination consultation document and commended URCA on its efforts “to develop a transparent and well thought out technology-neutral, flexible licensing regime in the Commonwealth of The Bahamas.”
7. BTC questioned the applicability of the Class Licence requiring registration as it was uncertain to which operators and services such licence might apply. BTC considered the Class Spectrum Licence within the context of accepting interference. BTC also raised the concern of the services permissible under the Exemptions and the Class Licences not requiring registration causing possible harm to the Public Network.
8. BTC placed heavy emphasis on the types of fees to be levied by URCA in its response to the Preliminary Determination. It focused on the types of fees under the Comms Act and the level of fees. BTC expressed concern that the level of fees may be excessive and prohibitive to investment in new services. BTC believes that the types of fees levied by URCA, when added to fees imposed by other agencies, could also cause a distortion of competition.
9. BTC requested URCA to conduct a Public Consultation on the methodology to be applied for the level of fees to be levied by URCA.
10. URCA has carefully considered the response to the Preliminary Determination and where it has decided to pursue its original intent expressed in the Preliminary Determination this is because it is not persuaded by the respondent’s arguments and believes that its Final Determination is best for the electronic communications sector in The Bahamas.
11. While this Determination is final, URCA encourages feedback from stakeholders, licensees and the public on the licensing regime, which may be used to inform URCA’s decisions on future consultations and regulatory and other measures.

1. Summary of Responses

1. Class Operating Licence Requiring Registration

BTC’s comments

- 1.1 BTC focused its comment on the applicability of the Class Operating Licence Requiring Registration.
- 1.2 BTC states that the possession of a Class Operating Licence Requiring Registration is mutually exclusive to holding an Individual Operating Licence. Operators with networks operating under a Class Operating Licence Requiring Registration have the right to provide any carriage service, and the right to establish, maintain and operate one or more networks within, into, from and through The Bahamas.

- 1.3 BTC notes, however, that the consultation document is not as clear as it might be in indicating to which operators and to what services a Class Operating Licence Requiring Registration might apply.

URCA's analysis and comments

- 1.4 The consultation document was not intended to be prescriptive to the extent that it would provide a comprehensive listing of which operators and to what services any of the class licences in the Preliminary Determination would apply. URCA highlighted in its introduction to the Preliminary Determination¹ that the consultation document is to be read in conjunction with the Licensing Guidelines published by URCA on 1 September, 2009² which provides further explanation and clarification on the various licence types, the key features of each licence type³ and the services to which licences would apply.
- 1.5 The Conditions of the Class Operating Licence Requiring Registration must also be read as a whole for one to fully understand and appreciate to which licensees it applies and what services are permissible under each licence type.
- 1.6 A licensee operating under a Class Operating Licence Requiring Registration will have the right to provide any carriage service, and the right to establish, maintain and operate one or more networks within, into, from and through The Bahamas but within certain restrictions⁴.
- 1.7 Conditions 1.9 and 1.10 of the Class Operating Licence Requiring Registration place express restrictions under the licence to the extent where the licensee requires access to land under the Comms Act or offers an electronic communications service to end-users for which a corresponding Access or Interconnection service to an Other Operator, including but not limited to call termination, is required. Licensees under this type of licence will typically include internet service providers, public trunking and public paging operators.
- 1.8 URCA therefore believes that the Preliminary Determination is adequately clear when read in conjunction with the Licensing Guidelines and the conditions contained in the Class Operating Licence requiring registration.

¹ See highlighted box at bottom of page 1 of the Preliminary Determination

² Guidance On The Licensing Regime Under The Communications Act, 2009 Guidelines – ECS 15/2009

³ See sections 2.5 and 3.2 of the Licensing Guidelines

⁴ See Conditions 1.9 and 1.10 under the rubric “Restrictions” of the Class Licence requiring registration

2. Class Spectrum Licence Requiring Registration

BTC's comments

- 2.1 BTC primarily considered the issue of accepting interference under a Class Spectrum Licence Requiring Registration.
- 2.2 BTC observes that a licensee under a Class Spectrum Licence Requiring Registration is afforded certain rights to use predetermined radio spectrum. BTC makes the point that a licensee under a Class Spectrum Licence Requiring Registration is to accept interference.
- 2.3 BTC cites Condition 5.2 of the Draft Class Spectrum Licence Requiring Registration as contained in Preliminary Determination that licensees are required to “... *take all appropriate measures to ensure that its Radiocommunications Equipment is adequately protected from interference that may be caused by Radiocommunications Stations and Networks operating in the same geographical area or radio frequency band or in adjacent areas or bands.*” BTC is of the view that this provision is imprecisely formulated.
- 2.4 BTC modifies the language from the ITU Radio Regulations, Article 4.4 and contends that the provision should instead require protection from interference “... *that may be caused by Radiocommunications Stations and Networks operating in compliance with any relevant Technical Conditions, including those established in URCA's guidelines, in the same geographical area or radio frequency band or adjacent areas or bands.*”
- 2.5 BTC believes that there should be some bounds on the obligation of licensees to protect themselves from unpredictable and arbitrarily large volumes of interference, particularly if caused by parties operating in violation of URCA licence conditions or guidelines.

URCA's analysis and comments

- 2.6 The Class Spectrum Licence Requiring Registration does place an obligation on the licensee to take appropriate measures to protect itself from harmful interference. A licensee under Class Spectrum Licence Requiring Registration generally shares spectrum and therefore uses spectrum on a secondary basis. In such circumstances, interference is accepted.
- 2.7 URCA believes that a radiocommunications station and network operating “***in compliance with any relevant Technical Conditions, including those established in URCA's guidelines, in the same geographical area or radio frequency band or adjacent areas or bands***” (emphasis added) as suggested by BTC should not ordinarily cause harmful interference to other users.
- 2.8 However, where harmful interference is caused either by a licensee or through illegal use of spectrum, URCA can take enforcement action. The Comms Act has given URCA

adequate enforcement powers to investigate and penalise licensees that cause harmful interference. URCA also has powers under the Comms Act to prosecute those that illegally use spectrum.

- 2.9 The language recommended by BTC, if adopted by URCA for inclusion into Condition 5.2 of the Class Spectrum Licence Requiring Registration would also be restrictive in scope and may inadvertently absolve a licensee from its responsibility to adequately safeguard its radiocommunications equipment from harmful interference.
- 2.10 URCA is of the opinion that the language as contained in Condition 5.2 of the Class Spectrum Licence Requiring Registration adequately addresses the issue raised by BTC and should therefore remain unchanged.

3. Class Operating Licence Not Requiring Registration

BTC's comments

- 3.1 BTC restricts its comments on the Class Operating Licence Not Requiring Registration to the issue of interconnection to the public network.
- 3.2 BTC recommends that the language contained in Condition 1.5.2 of the Class Operating Licence Not Requiring Registration should be amended to say services that “are not interconnected to a Public Network” as opposed to the existing language which says services that “do not require interconnection to a Public Network”.
- 3.3 BTC is of the opinion that a service that “does not require interconnection” could be interconnected and might cause harm to the Public Network.

URCA's analysis and comments

- 3.4 The Comms Act contemplates a liberalised electronic communications sector and a “light touch” regulatory regime. A Class Operating Licence Not Requiring Registration is intended to minimize the need for unwarranted regulatory intervention. A condition in a Class Operating Licence Not Requiring Registration which prohibits the provision of a Carriage Service or Network that “are not interconnected to a Public Network” will require greater regulatory intervention. This would also be inconsistent with “light touch” regulation.
- 3.5 A Carriage Service or Network that does not require interconnection to the Public Network is generally considered a “stand alone” Network. Should that Network be interconnected to a Public Network, use of that Network will be dependent on interconnection with the Public Network. Therefore, it can be said that the operation of the Network or the provision of a Carriage Service requires interconnection. Such Networks and Carriage Services will not be covered by a Class Operating Licence Not Requiring Registration.

- 3.6 URCA therefore disagrees with BTC that the language contained in Condition 1.5.2 of the Class Operating Licence Not Requiring Registration should be amended as suggested.

4. Class Spectrum Licence Not Requiring Registration

BTC's comments

- 4.1 BTC again focuses on the issue of accepting interference under a Class Spectrum Licence Requiring Registration.
- 4.2 BTC makes the point that the identical language found in the Class Spectrum Licence Requiring Registration which states that licensees are required to “... *take all appropriate measures to ensure that its Radiocommunications Equipment is adequately protected from interference that may be caused by Radiocommunications Stations and Networks operating in the same geographical area or radio frequency band or in adjacent areas or bands*” is also found in the Class Spectrum Licence Not Requiring Registration (i.e. Condition 3.2).
- 4.3 BTC's position is that the provision should instead require protection from interference “... *that may be caused by Radiocommunications Stations and Networks operating in compliance with any relevant Technical Conditions, including those established in URCA's guidelines, in the same geographical area or radio frequency band or adjacent areas or bands.*”
- 4.4 BTC believes that there should be some bounds on the obligation of licensees to protect themselves from unpredictable and arbitrarily large volumes of interference, particularly if caused by parties operating in violation of URCA licence conditions or guidelines.

URCA's analysis and comments

- 4.5 *Mutatis mutandis*, URCA repeats its analysis and comments at Paragraphs 2.6 to 2.10 above.

5. Operating and Spectrum Exemptions

BTC's comments

- 5.1 BTC also restricts its comments on the Operating and Spectrum Exemption to the issue of interconnection to the Public Network.
- 5.2 BTC again implies that the language contained in Condition 1.5.2 of the Class Operating Licence Not Requiring Registration should be changed to speak to exempt self-provisioned services and closed user groups that “are not interconnected to the Public Network” as opposed to the existing language which speaks to services that “does not require interconnection to a Public Network”.

- 5.3 BTC is of the opinion that a service that “does not require interconnection” could be interconnected and might cause harm to the Public Network.

URCA’s analysis and comments

- 5.4 Mutatis mutandis, URCA repeats its analysis and comments at Paragraphs 3.4 to 3.6 above in relation to Condition 1.5.2 of the Class Spectrum Licence Not Requiring Registration.

6. Types of Fees and Charges

BTC’s comments

- 6.1 BTC restates the types of fees that URCA can charge under Section 92(1) of the Comms Act and the charging principles by which URCA is to determine fees. It agrees with URCA’s statement that the range of fees that it can charge is broad under the terms of Section 92(1) of the Comms Act.
- 6.2 BTC makes the point that URCA’s proposed annual charge based on a licensee’s turnover, in BTC’s case, is more than double the amount paid by BTC under the Telecommunications Act, 1999. BTC states that URCA’s proposed fee of 1.472% “can be considered excessive given that other individual operating licences are to be immediately granted.”
- 6.3 BTC believes that the fees intended to be charged by URCA must be considered within the context of the other fees to be collected by URCA. BTC makes the observation that the Communications licence fee collected and administered by URCA on behalf of the Government is equal to three percent (3%) of the licensee’s relevant turnover.
- 6.4 BTC further states that while the Communications licence fee and spectrum fees are set pursuant to Sections 91 and 93 of the Comms Act respectively, they are seemingly not subject to the principles expressed in Section 92(2) of the Comms Act.
- 6.5 BTC opines that fees that are based on the licensee’s turnover represent a significant cost and risk to BTC. Whilst BTC recognises that the level of fees was not within the scope of the determination, it urges URCA to address the calculation of URCA fees in the Final Determination.
- 6.6 It is the concern of BTC that the levy of multiple fees may be prohibitive to the investment in new services and that a cap on fees should have been considered and adopted.
- 6.7 BTC is also concerned that the fees under the Comms Act added to the fees for doing business in The Bahamas such as the Business Licence fees and Real Property taxes could create barriers to entry into the market and could also distort competition.

- 6.8 BTC provides the specific recommendation that, “in accordance with the principles of objectivity and transparency, proportionately and non-discrimination outlined in Section 92(2) of the Comm Act,” URCA should conduct a public consultation on the methodology to be applied for fees to be levied pursuant to Section 92 of the Comms Act and in particular for the annual licence fee to be paid to URCA by Individual Operating Licensees.

URCA’s analysis and comments

- 6.9 BTC has rightly pointed out that the Preliminary Determination does not determine the *level* of fees. The Comms Act does not require URCA to make a determination under Section 100 on the level of fees but URCA is required to do so with respect to the *types* of fees. It is noteworthy however, that BTC has neither agreed nor disagreed with specific types of fees URCA intends to levy as set out in the Preliminary Determination.
- 6.10 URCA is mindful of the requirements of Section 92(2) in setting the URCA fee and wishes to point out that the requirements of the Comms Act must be read in conjunction with the Utilities Regulation and Competition Act, 2009 (“URCA Act”). Section 41 of the URCA Act requires URCA to publish a draft annual plan before the end of the financial year and that this plan should also include details of the URCA budget. URCA intends to publish such a plan within the statutory deadlines. Interested parties will be given an opportunity to comment on the draft annual plan.
- 6.11 Having published a Fee Schedule on 1 September 2009 (ECS 12/09), URCA believes that it has complied with the principles of non-discrimination, transparency and proportionate recovery. Once the draft annual plan is published, commented upon by interested parties and subsequently published in final form, this will provide greater transparency on URCA’s annual budgeted costs and take into account any surplus carried over from the previous fiscal period. This process will provide the underpinnings of how the URCA fees were calculated.
- 6.12 URCA differs in its position with BTC that the proposed annual URCA fee of 1.472% “canbe considered excessive”. It is important for URCA to state that the 1.472% of relevant turnover is not an annual fee but a sixteen (16) month fee. If pro-rated, this would be equivalent to an annual URCA fee of 1.1%. An annual URCA fee of 1.1% is not excessive by international standards and is reasonable when benchmarked to other like jurisdictions.
- 6.13 Within the Caribbean, the licence fee ranges from 0.3% in Jamaica⁵ to 7% in theTurks and Caicos Islands⁶. It is 3% in the ECTEL Member States such as Dominica⁷, Grenada⁸,

⁵ Public Notice, Regulatory Service Fees 2009

[http://www.our.jm/images/stories/content/Audiovisual/Presentations/Telecommunications%20-%20Regulatory%20Fees%20Over%205%20-%2026%20cm%20x%203cols%20\(Qtr.%20Page\)%20.pdf](http://www.our.jm/images/stories/content/Audiovisual/Presentations/Telecommunications%20-%20Regulatory%20Fees%20Over%205%20-%2026%20cm%20x%203cols%20(Qtr.%20Page)%20.pdf)

⁶ Telecommunications Fee Structure Regulations 2007, Turks And Caicos

<http://www.telecommission.tc/content/root/images/pages/20090402081407-Telecommunications-Fee-Structure.pdf>

⁷ Commonwealth of Dominica, Arrangement of Regulations, 2007

<http://www.ectel.int/Telecoms%20Regulations/Dominica/SRO%2015%20Telecommunications%20%28fees%29%20Reg.pdf>

⁸ Telecommunications (Fee Structure and Collection Mechanism) Regulations, 2003

and St. Vincent and the Grenadines⁹. The fees in Jamaica are relatively low for the region, reflecting the extent of liberalisation and number of providers that are accustomed to spread out regulatory costs, size of the market, and the fact that certain operational expenses of the OUR (the multi sector regulator in Jamaica) are spread across other utility sectors (i.e. electricity, water and transportation). In other international low-tax jurisdictions, such as Guernsey¹⁰, and Jersey¹¹, the licence fees are 1.4% and 0.75% of relevant turnover, respectively. This illustrates that the level of annual URCA fees is broadly comparable with other jurisdictions.

- 6.14 The sixteen (16) month fee referred to at Paragraph 6.12 above is an important issue and in the interest of transparency and providing the industry with clarification on this, more rationale is provided below.
- 6.15 The URCA Act and the Comms Act came into force on August 1, 2009 and 1 September, 2009, respectively which had the cumulative effect of changing the financial year for URCA from an end of June financial year to a calendar year and the billing cycle for licensees under the Comms Act.
- 6.16 URCA's first financial year under the Comms Act is for the five (5) month period of August 1, 2009 to December 31, 2009. As a result of the short financial year, this lead to a need for URCA to decide between (a) developing a five (5) month budget, set fees, estimate 5 month turnover for licensees, bill for this period, and generate collection, adjustment and other follow-up activities between URCA and the licensees; and (b) developing a sixteen (16) month budget to reflect that URCA can only collect fees under the Comms Act with effect from 1 September, 2009. The sixteen (16) months, therefore, is a combination of the four (4) month period 1 September, 2009 to December 31, 2009 and the full financial year January 1, 2010 to December 31, 2010.
- 6.17 In URCA's view, the first option would have created extra administrative burden for URCA and the industry that would be disproportionate and inefficient and possibly disruptive. In addition, the whole exercise would have to be repeated in the last few weeks of this calendar year (2009) to set fees for 2010 in accordance with the principles set out in Section 92(2) of the Comms Act. As a result of this, coupled with the need to develop a draft annual plan and budget for public consultation later this year pursuant to Section 41 of the URCA Act, URCA opted for developing a sixteen (16) month budget and used this as a basis for setting the level of URCA fee at 1.472% for the period from 1 September, 2009 to December 31, 2010.

<http://www.ectel.int/Telecoms%20Regulations/Grenada/Telecommunications%20Fee%20Structure%20and%20Collection.pdf>

⁹ St. Vincent and The Grenadines, Telecommunications (Fees) Regulations, Arrangement of Regulations <http://www.ectel.int/Telecoms%20Regulations/St.%20Vincent%20Grenadines/Revised-fees.pdf>

¹⁰ OUR Guernsey, Telecommunications Licence Fee http://www.regutil.gg/licensing_legal/licence_fees.asp?Sector=Telecommunications

¹¹ Annual Report, JCRA, 2009 <http://www.jcra.je/pdf/090416%20Annual%20Rep%200920V3.pdf>

- 6.18 It is for these reasons that URCA set out in the *Guidance On The Licensing Regime Under The Communications Act, 2009*¹², that URCA will be issuing invoices at the end of November 2009 that contemplates URCA budget and annual plan for the full sixteen (16) months. For ease of administration, URCA will typically issue a single invoice for URCA annual fees and other URCA fees. It is important to emphasise that should URCA not use all of the fees provided for in its budget which have been collected from licensees in a financial year, the surplus will be set off against the administration costs for the subsequent financial year. The net effect of this would be that licensees may experience a reduction in URCA fees for that subsequent financial year. URCA will review its fees annually in preparing its budget in its Annual Plan.
- 6.19 There are a number of other important factors that impact on the sixteen (16) month budget for this initial period and by extension the level of URCA fees:
- (i) The increase in fees reflects the increase in workload for URCA, especially in year one, as it carries out its functions under the Comms Act to implement a more robust regulatory regime to overcome many legacy issues. URCA believes that this is already being witnessed by the quality and quantity of consultations, determinations, types of licences and guidelines that have been published from as early as August 2009 onwards. The increased workload is also evident in the fact that URCA has already had to discharge some of its competition functions under Part XI of the Comms Act.
 - (ii) URCA believes that effective regulation requires better advice and up-skilling of staff. As such, the training budget has been increased. The advisory costs of professional services and consultants (including knowledge transfer) have been bolstered. The level of external advice by consultants and the implementation of that advice were significantly under-utilised by the Public Utilities Commission (PUC).
 - (iii) Under the Telecommunications Act, spectrum fees and radiocommunications equipment licence fees generated by activities carried out on behalf of the PUC by the Bahamas Maritime Authority (BMA) formed part of the revenues of the PUC. Under the Comms Act, spectrum fees will now be transferred to the Public Treasury of The Bahamas. Many of the activities licensed by the BMA are now either licence exempt or not electronic communications services under the Comms Act.
 - (iv) In addition, as a result of the coming into being of the new licensing regime, many of the licences previously issued by the PUC have been reclassified as non-licensable or became exempt. Activities that are

¹² Guidelines – ECS 15/2009, at page 32 - 33

exempt or non-licensable under the Comms Act will not attract fees. Overall, the impact of these changes on the inflow of funds to URCA will be negative, resulting in a projected funds inflow loss of approximately One Million Seven Hundred Thousand Dollars (\$1.7M).

- 6.20 BTC has also argued that the URCA fee could have been lower if URCA had taken into account “that other individual operating licences are to be immediately granted.” It is URCA’s expectation that the level of fees should decrease over time. This view is guided by an expected increase in the level of activity and size of the ECS sector following full liberalisation, as evidenced in Jamaica. In addition, URCA should also experience a reduction in the significant resources and cost associated with remedying the long-running legacy structural and other issues, after the first few years.
- 6.21 At the point of developing the budget and setting fees, URCA had some interest from new parties that may have been considered for individual operating licences. Moreover, at that time, URCA was not in possession of actual applications or actual business plans to inform itself of adding the relevant turnover of potential licensees to the fees calculation formula. In fact, it would have been less than prudent to do so. If the effect of issuing many new licences is for URCA to have higher operating inflows than operating outflows, then, this will be taken into account in (re)setting licence fees for the subsequent financial year (2011) in accordance with the principles under Section 92 of the Comms Act.
- 6.22 Finally, BTC has also expressed concerns that the URCA fees be considered in context of other fees, charges and Real Property taxes paid in The Bahamas. There is a notion by licensees, including BTC, that the 3% Communications Fee is a new “tax.” URCA believes that the Communications licence fee is a transparent fee to overcome a myriad of fees that were paid by licensees under the previous telecommunications and broadcasting regime. Licensees paid annual flat-fees, royalties etc. URCA believes it is important to emphasise that the Communications licence fee has been established by statute and not determined by URCA. In URCA’s view, the combined “tax” burden on licensees is still likely to be relatively lower than in jurisdictions that have a corporate tax regime with rates typically ranging between 20-35% and licensees also pay the equivalent licence or URCA fees.

F. Conclusion

1. This Final Determination has been prepared after full consideration by URCA of the comments received on the Preliminary Determination. Although URCA has only received one written to the consultation, URCA has been encouraged by the positive contributions and feedback to matters contained in the Preliminary Determination at the licensing workshops.
2. URCA will continue to review the electronic communications sector in accordance with its duties under the Comms Act. Until such time as URCA issues a new Determination on matters related to class licences, exemptions and types of fees, this Final Determination and the Annexes set out therein shall remain in force.

**Annex B – Conditions of a Class Operating Licence
Requiring Registration**

DATED

200[9]

**CLASS OPERATING LICENCE REQUIRING
REGISTRATION (the "Licence")**

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DEFINITIONS AND INTERPRETATION

1.1 In this Licence, except in so far as the context otherwise requires:

“Access” is the making available of Facilities and/or Carriage Services, to an Other Operator, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing Electronic Communications Services;

“Communication” means a communication for transmission by a Network;

“Communications Act” means the Communications Act 2009;

“Communications Data” means Signals other than Traffic Data;

“Communications Licence Fee” means the fee payable under section 91 of the Communications Act;

“Condition” means a condition in this Licence;

“End-User” in relation to a publicly-available Carriage Service, means: (a) a person who, otherwise than as a Licensee, is a Subscriber for that service; (b) a person who makes use of the service otherwise than as a Licensee; or (c) a person who may be authorised, by a person falling within sub-paragraph (a), so to make use of the service;

“Equipment” includes any equipment, machinery or device and any wire or cable and the casing or coating for any wire or cable;

“Financial Year” means the Financial Year of URCA, as defined in the URCA Act;

“Free Broadcast Service” means Broadcasting that is intended for reception in an unencrypted, intelligible form and free of charge;

“Material Change” means any significant change to the Licensee or the Electronic Communications Services provided by the Licensee, as may be detailed by URCA in any guidelines or other Documents;

“Other Operator” means a person other than the Licensee who is authorised to operate a Network or provide a Carriage Service under a licence awarded or an exemption granted by URCA;

“Public Pay Telephone” means a telephone available to the general public, for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes;

“Public Service” means any Carriage Service that is provided so as to be available for use by members of the public;

“Radiocommunications” means the transmission, emission or reception of messages, sound, visual images or Signals using electromagnetic waves which are propagated in space and having frequencies of lower than 3,000 GHz;

“Records” means data or information showing the extent of any Network or service actually provided to an End-User and any data or information used in the creation of a bill for an End-User;

“Register” means the register of persons granted this Licence and maintained by URCA pursuant to section 28 of the Communications Act;

“Regulatory and Other Measure” means any Document issued by URCA that sets out rules or procedures with which the Licensee must comply, including but not limited to any determination, adjudication, regulation, order, direction, decision, statement, instruction, notification; and technical rules and standards;

“Residential Customer” means, in relation to the Licensee, a Subscriber of that Licensee who is a natural person who uses the Licensee’s services and who contracts at a place of residence;

“Small Business Customer” means, in relation to the Licensee, a Subscriber of that Licensee who is: (a) not an Other Operator; and (b) a Subscriber in respect of an Undertaking carried on by him which has an annual turnover that does not exceed two hundred and fifty thousand dollars;

“UAT Act” means the Utilities Appeal Tribunal Act; and

“URCA Act” means the Utilities Regulation and Competition Authority Act 2009.

1.2 For the purpose of interpreting the Conditions in this Licence:

1.2.1 except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in:

- (a) the Licence, and otherwise
- (b) the Communications Act, and otherwise
- (c) the URCA Act, and otherwise
- (d) the UAT Act;

1.2.2 for ease of reference, in this Licence terms defined in the Communications Act have been capitalised;

1.2.3 subject to Condition 1.2.1, where there is any conflict between the provisions of this Licence and the Communications Act, the provisions of the Communications Act shall prevail;

1.2.4 references to Conditions, paragraphs, subparagraphs and appendices are to Conditions, paragraphs, subparagraphs of and to the appendices to the

Licence, as modified from time to time in accordance with this Licence and the Communications Act;

- 1.2.5 a Document will be incorporated into and form part of the Licence if it is referred to in this Licence and a reference to a Document is to a Document as modified from time to time;
- 1.2.6 headings and titles used in this Licence are for reference only and shall not affect its interpretation or construction;
- 1.2.7 references to any law or statutory instrument include any modification re-enactment or legislative provisions substituted for the same;
- 1.2.8 use of the word “include” or “including” is to be construed as being without limitation;
- 1.2.9 expressions cognate with those referred to in this Licence shall be construed accordingly;
- 1.2.10 words importing: (i) the singular only shall include the plural and vice versa; (ii) the whole shall be treated as including a reference to any part; and (iii) any gender shall include all other genders; and
- 1.2.11 reference to persons shall include firms or companies.

GRANT AND DURATION OF THE LICENCE

- 1.3 The Licensee is granted this Licence from the earlier of the following:
 - 1.3.1 the date that they are added by URCA to the Register;
 - 1.3.2 the date that they are deemed to be added to the Register under section 23(4) of the Communications Act.
- 1.4 No person that is a Licensee under an Individual Operating Licence, whether as a Named Licensee or a Subsidiary Undertaking notified to URCA under section 21(1) of the Communications Act, or is entitled to be a Licensee under an Individual Operating Licence, shall be a Licensee under this Licence.
- 1.5 This Licence shall continue in force in respect of each Licensee until the earlier of the following events:
 - 1.5.1 the Licensee is removed from the Register by URCA;
 - 1.5.2 the Licence is revoked pursuant to section 27 of the Communications Act.

SCOPE OF THE LICENCE

- 1.6 URCA grants to the Licensee:
 - 1.6.1 a right to provide any Carriage Services; and
 - 1.6.2 the rights to establish, maintain and operate one or more Networks,

within, into, from and through The Bahamas, subject to the Conditions of this Licence, Regulatory And Other Measures of and the provisions of the Communications Act.

- 1.7 Subject to all other applicable laws and regulations of The Bahamas at the time being in force, the Licensee undertakes to comply with the Conditions of this Licence, Regulatory And Other Measures and the provisions of the Communications Act. Conditions 1.9 and 1.10 below list the restrictions that apply to the Licensee under operating under this Licence.
- 1.8 Nothing in this Licence shall relieve the Licensee of any legal requirement to obtain any additional consents, permissions, authorisations or licences that are necessary for the establishment, operation, maintenance or improvement of the Network, the provision of the Carriage Services or the exercise of the Licensee's rights or discharge of its obligations under the Licence, including obtaining any licences required under the Communications Act for the use of Radiocommunications.

RESTRICTIONS

- 1.9 In accordance with section 84 and Schedule 2 of the Communications Act, the Licensee shall not have the benefit of land access set out in Part XIV of the Communications Act.
- 1.10 The Licensee shall not offer an Electronic Communications Service to End-Users for which a corresponding Access or Interconnection service to an Other Operator, including but not limited to call termination, is required.

PAYMENT OF FEES AND CONTRIBUTIONS

- 1.11 The Licensee shall pay to URCA the following fees and contributions notified by URCA from time to time in accordance with the Communications Act:
 - 1.11.1 any URCA Fees;
 - 1.11.2 the communications licence fees notified by URCA on behalf of the Minister;
 - 1.11.3 the contribution to the Universal Service Fund set by URCA from time to time in accordance with the Communications Act; and
 - 1.11.4 the Tribunal Fee payable pursuant to Schedule 3 of the UAT Act.
- 1.12 For each Financial Year of the Licence, any annual fees payable by the Licensee under section 92(1)(c) of the Communications Act shall be based upon:
 - 1.12.1 the last available audited accounts of the Licensee; or
 - 1.12.2 if the Licensee does not have any available audited accounts or those accounts do not include any Relevant Turnover, accounts certified by an accountant in possession of a practising certificate issued by the Bahamas Institute of Chartered Accountants; or
 - 1.12.3 if the Licensee does not have any available accounts certified by an accountant in possession of a practising certificate issued by the Bahamas

Institute of Chartered Accountants, the expected Relevant Turnover in the Licensee's business plan.

- 1.13 The annual fees calculated in accordance with Condition 1.12 shall be paid in advance on the first day of the Financial Year, with any adjustment due as a result of the audited accounts for that Financial Year becoming available being paid to URCA (or deducted from any other payment due to URCA) on the first day of the next Financial Year.
- 1.14 Without prejudice to Condition 1.320, in the event of a default by the Licensee in the payment of any fees when due under this Licence:
 - 1.14.1 the Licensee shall pay to URCA interest under section 94 of the Communications Act; and
 - 1.14.2 URCA may revoke this Licence under the terms of the Communications Act.

CONSUMER PROTECTION

1.15 Minimum terms and conditions

- 1.15.1 The Licensee shall, in offering to provide, or providing, Public Services other than Free Broadcast Services, ensure that it offers contracts with terms that at least include applicable prices and tariffs (which for the avoidance of doubt shall not include customised or individual prices and tariffs), and on its standard terms and conditions, in respect of access to and use of Public Services by End-Users, except Public Pay Telephones, are published.
- 1.15.2 Where the Licensee intends to modify a condition in a contract with a Residential Customer or a Small Business Customer which is likely to be of material detriment to the Residential Customer or the Small Business Customer, the Licensee shall:
 - (a) provide the Residential Customer or the Small Business Customer, as appropriate, with at least one month's notice of its intention detailing the proposed modification; and
 - (b) inform the Residential Customer or the Small Business Customer of the ability to terminate the contract without penalty if the proposed modification is not acceptable to the Residential Customer or the Small Business Customer.

1.16 Code of Practice for Complaints

Without prejudice to any regulations that URCA may issue under section 45(2) of the Communications Act, as soon as practicable and in any event within six (6) months of the Commencement Date, the Licensee shall establish and thereafter maintain procedures for the handling of complaints made by its Residential Customers or its Small Business Customers in relation to the provision of Public Services.

1.17 **Non-Payment of Bills**

1.17.1 Where the Licensee's Subscriber has not paid the Licensee all or part of a bill for Carriage 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 due warning to the Subscriber beforehand of any consequent service interruption or disconnection; and except in cases of fraud, persistent late payment or non-payment, confine any service interruption to the Carriage Service concerned, as far as technically feasible.

1.17.2 The Licensee shall publish details of generic measures it may take against Subscribers generally to effect payment or disconnection in accordance with Condition 1.17.1 above by:

- (a) sending a copy of such information or any appropriate parts of it to any Subscriber who may request such a copy; and
- (b) placing a copy of such information on any relevant website operated or controlled by the Licensee.

1.18 **Metering and Billing**

The Licensee shall not render any bill to a Subscriber in respect of the provision of any Public Services unless every amount stated in that bill represents and does not exceed the true extent of any such service actually provided to the Subscriber or its End-Users.

1.19 **Quality of Service**

The Licensee shall use reasonable endeavours to provide Carriage Services to a standard that could be reasonably expected by Subscribers, having regard to the nature of the services and any advertising or sales information provided by the Licensee.

1.20 **Fair dealing**

1.20.1 The Licensee must only charge a Subscriber for the specific Carriage Services or Equipment that the Subscriber has ordered, and a user shall have no liability to pay for any Carriage Service or Equipment that it has not ordered.

1.20.2 The Licensee must permit Subscribers on request to review his expenditures relating to Carriage Services provided by the Licensee.

1.20.3 The Licensee shall not make or cause to be made any claim or suggestion regarding the availability, price or quality of its Electronic Communications Carriage Services or Equipment or that of an Other Operator if the Licensee knows or reasonably ought to know that the statement or claim is false or misleading.

- 1.20.4 The Licensee shall ensure that all standard terms and conditions and codes of practice are drafted in plain English that is easy to understand and copies of the codes of practice shall be provided on request and free of charge to any Residential Customer or Small Business Customer and be prominently available on the Licensee's public website.

CONFIDENTIALITY OF SUBSCRIBER'S INFORMATION

- 1.21 Subject to Conditions 1.22 and 1.23, any other provision of this Licence or any provision of the Act or another enactment, the Licensee –
- 1.21.1 must not without a Subscriber's consent collect, use, maintain or disclose information about a Subscriber for any purpose; and
- 1.21.2 must apply appropriate security safeguards to prevent the collection, use, maintenance or disclosure of such information.
- 1.22 The Licensee may disclose a Subscriber's name, address and listed Telephone Number in a printed or electronic telephone Directory except where a Subscriber specifically requests that his details should be excluded from the Directory.
- 1.23 The Licensee may be required by URCA (by determination under the Communications Act) to retain or to be prohibited from retaining specified information relating to Subscribers, including information about billing, beyond a specified period.
- 1.24 The Licensee must ensure that information it discloses or retains concerning a Subscriber is accurate and complete for its intended use.
- 1.25 The Licensee must permit a Subscriber to inspect its Records regarding a Carriage Service provided to that Subscriber and to require correction or removal of information that is shown to be incorrect.
- 1.26 The Licensee must disclose to Subscribers the purpose of requesting or collecting any information about the Subscriber and must not use or maintain information about the Subscriber for undisclosed purposes.

CONFIDENTIALITY OF COMMUNICATIONS

- 1.27 The Licensee must take all reasonable steps to ensure the confidentiality of its End-Users' Communications.
- 1.28 The Licensee must not intercept, monitor, alter or modify the content of a message unless required to do so by the Communications Act or any other enactment.

INFORMATION, AUDIT, INSPECTION AND ACCESS

- 1.29 URCA may require:
- 1.29.1 an audit of any aspect of the business of the Licensee and the Licensee shall or shall procure assistance to URCA as it may reasonably require;

- 1.29.2 the Licensee to provide it with such information, Documents, accounts, returns, estimates, reports or other information required by URCA in the manner and at the times specified by URCA. URCA may use this information for purposes of compiling statistics and publishing periodical reviews of the Electronic Communications industry, and as required or permitted by the Communications Act or other laws or legal process;
- 1.29.3 the Licensee to permit a person authorised by URCA to carry out an inspection.
- 1.30 At the time when the Licensee pays its annual fee under Conditions 1.11 - 1.14 or, if earlier, prior to the end of each Financial Year, the Licensee shall either:
 - 1.30.1 provide URCA with confirmation in writing that its business has not undergone any Material Change over the previous Financial Year; or
 - 1.30.2 provide URCA in writing details of the Material Changes to its business.
- 1.31 Without prejudice to Condition 1.32, in the event that the Licensee does not provide URCA with either a written statement of no Material Change or details of any Material Changes, URCA may revoke this Licence under the terms of the Communications Act.

BREACH OF LICENCE

- 1.32 If URCA has reason to believe that any Licensee has failed to comply with any Condition it may exercise all such powers and duties as are afforded to or required of it under the Communications Act or any other relevant law and may take all such action as is permitted to it under those sections against the Licensee.

REVOCATION AND MODIFICATION

- 1.33 URCA may deregister a Licensee or revoke or modify this Licence or the Conditions applicable to any specified Licensee or Licensees in accordance with the procedures set out in section 27 of the Communications Act.

CHANGE IN CONTROL

- 1.34 The Licensee shall obtain URCA's approval of any change in control of the Licensee prior to the change in control occurring.
- 1.35 Without limiting URCA's ability and duty to apply the merger control provisions in sections 70 to 78 of the Communications Act, URCA may object to a change in control if in URCA's view the acquirer would not meet any qualification criteria set by URCA pursuant to section 23 of the Communications Act.

ASSIGNMENT

- 1.36 The Licensee shall not, without the prior written consent of URCA, sub-license, assign or grant any right, interest or entitlement in the Licence to any person or transfer or dispose of any of its assets that are necessary to provide any Carriage Service that the

Licensee is obliged to provide under this Licence unless such assets have been adequately replaced.

- 1.37 Condition 1.36 shall not apply to a mortgage, charge or other transaction entered into for the purpose of securing borrowings of the Licensee, being borrowings for the purposes of establishing, operating or maintaining the Licensee's Network or providing the Carriage Services or the provision of anything incidental to the Network or the Carriage Services.

NOTICES

- 1.38 Notices to the Licensee under the Conditions shall be in writing and sent by post or hand to the address shown at the front of this Licence or any other relevant address known to URCA or sent by facsimile if the parties agree beforehand that they will use facsimile for transmission of specific notices.
- 1.39 Notices to URCA under the Conditions shall be in writing and sent to the Chief Executive Officer of URCA by post or hand to the business address of URCA or by facsimile.

Annex C – Conditions of a Class Spectrum Licence Requiring Registration

DATED

200[9]

**CLASS SPECTRUM LICENCE REQUIRING
REGISTRATION (the "Licence")**

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1. DEFINITIONS

1.1 In this Licence, except in so far as the context otherwise requires:

“Communication” means a communication for transmission by a Network;

“Communications Act” means the Communications Act 2009;

“Condition” means a condition in this Licence;

“Equipment” includes any equipment, machinery or device and any wire or cable and the casing or coating for any wire or cable;

“European Standards Organisations” means the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC), and the European Telecommunications Standards Institute (ETSI);

“Harmful Interference” means any Interference which has, is, or, in the reasonable opinion of URCA, is likely imminently to: (a) cause loss or damage to any person; (b) impair the normal operation of any Network; (c) corrupt any message conveyed by any such system, to a material extent; (d) endanger the functioning of a radionavigation service or of other safety services; or (e) seriously degrade, obstruct or repeatedly interrupt a Radiocommunications service operating in accordance with the terms of the relevant Spectrum Licence or other Regulatory And Other Measures;

“Interference” means, in relation to any terrestrial technical system, the prejudicing by any emission or reflection by the Licensee’s Radiocommunications Station or Radiocommunications Equipment of any of the forms of electromagnetic energy, of the fulfilment of the purposes for which that terrestrial technical system is installed or maintained;

“International Standards Bodies” means the International Telecommunication Union (ITU), the International Organisation for Standardisation (ISO), the International Electrotechnical Committee (IEC), the American Standards Organisations, European Standards Organisation and any other body specified by URCA to be an International Standards Body;

“Licensed Radio Spectrum” means the radio spectrum licensed for use by the Licensee under Condition 3;

“Mobile Speech Communications Service” means any Radiocommunications service the functionality of which enables continued use of speech Communications across boundaries between the different areas of radio coverage, with no perceptible interruption of such services and which, for the avoidance of doubt, includes a handover process between elements of its Network;

“Radiocommunications” means the transmission, emission or reception of messages, sound, visual images or Signals using electromagnetic waves which are propagated in space and having frequencies of lower than 3,000 GHz;

“Radiocommunications Equipment” means any Equipment designed or used for Radiocommunications;

“Radiocommunications Station” means a site upon which Radiocommunications Equipment is deployed, including any vehicle, ship or aircraft;

“Technical Conditions” means the technical conditions that apply to the use of the whole or any part of the Licensed Radio Spectrum, in terms of radiated power limits, technical standard, modulation techniques or other characteristics established by URCA;

“UAT Act” means the Utilities Appeal Tribunal Act; and

“URCA Act” means the Utilities Regulation and Competition Authority Act 2009.

1.2 For the purpose of interpreting the Conditions in this Licence:

1.2.1 except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in:

- (a) the Licence, and otherwise
- (b) the Communications Act, and otherwise
- (c) the URCA Act, and otherwise
- (d) the UAT Act;

1.2.2 for ease of reference, in this Licence terms defined in the Communications Act have been capitalised;

1.2.3 subject to Condition 1.2.1, where there is any conflict between the provisions of this Licence and the Communications Act, the provisions of the Communications Act shall prevail;

1.2.4 references to Conditions, paragraphs, subparagraphs and appendices are to Conditions, paragraphs, subparagraphs of and to the appendices to the Licence, as modified from time to time in accordance with this Licence and the Communications Act;

1.2.5 a Document will be incorporated into and form part of the Licence if it is referred to in this Licence and a reference to a Document is to a Document as modified from time to time;

1.2.6 headings and titles used in this Licence are for reference only and shall not affect its interpretation or construction;

1.2.7 references to any law or statutory instrument include any modification re-enactment or legislative provisions substituted for the same;

1.2.8 use of the word “include” or “including” is to be construed as being without limitation;

- 1.2.9 expressions cognate with those referred to in this Licence shall be construed accordingly;
- 1.2.10 words importing: (i) the singular only shall include the plural and vice versa; (ii) the whole shall be treated as including a reference to any part; and (iii) any gender shall include all other genders; and
- 1.2.11 reference to persons shall include firms or companies.

2 DURATION

- 2.1 Licensees are granted this Licence from the earlier of the following:
 - 2.1.1 the date that they are added by URCA to the Register;
 - 2.1.2 the date that they are deemed to be added to the Register under section 23(4) of the Communications Act.
- 2.2 This Licence shall continue in force in respect of each Licensee until the earlier of the following events:
 - 2.2.1 the Licensee is removed from the Register by URCA;
 - 2.2.2 the Licence is revoked pursuant to section 27 of the Communications Act.

3 SCOPE OF THE LICENCE

- 3.1 The Licensee shall be permitted, subject to the provisions of this Licence and the Technical Conditions, to use such radio spectrum set out in the Appendix, as may be amended from time to time, for which they are registered by URCA (the "Licensed Radio Spectrum") in the Commonwealth of The Bahamas.
- 3.2 Subject to all other applicable laws and regulations of The Bahamas at the time being in force, the Licensee undertakes to comply with the Conditions of the Licence, any schedules to the Licence, any Regulatory And Other Measures and the provisions of the Communications Act

4 PAYMENT OF LICENCE FEE

- 4.1 The Licensee shall pay to URCA the following fees and contributions notified by URCA from time to time in accordance with the Communications Act, in the manner notified by URCA:
 - 4.1.1 any URCA Fees;
 - 4.1.2 the spectrum fees payable pursuant to section 93 of the Communications Act;
 - 4.1.3 the Tribunal Fee payable pursuant to Schedule 3 of the UAT Act.

5 USE OF RADIO SPECTRUM

- 5.1 The Licensee shall take all necessary steps to ensure that the use of the Licensed Radio Spectrum is safe and does not cause Harmful Interference to the other existing Radiocommunications Stations and Networks operating in the same geographical area or radio frequency band or in adjacent areas or bands.
- 5.2 The Licensee shall take all appropriate measures to ensure that its Radiocommunications Equipment are adequately protected from interference that may be caused by Radiocommunications Stations and Networks operating in the same geographical area or radio frequency band or in adjacent areas or bands.
- 5.3 The Licensee shall take all necessary steps to comply with any relevant Technical Conditions, including those established in URCA's guidelines, and compulsory standards and specifications published by International Standards Bodies relating to the use of the Assigned Radio Spectrum. Where no compulsory standards or specifications have been so published, the Licensee shall take full account of any relevant voluntary standards, specifications or recommendations so published.
- 5.4 The Licensee shall cooperate with URCA for the purposes of assisting URCA in coordinating and managing the efficient use of radio frequencies in relation to neighbouring countries, including but not limited to the provision of information to URCA, and the reduction of emission levels of Radiocommunications Stations.
- 5.5 Subject to this Condition, the use of any part of the Licensed Radio Spectrum for the purposes of managing Harmful Interference (including the provisioning for a guard band(s)) shall be at the discretion of the Licensee.
- 5.6 Where the Licensee's Radiocommunications Station or Radiocommunications Equipment causes the emission of Harmful Interference or directly causes any other Radiocommunications Station or Radiocommunications Equipment to emit Harmful Interference, the Licensee shall promptly take such reasonably practicable steps as URCA may direct to remove the source of such Harmful Interference or to mitigate its effect.
- 5.7 In making any direction under Condition 5.6, URCA shall consult the Licensee and any other person it considers may be affected by the direction in such manner and for such period as it considers appropriate, having regard in particular to the urgency of the matter.
- 5.8 The Licensee shall investigate, immediately upon being notified in writing from URCA, any complaint alleging that Harmful Interference has been, is being or is about to be emitted by its Radiocommunications Station or Radiocommunications Equipment.
- 5.9 The Licensee shall furnish to URCA, in such manner and at such times as URCA may reasonably request, all information about any investigation carried out pursuant to Condition 5.8 including, without limitation, any and all steps taken by the Licensee to comply with any guidance given by URCA in respect of the application of this Condition.

- 5.10 Unless expressly permitted in the Appendix, the Licensee shall not do any of the following:
- 5.10.1 use or intentionally allow the use of its Licensed Radio Spectrum for the provision of any Mobile Speech Communications Service.
 - 5.10.2 implement any technology that is intended to provide the ability or facilitate the use of any terminal equipment of any Subscriber to receive, use or provide Mobile Speech Communications Services.

6 RADIOCOMMUNICATIONS EQUIPMENT

- 6.1 The Licensee shall comply with any relevant compulsory standards and specifications published by International Standards Bodies for emissions, non-ionising radiation safety and electromagnetic compatibility in connection with any of its Radiocommunications Equipment. Where no compulsory standards or specifications have been so published, the Licensee shall take full account of any relevant voluntary standards, specifications or recommendations so published.
- 6.2 In the absence of such standards, specifications or recommendations referred to in Conditions 6.1, the Licensee shall take full account of any other standard specified by URCA, provided that URCA shall not specify such a standard if an appropriate international standard is expected to be promulgated within a reasonable time.
- 6.3 The Licensee shall ensure that the Radiocommunications Equipment that are operated within the Licensed Radio Spectrum are not used for unlawful purposes or misused in any way.
- 6.4 The Licensee shall ensure that all persons using its Radiocommunications Equipment are made aware of the relevant terms of this License together with any other relevant license and comply with such terms.

7 CONFIDENTIALITY OF COMMUNICATIONS

If the Licensee receives a message through the course of its operations which is not addressed to the Licensee, it shall not make known its contents, its origin or its destination, its existence or the fact of its receipt to any person other than the addressee or URCA or a competent legal tribunal and shall not reproduce in writing, copy or make any use of such message or allow the same to be reproduced in writing, copied or made use of.

8 CHANGE IN CONTROL

- 8.1 The Licensee shall obtain URCA's approval of any change in control of the Licensee prior to the change in control occurring.
- 8.2 Without limiting URCA's ability and duty to apply the merger control provisions in section 70 to 78 of the Communications Act, URCA may object to a change in control if in URCA's view the acquirer would not meet any of the criteria set by URCA pursuant to section 23 of the Communications Act.

9 RADIO SPECTRUM TRADING AND SHARING

- 9.1 The Licensee shall not, except with the prior written approval of URCA or in accordance with rules or regulations published under section 38 of the Communications Act, assign, transfer, trade, sell or otherwise dispose of the whole or any part of the rights, privileges, duties or obligations under this Licence to any person or persons.
- 9.2 The Licensee shall not, except with the prior written approval of URCA, authorise any person or persons to operate a Radiocommunications Station or Network within the Licensed Radio Spectrum.

10 BREACH OF LICENCE

If URCA has reason to believe that any Licensee has failed to comply with any Condition it may exercise all such powers and duties as are afforded to or required of it under the Communications Act or any other relevant law and may take all such action as is permitted to it under those sections against the Licensee.

11 REVOCATION AND MODIFICATION

- 11.1 URCA may deregister a Licensee or revoke or modify this Licence or the Conditions applicable to any specified Licensee or Licensees in accordance with the procedures set out in section 27 of the Communications Act.
- 11.2 URCA may determine any spectrum to be vacated in accordance with sections 36 and 37 of the Communications Act.
- 11.3 URCA may amend the Appendix:
- 11.3.1 with immediate effect, subject to the Licensee's consent; or
 - 11.3.2 pursuant to a determination issued under section 99 of the Communications Act.

12 NOTICES

- 12.1 Notices to the Licensee under the Conditions shall be in writing and sent by post or hand to the address shown at the front of this Licence or any other relevant address known to URCA or sent by facsimile if the parties agree beforehand that they will use facsimile for transmission of specific notices.
- 12.2 Notices to URCA under the Conditions shall be in writing and sent to the Chief Executive Officer of URCA by post or hand to the business address of URCA or by facsimile.

APPENDIX
Licensed Radio Spectrum

The Licensed Radio Spectrum means, unless otherwise specified below, the radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits specified in the tables below for which the Licensee is registered by URCA.

Table A: Very Small Aperture Terminal (VSAT)

Band	Frequency (GHz)		Power Limits
	Transmit	Receive	
C Band	5.8-6.4	3.6-4.2	a) +40 dBW in any 4 kHz band for $\theta \leq 0$ degrees b) +40 + 3 θ dBW in any 4 kHz band for $0 < \theta \leq 5$ degrees c) For angles of elevation of the horizon greater than 5 degrees there are no power limitations
Ku Band	14.0-14.5	10.9-12.7	a) +40 dBW in any 4 kHz band for $\theta \leq 0$ degrees b) +40 + 3 θ dBW in any 4 kHz band for $0 < \theta \leq 5$ degrees c) For angles of elevation of the horizon greater than 5 degrees there are no power limitations
Ka Band	25	30	a) +64 dBW in any 1 MHz band for $\theta \leq 0$ degree b) +64 + 3 θ dBW in any 1 MHz for $0 < \theta \leq 5$ degree c) For angles of elevation of the horizon greater than 50 there are no power limitations

Table B: Amateur Radio

Fundamental Frequencies (MHz)	
Lower Band	Upper Band
1.8	2
3.5	4
5.33	5.406
7	7.3
10.1	10.15
14	14.35
18.068	18.168
21	21.45
24.89	24.99
28	29.7
5	54
144	148
219	225
420	450
902	928
1240	1300
2300	2310
2390	2450
3300	3500
5650	5925
10000	10500
24000	24250
47000	47200
76000	81000
122250	123000
134000	141000

241000	250000
All above 275000	

Table C: Marine (with GMDSS equipment)

Frequency	
Digital Selective Calling	Voice
2187.5	2182
4207.5	4125
6312	6215
8414.5	8291
12577	12290
16804.5	16420

Annex D – Conditions of a Class Operating Licence Not Requiring Registration

DATED

200[9]

**CLASS OPERATING LICENCE NOT REQUIRING
REGISTRATION (the "Licence")**

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DEFINITIONS AND INTERPRETATION

1.1 In this Licence, except in so far as the context otherwise requires:

“Condition” means a condition in this Licence;

“Free Broadcast Service” means Broadcasting that is intended for reception in an unencrypted, intelligible form and free of charge;

“Licensee” means the person granted this Licence under Conditions 1.3 and 1.4; and

“Radiocommunications” means the transmission, emission or reception of messages, sound, visual images or Signals using electromagnetic waves which are propagated in space and having frequencies of lower than 3,000 GHz.

1.2 For the purpose of interpreting the Conditions in this Licence:

1.2.1 except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in:

(a) the Licence, and otherwise

(b) the Communications Act;

1.2.2 for ease of reference, in this Licence terms defined in the Communications Act have been capitalised;

1.2.3 subject to Condition 1.2.1, where there is any conflict between the provisions of this Licence and the Communications Act, the provisions of the Communications Act shall prevail;

1.2.4 references to Conditions, paragraphs, subparagraphs and appendices are to Conditions, paragraphs, subparagraphs of and to the appendices to the Licence, as modified from time to time in accordance with this Licence and the Communications Act;

1.2.5 a Document will be incorporated into and form part of the Licence if it is referred to in this Licence and a reference to a Document is to a Document as modified from time to time;

1.2.6 headings and titles used in this Licence are for reference only and shall not affect its interpretation or construction;

1.2.7 references to any law or statutory instrument include any modification re-enactment or legislative provisions substituted for the same;

1.2.8 use of the word “include” or “including” is to be construed as being without limitation;

- 1.2.9 expressions cognate with those referred to in this Licence shall be construed accordingly;
- 1.2.10 words importing: (i) the singular only shall include the plural and vice versa; (ii) the whole shall be treated as including a reference to any part; and (iii) any gender shall include all other genders; and
- 1.2.11 reference to persons shall include firms or companies.

GRANT OF THE LICENCE

- 1.3 Any person establishing, maintaining and operating a network or providing a carriage service is granted this Licence to undertake the activities set out in Conditions 1.5 and 1.6, provided that such person is not:
 - 1.3.1 a licensee under an Individual Operating Licence, whether as a Named Licensee or a Subsidiary Undertaking notified to URCA under Section 21(1) of the Communications Act, or is entitled to be a Licensee under an Individual Operating Licence; or
 - 1.3.2 registered as a licensee under a class operating licence granted by URCA pursuant to Section 19(3) of the Communications Act.
- 1.4 Subject to all other applicable laws and regulations of The Bahamas at the time being in force, the Licensee undertakes to comply with the Conditions of this Licence, Regulatory And Other Measures and the provisions of the Communications Act.

SCOPE OF THE LICENCE

- 1.5 URCA grants to the Licensee a right to provide Carriage Services and to establish, maintain and operate one or more Networks, within, into, from and through The Bahamas to the extent that the Carriage Services and Networks are:
 - 1.5.1 a Free Broadcast Service; or
 - 1.5.2 are for the Licensee's own use and:
 - (a) are not for commercial gain; and
 - (b) do not require Interconnection to a Public Network,provided that the maintenance, establishment and operation of the Network or provision of the Carriage Service is for the purpose of a Free Broadcast Service
- 1.6 Nothing in this Licence shall relieve the Licensee of any legal requirement to obtain any additional consents, permissions, authorisations or licences that are necessary for the establishment, operation, maintenance or improvement of the Network, the provision of the Carriage Services or the exercise of the Licensee's rights or discharge of its obligations under the Licence, including obtaining any licences required under the Communications Act for the use of Radiocommunications.

BREACH OF LICENCE

- 1.7 If URCA has reason to believe that any Licensee has failed to comply with any Condition it may exercise all such powers and duties as are afforded to or required of it under the Communications Act or any other relevant law and may take all such action as is permitted to it under those Sections against the Licensee.

REVOCATION AND MODIFICATION

- 1.8 URCA may revoke or modify this Licence in accordance with the procedures set out in Section 27 of the Communications Act.

Annex E – Conditions of a Class Spectrum Licence Not Requiring Registration

DATED

200[9]

**CLASS SPECTRUM LICENCE NOT REQUIRING
REGISTRATION (the "Licence")**

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1 DEFINITIONS

1.1 In this Licence, except in so far as the context otherwise requires:

“Communication” means a communication for transmission by a Network;

“Communications Act” means the Communications Act 2009;

“Condition” means a condition in this Licence;

“Equipment” includes any equipment, machinery or device and any wire or cable and the casing or coating for any wire or cable;

“European Standards Organisations” means the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC), and the European Telecommunications Standards Institute (ETSI);

“Harmful Interference” means any Interference which has, is, or, in the reasonable opinion of URCA, is likely imminently to: (a) cause loss or damage to any person; (b) impair the normal operation of any Network; (c) corrupt any message conveyed by any such system, to a material extent; (d) endanger the functioning of a radionavigation service or of other safety services; or (e) seriously degrade, obstruct or repeatedly interrupt a Radiocommunications service operating in accordance with the terms of the relevant Spectrum Licence or other Regulatory And Other Measures;

“Interference” means, in relation to any terrestrial technical system, the prejudicing by any emission or reflection by the Licensee’s Radiocommunications Station or Radiocommunications Equipment of any of the forms of electromagnetic energy, of the fulfilment of the purposes for which that terrestrial technical system is installed or maintained;

“International Standards Bodies” means the International Telecommunication Union (ITU), the International Organisation for Standardisation (ISO), the International Electrotechnical Committee (IEC), the American Standards Organisations, European Standards Organisation and any other body specified by URCA to be an International Standards Body;

“Licensed Radio Spectrum” means the radio spectrum licensed for use by the Licensee under Condition 3;

“Mobile Speech Communications Service” means any Radiocommunications service the functionality of which enables continued use of speech Communications across boundaries between the different areas of radio coverage, with no perceptible interruption of such services and which, for the avoidance of doubt, includes a handover process between elements of its Network;

“Radiocommunications” means the transmission, emission or reception of messages, sound, visual images or Signals using electromagnetic waves which are propagated in space and having frequencies of lower than 3,000 GHz;

“Radiocommunications Equipment” means any Equipment designed or used for Radiocommunications;

“Radiocommunications Station” means a site upon which Radiocommunications Equipment is deployed, including any vehicle, ship or aircraft;

“Technical Conditions” means the technical conditions that apply to the use of the whole or any part of the Licensed Radio Spectrum, in terms of radiated power limits, technical standard, modulation techniques or other characteristics established by URCA;

“URCA Act” means the Utilities Regulation and Competition Authority Act 2009.

1.2 For the purpose of interpreting the Conditions in this Licence:

1.2.1 except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in:

(a) the Licence, and otherwise

(b) the Communications Act, and otherwise

(c) the URCA Act.

1.2.2 for ease of reference, in this Licence terms defined in the Communications Act have been capitalised;

1.2.3 subject to Condition 1.2.1, where there is any conflict between the provisions of this Licence and the Communications Act, the provisions of the Communications Act shall prevail;

1.2.4 references to Conditions, paragraphs, subparagraphs and appendices are to Conditions, paragraphs, subparagraphs of and to the appendices to the Licence, as modified from time to time in accordance with this Licence and the Communications Act;

1.2.5 a Document will be incorporated into and form part of the Licence if it is referred to in this Licence and a reference to a Document is to a Document as modified from time to time;

1.2.6 headings and titles used in this Licence are for reference only and shall not affect its interpretation or construction;

1.2.7 references to any law or statutory instrument include any modification re-enactment or legislative provisions substituted for the same;

1.2.8 use of the word “include” or “including” is to be construed as being without limitation;

1.2.9 expressions cognate with those referred to in this Licence shall be construed accordingly;

1.2.10 words importing: (i) the singular only shall include the plural and vice versa; (ii) the whole shall be treated as including a reference to any part; and (iii) any gender shall include all other genders; and

1.2.11 reference to persons shall include firms or companies.

2 SCOPE OF THE LICENCE

2.1 The Licensee shall be permitted, subject to the provisions of this Licence and the Technical Conditions, to use such radio spectrum set out in the Appendix, as may be amended from time to time (the “Licensed Radio Spectrum”) in the Commonwealth of The Bahamas.

2.2 Subject to all other applicable laws and regulations of The Bahamas at the time being in force, the Licensee undertakes to comply with the Conditions of the Licence, any schedules to the Licence, any Regulatory And Other Measures and the provisions of the Communications Act

3 USE OF RADIO SPECTRUM

3.1 The Licensee shall take all necessary steps to ensure that the use of the Licensed Radio Spectrum is safe and does not cause Harmful Interference to the other existing Radiocommunications Stations and Networks operating in the same geographical area or radio frequency band or in adjacent areas or bands.

3.2 The Licensee shall take all appropriate measures to ensure that its Radiocommunications Equipment are adequately protected from interference that may be caused by Radiocommunications Stations and Networks operating in the same geographical area or radio frequency band or in adjacent areas or bands.

3.3 The Licensee shall take all necessary steps to comply with any relevant Technical Conditions, including those established in URCA’s guidelines, and compulsory standards and specifications published by International Standards Bodies relating to the use of the Assigned Radio Spectrum. Where no compulsory standards or specifications have been so published, the Licensee shall take full account of any relevant voluntary standards, specifications or recommendations so published.

3.4 The Licensee shall cooperate with URCA for the purposes of assisting URCA in coordinating and managing the efficient use of radio frequencies in relation to neighbouring countries, including but not limited to the provision of information to URCA, and the reduction of emission levels of Radiocommunications Stations.

3.5 Where the Licensee’s Radiocommunications Station or Radiocommunications Equipment causes the emission of Harmful Interference or directly causes any other Radiocommunications Station or Radiocommunications Equipment to emit Harmful Interference, the Licensee shall promptly take such reasonably practicable steps as URCA may direct to remove the source of such Harmful Interference or to mitigate its effect.

- 3.6 The Licensee shall investigate, immediately upon being notified in writing from URCA, any complaint alleging that Harmful Interference has been, is being or is about to be emitted by its Radiocommunications Station or Radiocommunications Equipment.
- 3.7 The Licensee shall furnish to URCA, in such manner and at such times as URCA may reasonably request, all information about any investigation carried out pursuant to Condition 3.6 including, without limitation, any and all steps taken by the Licensee to comply with any guidance given by URCA in respect of the application of this Condition.
- 3.8 The Licensee shall not do any of the following:
 - 3.8.1 use or intentionally allow the use of its Licensed Radio Spectrum for the provision of any Mobile Speech Communications Service.
 - 3.8.2 implement any technology that is intended to provide the ability or facilitate the use of any terminal equipment of any Subscriber to receive, use or provide Mobile Speech Communications Services.

4 RADIOCOMMUNICATIONS EQUIPMENT

- 4.1 The Licensee shall comply with any relevant compulsory standards and specifications published by International Standards Bodies for emissions, non-ionising radiation safety and electromagnetic compatibility in connection with any of its Radiocommunications Equipment. Where no compulsory standards or specifications have been so published, the Licensee shall take full account of any relevant voluntary standards, specifications or recommendations so published.
- 4.2 In the absence of such standards, specifications or recommendations referred to in Conditions 4.1, the Licensee shall take full account of any other standard specified by URCA, provided that URCA shall not specify such a standard if an appropriate international standard is expected to be promulgated within a reasonable time.
- 4.3 The Licensee shall ensure that the Radiocommunications Equipment that are operated within the Licensed Radio Spectrum are not used for unlawful purposes or misused in any way.
- 4.4 The Licensee shall ensure that all persons using its Radiocommunications Equipment are made aware of the relevant terms of this License together with any other relevant license and comply with such terms.

5 CONFIDENTIALITY OF COMMUNICATIONS

If the Licensee receives a message through the course of its operations which is not addressed to the Licensee, it shall not make known its contents, its origin or its destination, its existence or the fact of its receipt to any person other than the addressee or URCA or a competent legal tribunal and shall not reproduce in writing, copy or make any use of such message or allow the same to be reproduced in writing, copied or made use of.

6 BREACH OF LICENCE

If URCA has reason to believe that any Licensee has failed to comply with any Condition it may exercise all such powers and duties as are afforded to or required of it under the Communications Act or any other relevant law and may take all such action as is permitted to it under those Sections against the Licensee.

7 REVOCATION AND MODIFICATION

- 7.1 URCA may revoke or modify this Licence in accordance with the procedures set out in Section 27 of the Communications Act.
- 7.2 URCA may determine any spectrum to be vacated in accordance with Sections 36 and 37 of the Communications Act.

Appendix

Licensed Radio Spectrum

The Licensed Radio Spectrum means, unless otherwise specified below, the radio frequency band(s) consisting of the range of radio frequencies between the upper and lower frequency limits specified in the table below.

Table A: Aircraft – Ground to air and air to ground communication

Frequency (MHz)	
KHz TX/RX	MHz RX/TX
5 085	5 085
4 4443	4 4443

Table B: Aircraft Based

Frequency (MHz)	
Lower	Upper
108	117.975
118	135
127	136

Table C: Marine (without GMDSS)

HF/VHF	Frequency (MHz)	
	Transmit	Receive
HF	4.146 – 4.417	4.146 – 4.417

HF	6.224 – 6.516	6.224 – 6.516
HF	8.294 – 8.297	8.294 – 8.297
HF	12.353 – 12.365	12.353 – 12.365
HF	16.528 – 16.543	16.528 – 16.543
HF	18.825 – 18.840	18.825 – 18.840
HF	22.159 – 22.174	22.159 – 22.174
HF	25.100 – 25.115	25.100 – 25.115
VHF	156.050 – 157.425	156.050 – 162.525

Annex F – Operating Exemption

OPERATING EXEMPTION (the “Exemption”)

DEFINITIONS AND INTERPRETATION

1.1 In this Exemption, except in so far as the context otherwise requires:

“Communications Act” means the Communications Act 2009; and

“Public Service” means any Carriage Service that is provided so as to be available for use by members of the public; and

“Radiocommunications” means the transmission, emission or reception of messages, sound, visual images or Signals using electromagnetic waves which are propagated in space and having frequencies of lower than 3,000 GHz

1.2 For the purpose of interpreting this Exemption:

(a) except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in the Exemption, and otherwise the Communications Act;

(b) for ease of reference, in this Exemption terms defined in the Communications Act have been capitalised;

(c) subject to Section 1,2(a), where there is any conflict between the provisions of this Exemption and the Communications Act, the provisions of the Communications Act shall prevail;

(d) headings and titles used in this Exemption are for reference only and shall not affect its interpretation or construction; and

(e) references to any law or statutory instrument include any modification re-enactment or legislative provisions substituted for the same.

EXEMPTION

1.3 Persons are exempt from the requirement of a licence under Section 16(1) of the Communications Act to the extent that they meet the criteria in either condition 1.5 or 1.6.

1.4 Nothing in this Exemption shall relieve any person of any legal requirement to obtain any additional consents, permissions, authorisations or licences that are necessary for the establishment, operation, maintenance or improvement of a Network, the provision of a Carriage Service, including obtaining any licences required under the Communications Act for the use of Radiocommunications.

SELF PROVISION

1.5 A person that maintains, establishes or operates a Network or provides a Carriage Service for his own use that is:

(a) not for commercial gain; and

(b) does not require Interconnection to a Public Network

provided that the maintenance, establishment or operation of a Network or provision of a Carriage Service is not such person's principal business.

CLOSED USER GROUP

- 1.6 Persons that maintain, establish and operate a Network or provide a Carriage Service that does not require interconnection to a Public Network, provided that:
- (a) together those persons are a group with a common business, or other economic, or social interest other than the maintenance, provision and operation of the Network or provision of the Electronic Communications Services; and
 - (b) those persons use such Network or Carriage Services to communicate with each other by mutual agreement and exclude others from using the Network or Carriage Services; and
 - (c) that the maintenance, establishment or operation of a Network or provision of a Carriage Service is not such persons' principal business.

Annex G – Spectrum Exemption

SPECTRUM EXEMPTION (the “Exemption”)

DEFINITIONS AND INTERPRETATION

1.1 In this Exemption, except in so far as the context otherwise requires:

“**CFR**” means the Code of Federal Regulations issued and maintained by the FCC;

“**Communications Act**” means the Communications Act 2009;

“**FCC**” means the Federal Communications Commission of the United States of America;

“**Low Power Device**” has the meaning in Section 0.

1.2 For the purpose of interpreting this Exemption:

- (a) except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in the Exemption, and otherwise the Communications Act;
- (b) for ease of reference, in this Exemption terms defined in the Communications Act have been capitalised;
- (c) subject to Section 1.2(a), where there is any conflict between the provisions of this Exemption and the Communications Act, the provisions of the Communications Act shall prevail;
- (d) headings and titles used in this Exemption are for reference only and shall not affect its interpretation or construction; and
- (e) references to any law or statutory instrument include any modification re-enactment or legislative provisions substituted for the same.

EXEMPTION

1.3 Persons are exempt from the requirement of a licence for the use of radio spectrum under Section 16(1) of the Communications Act for Low Power Devices.

1.4 Nothing in this Exemption shall relieve any person of any legal requirement to obtain any additional consents, permissions, authorisations or licences that are necessary for the establishment, operation, maintenance or improvement of a Network, the provision of a Carriage Service.

LOW POWER DEVICES

1.5 Low Power Devices are devices capable of radio transmission that:

- (a) have been tested and approved by the FCC; and
- (c) meet the specifications set out in Part 15 of Title 47 of the CFR as may be amended from time to time; and
- (d) have a FCC identification label indicating that the device is authorised by the FCC and a compliance label indicating that the device is authorised under Part 15 of Title 47 of the CFR; and

(e) are only capable of low power radiation; and

(f) are only capable of transmitting signals over short distances

provided that it is not an excluded device specified by URCA on its website or in any Regulatory And Other Measure.

1.6 Low Power Devices use radio spectrum on a secondary basis, meaning that they use shared spectrum without causing harmful interference to other users of radio spectrum.

Annex H – Types of Fees

Types of fees and charges to be levied by URCA

1. URCA will levy the following fees and charges:

- 1.1 Annual charges for licensees to be calculated on the licensee's relevant turnover under Section 92(1)(c) of the Comms Act;
- 1.2 Fees for the provision of copies of documents under Section 92(1)(b) of the Comms Act;
- 1.3 Fees for the administration and allocation of spectrum under Section 92(1)(d) of the Comms Act;
- 1.4 Fees for the administration and allocation of national telephone numbers under Section 92(1)(d) of the Comms Act; and
- 1.5 Other fees and charges under Section 92(1)(a) of the Comms Act for particular services rendered by URCA in the performance of its functions and the exercise of its powers under the Comms Act, as may be notified to licensees requesting such services.