



BERMUDA

REGULATORY AUTHORITY (EXEMPTIONS AND CLASS LICENSES) GENERAL
DETERMINATION 2013

BR 46 / 2013

The Regulatory Authority, in exercise of the power conferred by section 62 of the Regulatory Authority Act 2011 read with sections 14(b) and 16(2) of the Electronic Communications Act 2011, makes the following General Determination:

Citation

1 This General Determination may be cited as the Regulatory Authority (Exemptions and Class Licences) General Determination 2013.

Interpretation

2 In this General Determination unless the context otherwise requires all relevant terms shall have the meaning given in the Regulatory Authority Act 2011 and the Electronic Communications Act 2011.

General purpose

3 This General Determination establishes—

- (a) an exemption for certain providers of electronic communications from the requirement to hold a communications operating licence;
- (b) a class licence; and
- (c) associated procedures.

Terms and conditions of the General Determination

4 The Schedule has effect.

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SCHEDULE

(Paragraph 4)

BERMUDA REGULATORY AUTHORITY

COMMUNICATIONS OPERATING LICENCES: EXEMPTIONS AND CLASS LICENCES

MATTER: C13/03

This General Determination is made by the Regulatory Authority pursuant to Section 62(1) of the Regulatory Authority Act 2011, and in accordance with Sections 14(b) and 16(2) of the Electronic Communications Act 2011, and establishes: an Exemption for certain providers of Electronic Communications from the requirement to hold a communications operating licence, as set forth in Attachment A; a Class Licence, as set forth in Attachment B; and certain associated procedures.

I. DEFINITIONS

1. In this General Determination, unless the context otherwise requires:

“**Affiliate**” means any entity that owns, or is owned by, another entity, as evidenced by the ownership of 25 per cent or more of the shares, stock or other securities or voting rights of the owned entity, including through an agreement or arrangement of any type;

“**Class Licensee**” means a Person who is entered on the Authorizations Register by the Regulatory Authority;

“**Closed User Group**” means a group of Persons who share a common business, economic or social interest or affinity, other than the need to communicate with one another or the provision of Electronic Communications;

“**ECA**” means the Electronic Communications Act 2011;

“**Official Website**” means the website established by the Regulatory Authority pursuant to Section 18 of the RAA;

“**Person**” means a natural person or any company or association or body of persons, whether corporate or unincorporated, being a body which is empowered by law to sue or be sued in its own name or in the name of an officer or other person; and

“**RAA**” means the Regulatory Authority Act 2011.

II. INTERPRETATION

2. For the purpose of interpreting this General Determination:

(a) unless the context otherwise requires, words or expressions shall have the meaning assigned to them herein, the ECA, RAA and Interpretation Act 1951;

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- (b) where there is any conflict between the provisions of this General Determination and the ECA or RAA, the provisions of the ECA or RAA, as the case may be, shall prevail;
- (c) terms defined herein and in the ECA and RAA have been capitalised;
- (d) headings and titles used herein are for reference only and shall not affect the interpretation or construction of this General Determination;
- (e) references to any law or statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
- (f) a document referred to herein shall be incorporated into and form part of this General Determination and a reference to a document is to a document as modified from time to time;
- (g) expressions cognate with those used herein shall be construed accordingly;
- (h) use of the word "include" or "including" is to be construed as being without limitation; and
- (i) words importing the singular shall include the plural and vice versa, and words importing the whole shall be treated as including a reference to any part unless explicitly limited.

3. This General Determination shall be construed by reference to the Consultation Document and Final Decision issued in the Public Consultation entitled "Communications Operating Licences: Exemptions and Class Licences," Matter C13/3. Where there is any conflict between the Consultation Document and the Final Decision, the provisions of the Final Decision shall prevail. Where there is any conflict between the Final Decision and this General Determination, the provisions of this General Determination shall prevail.

III. LEGISLATIVE BACKGROUND AND PURPOSE

4. Section 62(1) of the RAA authorises the Regulatory Authority to make General Determinations in order to carry out the provisions and purposes of the RAA.

5. Section 12 of the ECA requires all operators of Electronic Communications Networks and all providers of Electronic Communications Services (collectively, "Electronic Communications"), within the territorial limits of Bermuda or between Bermuda and another country, to secure a licence.

6. In accordance with the ECA's licensing framework, not all providers of Electronic Communications are subject to the same licensing requirements. Sections 16(1)(a) and (b) of the ECA provide for two categories of communications operating licences ("COLs"):

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- (a) COLs (including Integrated Communications Operating Licences ("ICOLs")) granted to individual Licensees; and
- (b) Class COLs (or Class Licences), which are licences granted to Persons that meet the requirements of a particular class.

Section 16(1)(c) of the ECA empowers the Regulatory Authority to grant exemptions from the requirement to hold a COL. Section 16(2)(c) of the ECA authorizes the Regulatory Authority to grant exemptions from the requirement to hold a COL if:

- (a) no conditions, or only limited conditions, need apply to the exempted group of communications providers or the provision of the exempted type or types of Electronic Communications; and
- (b) no Regulatory Authority Fees or Government Authorization Fees are required in respect of the exempted providers of Electronic Communications.

7. Section 14(b) of the ECA empowers the Regulatory Authority to establish a licensing framework for the operation and provision of Electronic Communications, other than Public Electronic Communications, by General Determination establishing eligibility criteria, terms and conditions and applicable procedures.

8. In accordance with Sections 62(2) and 69(1) of the RAA, the Regulatory Authority is required to conduct a Public Consultation in order to adopt an Administrative Determination.

9. In accordance with Section 70(1) of the RAA, the Regulatory Authority published a consultation document entitled "Communications Operating Licences: Exemptions and Class Licences" on 4 February 2013, thereby initiating a Public Consultation inviting stakeholders and interested parties for their comments on: a draft Exemption of certain providers of Electronic Communications from the requirement to hold a communications operating licence, a draft Class Licence, and a draft General Determination that appeared respectively as Appendix A, Appendix B and Appendix D to the consultation document. The Public Consultation was closed on 4 March 2013. In accordance with Section 72(4) of the RAA, the Regulatory Authority published a Final Decision in the Public Consultation, setting out its conclusions regarding the issues raised during the Public Consultation process.

10. This General Determination adopts the Exemption of certain providers of Electronic Communications from the requirement to hold a communications operating licence and the Class Licence that appear respectively as Attachment A and Attachment B. It also adopts procedures associated with both the Exemption and Class Licence.

IV. MAIN PROVISIONS

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1. Determination on the adoption of the Exemption of certain providers of Electronic Communications from the requirement to hold a COL and on the adoption of a Class Licence

11. Pursuant to Section 62(1) of the RAA, and in accordance with Sections 14(b) and 16(2) of the ECA, the Regulatory Authority hereby determines that the Exemption of certain providers of Electronic Communications from the requirement to hold a communications operating licence and the Class Licence that appear respectively as Attachment A and Attachment B are adopted.

2. Procedures that apply with respect to the creation or elimination of a licence exemption

12. Pursuant to Section 62(1) of the RAA, and in accordance with Sections 14(b) and 16(2) of the ECA, the Regulatory Authority also determines that the following procedures will apply with respect to the creation or elimination of an exemption from the requirement to hold a COL.

13. In the case that the Regulatory Authority decides to grant an exemption for a service for which a Class Licence is currently required, the procedure set forth below in Paragraphs 43 – 47 will apply.

14. In the case that the Regulatory Authority decides to require a Class Licence for an Electronic Communications Service which is currently subject to an exemption, the procedure set forth in Paragraphs 48 – 50 will apply.

15. In the case that the Regulatory Authority identifies new Electronic Communications with respect to which it considers that an exemption may be granted, it will issue a consultation document that specifies:

- (a) the specific characteristics of the services for which the proposed exemption is to be granted;
- (b) the justification for the proposed exemption; and
- (c) the basis on which the Regulatory Authority has concluded that that the exemption is consistent with Section 16(2)(c) of the ECA.

16. The procedures for the creation or elimination of an exemption as outlined above may be initiated by the Regulatory Authority, pursuant to a vote of the Board, either on its own motion or at the request of a Sectoral Participant. In any case in which a Sectoral Participant makes the request, the Sectoral Participant will be required to follow the procedures specified in the Regulatory Authority's Administrative Rules for requesting initiation of a Public Consultation in order to adopt an Administrative Determination.

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17. The Regulatory Authority will issue a General Determination following the conclusion of the Public Consultation.

3. Procedures that apply with respect to registration and the creation, modification or elimination of a Class Licence

18. Pursuant to Section 62(1) of the RAA, and in accordance with Sections 14(b) and 16(2) of the ECA, the Regulatory Authority determines that the following procedures shall apply with respect to registration and the creation, modification or elimination of a Class Licence:

(i) Registration process

19. A registration requirement will enable the Regulatory Authority to monitor compliance with the class-specific conditions as set out in Annexes A – E of the Class Licence.

20. Therefore, all Class Licensees satisfying the eligibility criteria as also set out in Annexes A – E of the Class Licence will be subject to a registration requirement. The registration requirement will not apply to Persons that operate a single pay telephone.

21. A Person that is required to register with the Regulatory Authority to obtain a Class Licence will do so electronically, using a form posted on the Official Website.

22. When registering, a Person will provide the following information:

- (a) name;
- (b) address;
- (c) telephone number, fax number and/or email address;
- (d) the Class Licence for which it is registering;
- (e) a certification that the Person meets the eligibility requirements for the Class Licence; and
- (f) a certification that the Person will comply with all conditions of the Class Licence.

23. In addition to the information required pursuant to Paragraph 22, a Person that seeks to register for a Class Licence to participate in or operate a Closed User Group network will:

- (a) identify all members of the Closed User Group, including their Affiliates;
- (b) describe the common interest of the members of the Closed User Group; and
- (c) identify the members of the Closed User Group that are involved in the operation of the network.

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24. For the avoidance of doubt, registration for a Class Licence does not relieve a Licensee of the obligation to secure a licence or permit for Radio Spectrum, Radio Stations or Radio Apparatus.

25. Within five business days of receipt of the registration form, the Regulatory Authority will provide public notice of the filing on the Official Website.

26. Interested parties may submit written comments regarding a registration application within seven days after the Regulatory Authority has provided public notice.

27. Within fifteen days of the receipt of a registration form, the Regulatory Authority will take one of the following actions:

- (a) add the Class Licensee to the Authorizations Register;
- (b) issue an order rejecting the registration; or
- (c) request additional information needed to determine whether the Person is eligible for the Class Licence.

28. The Regulatory Authority will provide public notice, on the Official Website, in any case in which it issues an order rejecting a registration.

29. Registration will become effective when the Regulatory Authority adds the Class Licensee's name and contact information to the Authorizations Register.

30. Unless the Regulatory Authority directs otherwise, Class Licensees will be required to submit an annual statement that:

- (a) confirms (or updates) the Class Licensee's contact information;
- (b) certifies that the Class Licensee continues to meet the eligibility requirements for the Class Licence; and
- (c) certifies that the Class Licensee has complied, and will continue to comply, with all conditions of the Class Licence.

(ii) Suspension and revocation of a Person's status as a Class Licensee

31. The Regulatory Authority will suspend or revoke the status of a Person as a Class Licensee when it concludes that the Class Licensee has:

- (a) made false statements of material facts, committed fraud or made a misrepresentation in the registration statement or in its subsequent certifications;
- (b) failed to comply with the terms of the Class Licence and the Applicable Regulatory Framework; or

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- (c) failed to pay to the Regulatory Authority any Government Authorization Fees or Regulatory Authority Fees or make any other required payment.
32. Prior to suspending or revoking a Person's status as a Class Licensee, the Regulatory Authority will provide the Class Licensee with written notice specifying:
- (a) the action that the Regulatory Authority proposes to take;
 - (b) the factual and legal basis on which the Regulatory Authority proposes to take the proposed action;
 - (c) the time frame within which the Class Licensee may submit a written response regarding the proposed action;
 - (d) the actions that the Class Licensee must take to avoid suspension or revocation; and
 - (e) the timeframe in which such actions must be taken.
33. The Regulatory Authority will provide public notice, on the Official Website, that it intends to suspend or revoke a Person's status as a Class Licensee.
34. The Regulatory Authority will post a copy of the Class Licensee's response on the Official Website. The Class Licensee may request confidential treatment in the manner specified in the Regulatory Authority's Administrative Rules.
35. Interested parties may submit written comments regarding the Regulatory Authority's proposed suspension or revocation of a Person's status as a Class Licensee within seven days after the date on which the Regulatory Authority posts the Class Licensee's response on the Official Website.
36. After considering the Class Licensee's submission and any comments filed, the Regulatory Authority, pursuant to a vote of the Board, will issue a written order, which will be served on the Class Licensee and posted on the Official Website.
37. In any case in which the Regulatory Authority revokes a Person's status as a Class Licensee, the revocation will not become effective until at least ten days after publication of the order on the Official Website.
- (iii) Modification of an existing Class Licence**
38. The Regulatory Authority may modify an existing Class Licence.
39. Prior to modifying an existing Class Licence, the Regulatory Authority will conduct a Public Consultation, pursuant to the procedures specified in the Regulatory Authority's Administrative Rules.
40. The Regulatory Authority will issue a consultation document that specifies:

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- (a) the proposed modification to be made to the Class Licence;
- (b) the justification for the proposed modification;
- (c) the basis on which the Regulatory Authority has tentatively concluded that the changes to the Class Licence will continue to meet the requirements of Section 16(2)(d) of the ECA; and
- (d) the basis on which the Regulatory Authority has tentatively concluded that any proposed new conditions are consistent with the requirements of Section 50 of the RAA.

41. At the same time that the Regulatory Authority posts the consultation document on the Official Website, it will serve notice on each member of the class listed on the Authorizations Register in the manner specified in the Regulatory Authority's Administrative Rules.

42. Following the Public Consultation, the Regulatory Authority will issue a General Determination specifying the modifications to be made and the date on which they will become effective.

(iv) Elimination of a Class Licence

43. The Regulatory Authority may eliminate an existing Class Licence.

44. Prior to eliminating an existing Class Licence, the Regulatory Authority will conduct a Public Consultation pursuant to the procedures specified in the Regulatory Authority's Administrative Rules.

45. The Regulatory Authority will issue a consultation document that specifies:

- (a) the justification for the proposed elimination of the Class Licence;
- (b) the basis on which the service can be provided after the elimination of the Class Licence; *i.e.*, pursuant to an exemption or an Individual Licence; and
- (c) the basis on which the Regulatory Authority has tentatively concluded that the grant of an exemption or an Individual Licence is consistent with Section 16(2) of the ECA.

46. At the same time that the Regulatory Authority posts the consultation document on the Official Website, it will serve notice on each member of the class listed on the Authorizations Register in the manner specified in the Regulatory Authority's Administrative Rules.

47. Following the Public Consultation, the Regulatory Authority will issue a General Determination stating the date on which the Class Licence will be eliminated.

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(v) Creation of a new Class Licence

48. The Regulatory Authority may create a new Class Licence.

49. Prior to creating a new Class Licence, the Regulatory Authority will issue a consultation document that specifies:

- (a) the characteristics of the proposed Class Licensees;
- (b) the proposed conditions applicable to all Class Licensees;
- (c) the basis on which the Regulatory Authority has tentatively concluded that the class meets the requirements of Section 16(2)(d) of the ECA; and
- (d) whether the Regulatory Authority proposes to require class members to notify or register before they are authorized to provide service.

50. Following the Public Consultation, the Regulatory Authority will issue a General Determination that specifies:

- (a) the characteristics of the class;
- (b) the conditions applicable to all Class Licensees;
- (c) any notification or registration requirement with which Class Licensees must comply; and
- (d) the date on which the new Class Licence will become effective.

IV. EFFECTIVE DATE; COMPLIANCE

51. This General Determination will become effective on the date on which it is published in the Gazette.

52. Persons that provide Electronic Communications pursuant to the Exemption must be in compliance with the Conditions of the Exemption no later than 90 days after the effective date of this General Determination. Persons that provide Electronic Communications pursuant to the Class Licence must register with the Regulatory Authority no later than 90 days after the effective date of this General Determination. Persons that provide Electronic Communications pursuant to the Exemption or Class Licence that are currently operating facilities outside of their premises or campus not authorized by a COL must discontinue the use of such facilities within 120 days of the effective date of this General Determination or, if such a Person has applied for a new or normalized COL, within 120 days of the date on which the Regulatory Authority determines that the Person does not qualify for a new or normalized COL.

Attachment A



BERMUDA
REGULATORY
AUTHORITY

**Exemption From Requirement
to Hold a Communications Operating
Licence**

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REGULATORY AUTHORITY (EXEMPTIONS AND CLASS LICENSES) GENERAL DETERMINATION 2013

1 DEFINITIONS

In this Exemption, unless the context otherwise requires:

“Affiliate” means any entity that owns, or is owned by, another entity, as evidenced by the ownership of 25 per cent or more of the shares, stock or other securities or voting rights of the owned entity, including through an agreement or arrangement of any type;

“Campus” means a contiguous parcel of land, not separated by public or private land, on which one or more structures may be located;

“Condition” means a condition of this Exemption;

“ECA” means the Electronic Communications Act 2011;

“Person” means a natural person or any company or association or body of persons, whether corporate or unincorporate, being a body which is empowered by law to sue or be sued in its own name or in the name of an officer or other person;

“Private Network” means an Electronic Communications Network operated by, and dedicated to the exclusive use of, a Person, including its Affiliates;

“RAA” means the Regulatory Authority Act 2011;

“Unlicensed Spectrum” means Radio Spectrum as to the use of which the Authority has made a general determination that an individual spectrum licence is not required;

“Value-Added Service” means a service delivered through the use of Electronic Communications that employs computer processing applications that enable users to access, interact with, monitor, store, retrieve and manipulate information. Value-Added Services include: database access and research services; monitoring or alarm services; cloud computing or remote access data processing services; and electronic mail or messaging services;

“Wi-Fi Equipment” means equipment using Wi-Fi technology and approved pursuant to Part 15 of the rules of the U.S. Federal Communications Commission, 47 C.F.R. Part 15; and

“Wi-Fi Service” means the provision of Electronic Communications Services to End-Users through the use of Wi-Fi Equipment and Unlicensed Spectrum that establishes a wireless connection between mobile devices and an Internet connection.

2 INTERPRETATION

For purposes of interpreting this Exemption:

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- (a) unless the context otherwise requires, words or expressions shall have the meaning assigned to them in this Exemption, the ECA, the RAA, and the Interpretation Act 1951;
- (b) where there is any conflict between the provisions of this Exemption and the ECA or RAA, the provisions of the ECA and RAA, as the case may be, shall prevail;
- (c) terms defined herein and in the ECA and RAA have been capitalised;
- (d) headings and titles used in this Exemption are for reference only and shall not affect its interpretation or construction;
- (e) references to any law or statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
- (f) a document referred to in this Exemption shall be incorporated into and form part of the Exemption and a reference to a document is to a document as modified from time to time;
- (g) expressions cognate with those used in this Licence shall be construed accordingly;
- (h) use of the word “include” or “including” is to be construed as being without limitation; and
- (i) words importing the singular shall include the plural and vice versa, and words importing the whole shall include a reference to any part unless explicitly limited.

3 EXEMPTION

3.1 Persons are exempt from the requirement of Section 12 of the ECA to hold a communications operating licence to the extent that they meet the criteria set forth in Conditions 4, 5 and 6.

3.2 Nothing in this Exemption shall be deemed to:

- (a) relieve any Person of any legal requirement to obtain any licences or permits that are necessary to establish, construct or operate an Electronic Communications Network or provide an Electronic Communications Service, including obtaining any licences or permits required by the ECA for the use of Radio Spectrum, Radio Station or Radio Apparatus;
- (b) grant any Person any authorization to self-provision Electronic Communications other than within such Person’s premises or Campus; or
- (c) waive, modify or otherwise limit, either directly or indirectly, any Ex Ante Remedies imposed on an ICOL holder that meets the criteria set forth in, and is

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exempt from the requirement to hold a communications operating licence pursuant to, Conditions 4, 5 and 6.

- 3.3** Persons exempt from the requirement to hold a communications operating licence pursuant to this Exemption shall comply with such notification, registration or certification requirements as may be established by the Regulatory Authority.
- 3.4** For purposes of this Exemption, a Person's principal line of business will be deemed to include the provision of Electronic Communications if such Person holds an Individual COL or is providing Electronic Communications, the provision of which requires an Individual COL.

4 PRIVATE NETWORKS

A Person who establishes, constructs or operates a Private Network, provided that such Private Network:

- (a) does not carry third-party communications;
- (b) is not operated for a profit from the provision of Electronic Communications Services; and
- (c) is comprised of Electronic Communications obtained on a Retail basis from Licensees with an Individual COL, including an ICOL. Notwithstanding the foregoing, (i) a Person whose principal line of business does not include the provision of Electronic Communications and a Person with an Individual COL may self-provision Electronic Communications within such Person's premises or Campus, and (ii) a Person with an Individual COL may self-provision network facilities other than within its own premises or Campus to the extent authorized by the terms of its Individual COL.

5 VALUE-ADDED SERVICES

A Person who provides Value-Added Services, provided that such Person:

- (a) does not separately sell or charge for the Electronic Communications component of its Value-Added Services; and
- (b) obtains the Electronic Communications component of its Value-Added Services on a Retail basis from Licensees with an Individual COL, including an ICOL. Notwithstanding the foregoing, (i) a Person whose principal line of business does not include the provision of Electronic Communications and a Person with an Individual COL may self-provision Electronic Communications within such Person's premises or Campus, and (ii) a Person with an Individual COL may self-provision network facilities other than within its own premises or Campus to the extent authorized by the terms of its Individual COL.

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6 WI-FI SERVICES

A Person who provides Wi-Fi Services, provided that such Person:

- (a) does not charge for the use of the Wi-Fi Service;
- (b) does not bundle the Wi-Fi Service with another Electronic Communications Service for which a charge is imposed; and
- (c) obtains the Electronic Communications component of its Wi-Fi Service on a Retail basis from Licensees with an Individual COL, including an ICOL. Notwithstanding the foregoing, (i) a Person whose principal line of business does not include the provision of Electronic Communications and a Person with an Individual COL may self-provision Electronic Communications within such Person's premises or Campus, and (ii) a Person with an Individual COL may self-provision network facilities other than within its own premises or Campus to the extent authorized by the terms of its Individual COL.

Attachment B



BERMUDA
**REGULATORY
AUTHORITY**

Class Licence

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1 DEFINITIONS

In this Class Licence, unless the context otherwise requires:

“**Authority**” means the Regulatory Authority;

“**Authorizations Register**” means the register of Persons granted this Class Licence and maintained by the Authority;

“**Campus**” means a contiguous parcel of land, not separated by public or private land, on which one or more structures may be located;

“**Class Licensee**” means a Person who is entered on the Authorizations Register by the Authority;

“**Commencement Date**” means the date on which the Class Licensee is entered on the Authorizations Register by the Authority;

“**Condition**” means a condition, including a Special Condition set forth in the Annexes, of this Class Licence;

“**ECA**” means the Electronic Communications Act 2011;

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

“**Hotel**” means any place, land-based or not, including all grounds and premises appurtenant thereto, which provides sleeping accommodation for six or more guests and a charge is made for such accommodation;

“**Licensed Service**” means a service described in the Annexes to this Class Licence;

“**Person**” means a natural person or a company or association or body of persons, whether corporate or unincorporated, being a body which is empowered by law to sue or be sued in its own name or in the name of an officer or other person;

“**RAA**” means the Regulatory Authority Act 2011; and

“**Special Condition**” means a Condition applicable to a specific Licensed Service set forth in the Annexes to this Class Licence.

2 INTERPRETATION

For the purpose of interpreting this Class Licence:

- (a) unless the context otherwise requires, words or expressions shall have the meaning assigned to them in the Class Licence, the ECA, the RAA, and the Interpretation Act 1951;

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- (b) where there is any conflict between the provisions of this Class Licence and the ECA and RAA, the provisions of the ECA and RAA, as the case may be, shall prevail;
- (c) terms defined herein and in the ECA and RAA have been capitalised;
- (d) references to Conditions and Annexes are to Conditions, Special Conditions and Annexes to the Class Licence, as modified from time to time in accordance with this Class Licence and the ECA;
- (e) a document referred to in this Class Licence shall be incorporated into and form part of the Class Licence and a reference to a document is to a document as modified from time to time;
- (f) headings and titles used in this Class Licence are for reference only and shall not affect its interpretation or construction;
- (g) references to any law or statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
- (h) expressions cognate with those used in this Class Licence shall be construed accordingly;
- (i) use of the word "include" or "including" is to be construed as being without limitation; and
- (j) words importing the singular shall include the plural and vice versa, and words importing the whole shall be treated as including a reference to any part unless explicitly limited.

3 GRANT AND DURATION OF THE CLASS LICENCE

3.1 The Class Licensee is granted this Class Licence as of the Commencement Date.

3.2 This Class Licence shall continue in force in respect of each Class Licensee until the earlier of the following events:

- (a) the Class Licensee requests that it be removed from the Authorizations Register;
- (b) there is a change of control of the Class Licensee;
- (c) the Class Licensee is suspended or removed from the Authorizations Register by the Authority; or
- (d) the Class Licence is modified or revoked by the Authority.

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4 SCOPE OF THE CLASS LICENCE

The Authority grants to the Class Licensee a right to provide any Licensed Service for which the Class Licensee has been entered on the Authorizations Register.

5 UNDERTAKINGS OF THE CLASS LICENSEE

- 5.1** Subject to all other applicable laws and regulations, the Class Licensee undertakes to comply with the Conditions of this Class Licence and the Applicable Regulatory Framework.
- 5.2** The Class Licensee shall pay to the Authority such Regulatory Authority Fees and Government Authorization Fees as may be prescribed pursuant to Section 11 of the ECA, Sections 44 and 52 of the RAA and the Government Fees Act 1965.
- 5.3** The Class Licensee shall advise the Authority of any changes in the information provided by the Class Licensee to the Authority as part of its registration to become a Class Licensee.
- 5.4** The Class Licensee shall make such annual reports, certifications or other filings as the Authority may require.
- 5.5** The Class Licensee shall indemnify the Regulatory Authority against all actions, claims and demands which may be brought or made by any Person in respect of any injury or death of any Person or damage to any property arising from any act of the Class Licensee permitted or authorized by this Class Licence.

6 RESTRICTIONS

- 6.1** The provision of Licensed Services by a Person who holds an Individual COL, including an ICOL, shall be governed exclusively by this Class Licence, provided, however, that nothing in this Class Licence shall be deemed to waive, modify or otherwise limit, either directly or indirectly, any Ex Ante Remedies imposed on an ICOL holder that is also a Class Licensee under this Class Licence.
- 6.2** Nothing in this Class Licence shall be deemed to:
 - (a) relieve the Class Licensee of any legal requirement to obtain any licences or permits that are necessary to establish, construct or operate Electronic Communications Networks, provide Electronic Communications Services or exercise the Class Licensee's rights or discharge its obligations under the Class Licence, including obtaining any licences or permits required by the ECA for the use of Radio Spectrum, Radio Stations or Radio Apparatus;
 - (b) grant the Class Licensee any authorization to self-provision Electronic Communications other than within such Person's premises or Campus; or
 - (c) entitle the Class Licensee to obtain Wholesale services, the rates, terms and conditions of which are the subject of Ex Ante Remedies imposed pursuant to Sections 23 and 24 of the ECA, from an ICOL holder.

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6.3 For purposes of this Class Licence, a Person's principal line of business will be deemed to include the provision of Electronic Communications if such Person holds an Individual COL or is providing Electronic Communications, the provision of which requires an Individual COL.

7 CONSUMER PROTECTION

7.1 The Class Licensee shall, in offering to provide, or providing, the Licensed Services, publish clear, transparent and up-to-date information regarding its rates, terms and conditions.

7.2 If the Class Licensee intends to modify the terms and conditions of a contract with a Subscriber, the Class Licensee shall:

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

provided, however, that Condition 7.2(a) shall not apply to proposed modifications that reduce the prices of the Licensed Services.

7.3 Subject to any General Determinations, including codes of practice, that the Authority may adopt pursuant to Section 26 of the ECA, the Class Licensee shall establish, publish and thereafter maintain fair and reasonable procedures for the handling of complaints made by End-Users in relation to the provision of the Licensed Services.

7.4 When the Class Licensee's End-User has not paid the Class Licensee all or part of a bill for the Licensed Services provided by the Class Licensee, any measures taken by the Class Licensee to effect payment or disconnection shall:

- (a) be proportionate and not unduly discriminatory;
- (b) give prior warning to the End-User of any consequent service interruption or disconnection; and
- (c) except in cases of fraud, persistent late payment or non-payment, confine any service interruption to the Licensed Service concerned, as far as technically feasible.

7.5 The Class Licensee shall publish the details of measures it may take against End-Users to effect payment or disconnection in accordance with Condition 7.4 above by:

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

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- 7.6** The Class Licensee shall not render any bill to an End-User in respect of the provision of any Licensed Services unless every amount stated in that bill accurately reflects the true extent of any such service actually provided to the End-User.
- 7.7** The Class Licensee shall use reasonable endeavours to provide the Licensed Services to a standard that could be reasonably expected by End-Users, having regard to the nature of the services and any advertising or sales information provided by the Class Licensee.
- 7.8** The Class Licensee:
- (a) may only charge an End-User for the specific Licensed Services that the End-User has ordered, and an End-User shall have no liability to pay for any Licensed Service that it has not ordered;
 - (b) shall permit an End-User, on request, to review its expenditures relating to the Licensed Services provided by the Class Licensee;
 - (c) shall not make or cause to be made any claim or suggestion regarding the availability, price or quality of its Licensed Services or those of another Class Licensee if the Class Licensee knows or reasonably ought to know that the statement or claim is false or misleading; and
 - (d) shall draft all standard terms and conditions and codes of practice in plain English, provide copies on request and free of charge to any End-User who requests them, and make them prominently available on the Class Licensee's website.

8 CONFIDENTIALITY OF PERSONAL DATA

- 8.1** Subject to Condition 8.2 and Section 31 of the ECA, the Class Licensee:
- (a) may not without an End-User's informed consent collect, use, maintain or disclose Personal Data about an End-User for any purpose; and
 - (b) shall apply appropriate security safeguards to prevent the collection, use, maintenance or disclosure of such Personal Data.
- 8.2** The Class Licensee shall comply with any General Determinations made by the Authority requiring the Class Licensee to retain, or prohibiting the Licensee from retaining, specified Personal Data relating to End-Users, including information about billing, beyond a specified period.
- 8.3** The Class Licensee shall take reasonable steps to ensure that any Personal Data it discloses or retains concerning an End-User is accurate and complete for its intended use.
- 8.4** The Class Licensee shall permit an End-User to inspect its records regarding a Licensed Service provided to that End-User and to require correction or removal of information that is shown to be incorrect.

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- 8.5** The Class Licensee shall disclose to End-Users, in a clear and transparent manner, the purpose for requesting or collecting any information about the End-User and may not use or maintain information about the End-User for undisclosed purposes.

9 PRIVACY OF COMMUNICATIONS

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

10 AUDIT, INFORMATION AND INSPECTION

The Class Licensee shall:

- (a) permit the Authority or Persons designated by the Authority to examine, investigate or audit, or procure such assistance as the Authority may require to conduct an examination, investigation or audit of, any aspect of the Class Licensee's business;
- (b) provide the Authority with such information, documents, accounts, returns, estimates, reports or other information as may be requested by the Authority in the manner and at the times specified by the Authority. The Authority may use this information for purposes of compiling statistics and publishing periodical reviews of the Electronic Communications Sector, and as required or permitted by the ECA or other laws or legal process; and
- (c) permit the Authority or Persons designated by the Authority to enter upon the Class Licensee's premises, and shall facilitate access by them to premises used by the Class Licensee, to conduct an inspection, examination, investigation or audit of the Class Licensee.

11 BREACH OF THE CLASS LICENCE

If the Authority has reason to believe that any Class Licensee has failed to comply with any Condition, the Authority may take all such action as is permitted by the RAA and ECA against the Class Licensee.

12 MODIFICATION AND REVOCATION

The Authority may modify or revoke this Class Licence or the Conditions applicable to any Licensed Service following a Public Consultation conducted pursuant to the Authority's Administrative Rules.

13 FORCE MAJEURE

The Class Licensee shall be relieved of its obligations under this Class Licence if and for as long as the Class Licensee is prevented from complying with the Class Licence by acts of God, war, warlike operations, civil commotion, major strikes or any other

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significant or protracted industrial action, fire, tempest or any other causes beyond the Class Licensee's control.

14 CHANGE OF CONTROL

This Class Licence shall automatically terminate upon any change of control of the Class Licensee, without prejudice to the ability of the Class Licensee to submit a new registration application to the Authority, prior to or after the change in control, that reflects the change of control.

15 ASSIGNMENT

The Class Licensee shall not sub-license, assign or grant any right, interest or entitlement in the Class Licence to any Person, including an Affiliate of the Class Licensee.

16 NOTICES

16.1 Unless the Authority determines otherwise, notices to the Class Licensee under the Class Licence shall be in writing and sent by registered letter to the address provided by the Class Licensee and shown on the Authorizations Register.

16.2 Unless the Authority determines otherwise, notices to the Authority under the Class Licence shall be in writing and sent by registered letter to the Chief Executive of the Authority at the business address of the Authority.

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ANNEX A -- CLOSED USER GROUPS

1. LICENSED SERVICES

- 1.1** The provision of Electronic Communications Services by a closed user group by means of an Electronic Communications Network operated by one or more members of the closed user group on behalf of the closed user group for the exclusive use of the members of the closed user group.
- 1.2** A closed user group is a group of Persons who share a common business, economic or social interest or affinity, other than the need to communicate with one another or the provision of Electronic Communications. All members of the closed user group shall be deemed the Class Licensee.

2. SPECIAL CONDITIONS

- 2.1** The Class Licensee may not be engaged in the provision of Electronic Communications as its principal line of business.
- 2.2** The Class Licensee may not transmit third-party communications using the closed user group network.
- 2.3** The Class Licensee may not operate the closed user group network for the commercial gain of one or more members of the closed user group.

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**ANNEX B -- ELECTRONIC COMMUNICATIONS SERVICES PROVIDED BY
HOTELS, HOSPITALS, PRISONS, SCHOOLS AND SIMILARLY SITUATED
PERSONS**

1. LICENSED SERVICES

The provision of Electronic Communications Services by Hotels, hospitals, prisons, schools, and similarly situated Persons to, respectively, their guests, patients, prisoners, students and other End-Users with whom the Class Licensee has an economic or other relationship unrelated to the provision of Electronic Communications Services.

2. SPECIAL CONDITIONS

- 2.1** The Class Licensee may not be engaged in the provision of Electronic Communications as its principal line of business.
- 2.2** The Class Licensee shall conspicuously post on or near each telephone, data access point or television the charges, including surcharges, that will be incurred for domestic and international calls, operator-assisted calls, access to toll free numbers, Internet Access Service, and Subscription Audiovisual Services.
- 2.3** The Class Licensee may not knowingly charge for unanswered calls.
- 2.4** The Class Licensee shall immediately connect all calls to emergency services without charge.

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ANNEX C -- PAY TELEPHONE SERVICES

1. LICENSED SERVICES

The provision of Electronic Communications Services, limited to domestic and international voice, data or teletext calls, from stationary pay telephones. Payment can be made either with currency, commercial credit cards or calling cards (pre-paid or otherwise) issued by the Class Licensee.

2. SPECIAL CONDITIONS

2.1 The Class Licence may operate stationary pay telephones only in private locations, *e.g.*, a retail establishment or guest house.

2.2 The Class Licensee shall conspicuously post on or near each pay telephone and data access point:

- (a) the charges, including surcharges, that will be incurred by End-Users for domestic and international calls, operator-assisted calls, and access to toll-free numbers; and
- (b) the name, business address, email address and toll-free number of the Class Licensee.

2.3 The Class Licensee may not knowingly charge for unanswered calls.

2.4 The Class Licensee shall immediately connect all calls to emergency services without charge.

2.5 Notwithstanding the provisions of Conditions 3, 4 and 5 of this Licence, a Person that operates a single pay telephone shall not be required to register with the Authority and shall be deemed a Class Licensee without regard to whether that Person appears on the Authorizations Register.

ANNEX D -- OPERATOR SERVICES

1. LICENSED SERVICES – CALLING CARDS

The provision of Electronic Communications Services, limited to the offering of domestic and international voice and teletext calls, through any telephone, either with the assistance of a human operator or on an automated basis. Payment can be made with a calling card (pre-paid or otherwise) issued by the Class Licensee.

1.1 SPECIAL CONDITIONS

- (a) The Class Licensee may only be a provider of Electronic Communications Services that holds a licence or other authorization to provide, and, in fact, provides, such services in its home country.
- (b) The Class Licensee may provide calling card services only to Subscribers who obtain service from, and are billed by, the Class Licensee in its home country.
- (c) The Class Licensee may not hold an Individual Licence in Bermuda.
- (d) The Class Licensee shall identify itself to the End-User, verbally for voice calls and otherwise for non-voice calls, at the beginning of each call before the call is connected and billed.
- (e) The Class Licensee may not knowingly charge for unanswered calls.
- (f) The Class Licensee shall immediately connect calls to emergency services without charge.

2. LICENSED SERVICES – TELECONFERENCING SERVICES

The provision of Electronic Communications Services, limited to the provision of on-demand and pre-scheduled multi-party conference calls including voice, data and video. Service can be provided either on a subscription basis or by payment with a commercial credit card or a calling card (pre-paid or otherwise) issued by the Class Licensee.

2.1 SPECIAL CONDITIONS

- (a) The Class Licensee shall identify itself to the End-User, verbally for voice calls and otherwise for non-voice calls, at the beginning of each call before the call is connected and billed.
- (b) The Class Licensee shall provide a mechanism to inform the End-User of the price of each call, including any surcharges, before the call is connected and billed.
- (c) The Class Licensee may not knowingly charge for unanswered calls.
- (d) The Class Licensee shall immediately connect all calls to emergency services without charge.

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ANNEX E -- CYBER CAFES

1. LICENCED SERVICES

The provision of Electronic Communications Services, limited to Internet access and voice telephony, by Cyber cafes, Internet cafes and similarly situated Persons to End-Users from a fixed location.

2. SPECIAL CONDITIONS

The Class Licensee shall conspicuously post on or near each computer, data access point and telephone, or electronically within the initial log-on screen, the charges, including surcharges, that will be incurred for Internet Access Service and, if provided, domestic and international calls, operator-assisted calls, and access to toll free numbers.

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Made this 29th day of April 2013

Chairman, Regulatory Authority