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## GENERAL NOTICE

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### NOTICE 1537 OF 2009



### Independent Communications Authority of South Africa

Pinmill Farm, 164 Katherine Street, Sandton  
Private Bag X10002, Sandton, 2146

### INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE LICENCE

No: 0455/IECNS/OCT/09

GRANTED AND ISSUED

TO

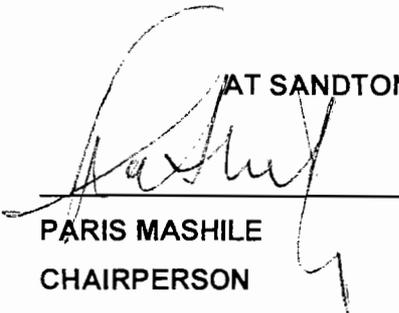
Broadband Infracore (Pty) Ltd

FOR THE PROVISION OF

ELECTRONIC COMMUNICATIONS NETWORK SERVICES

SIGNED FOR AND ON BEHALF OF THE INDEPENDENT COMMUNICATIONS  
AUTHORITY OF SOUTH AFRICA

AT SANDTON ON THIS...19<sup>th</sup>...DAY OF OCTOBER 2009



PARIS MASHILE  
CHAIRPERSON

**1. LICENSEE**

The licence is issued to:

- |   |   |
|---|---|
| 1.1. Name of company  | Broadband Infraco (Proprietary)<br>Limited  |
| 1.2. Registration number:   | 1989/001763/07  |
| 1.3. Shareholders:  | Department of Public Enterprises: 74%<br>Industrial Development Corporation of<br>South Africa: 26% |
| 1.4. Ownership held by persons from<br>historically disadvantaged groups<br>(where applicable): | The State   |

**2. CONTACT DETAILS**

2.1. The contact person for the Licensee shall be:

Name:	Mr Klaas Motlhabane
Tel:	+27 11 235 1720
Fax:	+27 11 804 1364
Fax mail:	086 681 6070
E-mail:	<u><a href="mailto:Klaas.Motlhabane@infraco.co.za">Klaas.Motlhabane@infraco.co.za</a></u>

2.2. Should the Licensee propose to replace the person so designated, the Licensee shall notify the Authority in writing within 7 (seven) days after appointing the new designated person.



3. NOTICES AND ADDRESSES

The Licensee chooses the following addresses as its principal addresses:	
<p>3.1. Postal Address:</p> <p>Postnet Suite 321</p> <p>Private Bag X 26</p> <p>Sunninghill</p> <p>2157</p>	<p>3.2. Physical Address:</p> <p>Building 9</p> <p>Country Club Estate</p> <p>21 Woodlands Drive</p> <p>Woodmead</p> <p>Sandton</p> <p>2146</p>



## SCHEDULE 1

### 1. Trading name

Broadband Infraco.

### 2. Geographic coverage

The Licensee shall provide national coverage of its electronic communication network services in accordance with clause 1 of Schedule 2.

### 3. Open access and non-discrimination

3.1. The Licensee shall provide other electronic communications network service and electronic communications service licensees and licence exempt persons ("Third Parties") open access to its electronic communications network on non-discriminatory terms.

3.2. The Licensee shall satisfy its obligations in clause 3.1 by:

3.2.1. applying equivalent terms and conditions in equivalent circumstances to any Third Party who requests access to the Licensee's electronic communications network as the Licensee provides to itself, its agents, contractors and subsidiaries; and

3.2.2. giving Third Parties access to its electronic communications network on equivalent terms and conditions and at the equivalent quality of service as the Licensee provides to itself, its agents, contractors and subsidiaries.

### 4. Licence Fees

The Licensee shall pay the annual licence fees as prescribed by the Authority.



## 5. Rights and obligations

- 5.1. The Licensee is hereby authorised to construct, maintain and operate an electronic communications network, as well as to provide electronic communications network services.
- 5.2. The rights and obligations under this Licence may be exercised or performed by a third party, including the Licensee's agents and contractors. The Licensee shall be responsible for the acts or omissions of such third parties on the basis that –
- 5.2.1. the liability of the Licensee for any acts or omissions of such third parties in relation to the exercise of such rights shall be limited to acts or omissions which constitute a contravention of the conditions of this Licence;
- 5.2.2. the Licensee shall stipulate adequate provisions in its contracts with such third parties to ensure that their exercise of the above rights and obligations do not contravene any of the conditions of this Licence;
- 5.2.3. should any such third party commit any act or omission in contravention of this Licence, the Licensee shall, upon becoming aware thereof, act as expeditiously as is reasonably possible to remedy such contravention within a reasonable period of time; and
- 5.2.4. the Authority shall notify the Licensee forthwith upon becoming aware of any such contravention of this Licence by such a third party, or of any complaints lodged with the Authority in relation thereto.



5.3. The Licensee and any or all of its Subsidiaries shall be entitled by virtue of this Licence to provide all or any of the electronic communications network services together with all or any other rights granted to it under this Licence.

5.4. Nothing in this Licence shall be construed as relieving the Licensee, any third party referred to in clause 5.2, its Subsidiaries or any other person of the obligation to comply with any other applicable statutory prohibition or obligation.

**6. Force Majeure**

The Licensee shall not be held liable for the inability of the Licensee, any third party referred to in clause 5.2, or any of its Subsidiaries to perform their obligations under this Licence, for acts or omissions caused by a circumstance beyond their reasonable control. The Licensee shall advise the Authority as soon as practicable after becoming aware of the existence of any such event or circumstances likely to lead to such an act or omission.

**7. Pricing**

7.1. The Licensee shall expand the availability and affordability of access to electronic communications in accordance with the Act and commensurate with international benchmarks through the provision of electronic communications network services at prices lower than the then prevailing market prices for the same or similar kind of products and/or services to those offered by the Licensee in relation to volume, scope, service levels, required skill sets, quality, the geographic location from which such products and/or services are provided and any other comparable factors ("Similar Services").



- 7.2. The Authority in consultation with the Licensee shall determine the list of countries to be used for purposes of international benchmarking in terms of clause 7.1 above.
- 7.3. The Licensee shall, by no later than 14 (fourteen) days prior to the launch of its electronic communications network service file the tariffs for such service with the Authority.
- 7.4. The filing shall be accompanied by supporting documentation evidencing that:
- 7.4.1. such electronic communications network services will be rendered by the Licensee at tariffs lower than the then prevailing market prices for Similar Services; and
- 7.4.2. such tariffs will ensure cost recovery and the internal rate of return required by the Licensee's shareholders.
- 7.5. The Licensee shall notify the Authority in writing as soon as it becomes aware that the market prices for Similar Services have declined to the extent that any such reduction fall below the Licensee's costs of providing such services (allowing for the internal rate of return required by the Licensee's shareholders) ("Below Cost").
- 7.6. The provisions of clauses 7.1 to 7.5 shall cease to be of any force with effect from the date on which the Licensee and the Authority agree in writing that the market prices for Similar Services are Below Cost, alternatively the date with effect from which the Authority determines that the market prices for Similar Services are Below Cost.



**8. Other terms and conditions**

Notwithstanding the above, the Authority reserves the right to impose any other terms and conditions in accordance with section 8 (3) of the Electronic Communications Act, No.36 of 2005.



**SCHEDULE 2****1. Network Rollout Obligations**

The Licensee shall provide coverage of its electronic communication network services in accordance with the table below:

No.	Infrastructure Description	Existing	2009-2010	2010-2011	2011-2012
1	Fibre Cable Route Length (in kms)	11,500	11,850	12,100	12,300
2	Number of Long Distance Sites	129	142	151	157
3	Metro POP Sites	13	18	23	28
4	Customer Termination Sites	-	12	27	47
5	IP Core Switches	-	3	5	7
6	IP Edge Routers	-	-	9	15
7	Interconnects to Neighbouring Countries	4	5	5	5
8	Interconnects to International Cable Landing Stations	-	1	2	2

**2. Universal Access Obligations**

The Licensee shall establish and maintain 1 (one) Point of Presence (PoP) within the areas as specified in the table below:

2.1. Within 3 (three) years after the effective date:

Number	District	District or Area Name
1	CBDC 2	Metsweding
2	DC 31	Nkangala

<b>Number</b>	<b>District</b>	<b>District or Area Name</b>
3	CBDC 4	Bohlabela
4	CBDC 8	West Rand
5	DC 33	Mopani
6	DC 22	UMgungundlovu
7	DC 23	Uthukela
8	DC 12	Amatole
9	DC 18	Lejweleputswa
10	DC 35	Capricorn
11	DC 15	O R Tambo
12	DC 38	Central
13	DC 26	Zululand
14	DC 21	Ugu
15	Northern Cape	De Aar
16	Northern Cape	Colesburg
17	Northern Cape	Copperton/Prieska
18	Northern Cape	Douglas



2.2. Within 5 (five) years after the effective date:

<b>Number</b>	<b>District</b>	<b>District or Area Name</b>
19	DC 20	Northern Free State
20	DC 29	Ilembe
21	DC 30	Gert Sibande
22	DC 34	Vhembe
23	DC 13	Chris Hani
24	DC 19	Thabo Mafutsanyana
25	DC 28	Uthungulu
26	DC 24	Umzinyathi
27	Northern Cape	Kenhardt
28	Northern Cape	Carnarvon
29	Northern Cape	Aggeneis

2.3. Within 7 (seven) years after the effective date:

<b>Number</b>	<b>District</b>	<b>District or Area Name</b>
30	DC 37	Bojanala
31	DC 27	Umkhanyakude

Number	District	District or Area Name
32	DC 47	Sekhukhune
33	DC 14	Ukhahlamba
34	DC 39	Bophirima
35	Northern Cape	Sutherland
36	Northern Cape	Loeriesfontein
37	Northern Cape	Springbok

2.4. The provisions of this clause 2 may be amended by agreement between the Authority and the Licensee or by regulations prescribed by the Authority or pursuant the Implementation Plan provided for in paragraph 3.

### 3. Implementation Plan

3.1. The terms on which the Licensee shall provide the connectivity referred to in clause 2 above shall be as set forth in the Implementation Plan to be concluded in terms of this clause 3.

3.2. The Implementation Plan shall be concluded in terms of the following procedure:

3.2.1. The Licensee shall submit a draft Implementation Plan to the Authority within 8 (eight) months of the effective date or such longer period as the Authority may stipulate in writing after consultation with the Licensee.

- 3.2.2. The Authority shall thereafter approve the Implementation Plan after consultation with the Licensee within a period of three months after the date of receipt of the draft Implementation Plan from the Licensee, failing which the Authority's approval shall be deemed to have been granted.
- 3.2.3. The Implementation Plan shall form Schedule 3 to this Licence. The contents thereof may be declared as confidential, following a request by the Licensee in terms of section 4D of the ICASA Act.
- 3.3. The Implementation Plan shall include details of the following:
- 3.3.1. the locations of all the PoPs to be installed;
  - 3.3.2. the date of commencement for the rollout of such PoPs which shall be no later than 18 (eighteen) months after the effective date;
  - 3.3.3. the detailed time periods over which the rollout of the PoPs will be staggered; and
  - 3.3.4. such other details as the Authority considers to be relevant after consultation with the Licensee.

