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IMPORTANT NOTICE

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GENERAL NOTICE

Independent Communications Authority of South Africa

General Notice

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GENERAL NOTICE

NOTICE 530 OF 2010



**INVITATION TO APPLY
FOR A
RADIO FREQUENCY SPECTRUM LICENCE
FOR THE PURPOSES OF PROVIDING
BROADBAND WIRELESS ACCESS SERVICE IN THE 3.5GHz BAND.**

The Independent Communications Authority of South Africa (“the Authority”) hereby, in terms of the Spectrum Licencing Framework Regulations, invites class electronic communication network service (C-ECNS) service licensees to apply for radio frequency spectrum licences within the designated range, namely, the radio frequency range 3400 – 3600MHz (“the 3.5GHz band”) for the purposes of providing regional broadband wireless access services.

Two licences each of 30MHz will be issued per district municipalities and metropolitan municipalities areas in the 3.5GHz band for the purposes of providing broadband wireless access services. All applications will be assessed based on this Invitation To Apply (“ITA”), Electronic Communications Act No 36 of 2005 (“the Act”), Spectrum Licensing Framework Regulations and any other applicable regulations promulgated by the Authority.

A handwritten signature in black ink, appearing to read 'Paris Mashile', written over the printed name and title.

PARIS MASHILE
CHAIRPERSON

BEFORE COMPLETING THE APPLICATION FORM, APPLICANTS MUST CAREFULLY READ THE NOTES UNDER SCHEDULE A AND ALSO REFER TO THE SPECTRUM LICENSING FRAMEWORK REGULATIONS , RELEVANT PROVISIONS OF THE ACT, AND ANY OTHER APPLICABLE REGULATIONS MADE BY THE AUTHORITY.

Schedule A

1. Applications must be made in writing.
2. Applications submitted must be in the format as provided in Schedule B. Applications must answer all questions set out in this application form fully. If any question is considered not applicable, please mark N/A with further explanation if necessary.
3. The applicant must provide the original plus ten(10) copies of the completed application form by the deadline.
4. All applications submitted to the Authority pursuant to this ITA will be made available for inspection by interested persons at the Authority's library situated at Block D, Pinmill Farm, 164 Katherine Street, SANDTON, Johannesburg.
5. Each application must be permanently bound (using either heat binding or spiral binding).
6. Each application must have a cover page with the name of the applicant, the licence being applied for and year of application on it.
7. The pages immediately following the cover must be the content pages which detail each section of the application and its page number.

8. The application **must** be properly bound and paginated.

9. In the event that the applicant has to submit its application in more than one part or volume, each part or volume must have a cover page. In this case the cover page must specify the number of the part or volume (i.e. Part one, Part Two or Volume One, Volume Two). Each volume or part must also have the full set of content pages and sequentially numbered as noted.

10. In terms of section 4D of the Independent Communications Authority of South Africa Act, Act 13 of 2000 ("ICASA Act"), Applicants may request that any part of the application be treated as confidential. The Authority may determine that an application or portions thereof are confidential and the Authority will inform applicants of the outcome within seven (7) days of receiving a request for confidentiality. If the request for confidentiality is refused, the Applicant making the request will be allowed to withdraw such applicable portions or waive the confidentiality as appropriate.

11. Applicants must apply for the bandwidth they require on the 3.5GHz band which must not exceed 30MHz.

12. Every application must be accompanied by proof of payment of a non-refundable application fee of R 70 000.00 (Seventy Thousand Rands). The payment shall be in the form of an electronic transfer or via a direct deposit into the following ICASA bank account:

BANK: First National Bank

BRANCH: Weirda Valley

BRANCH CODE: 260950

ACCOUNT NO: 61037058222

REFERENCE: Name of the applicant.

13. Applications must be submitted by no later than 16H00 on 25 June 2010 (Central African Time).

13.1 The time indicated on the clock in the reception hall of Block B of ICASA, will be regarded as the correct time.

13.2 Applications must be addressed for the attention of the Chairperson and submitted to the General Manager: Licensing and Compliance at Block B, Pinmill Farm, 164 Katherine Street, Sandton, Johannesburg.

14. When receiving applications, the Authority shall affix on each container the time of receipt and shall provide each applicant with an acknowledgement. **Applications received after the deadline will not be accepted or considered by the Authority.**

15. Failure to comply with any of these requirements and provisions of the Spectrum Licensing Framework Regulations will render the application null and void.

16. The available licences in the designated range shall be awarded using a competitive processes. The following four (4) stages will be followed:

- Phase 1 - Prequalification criteria
- Phase 2- Auction.
- Phase 3- Business plan assessment
- Phase 4- Granting of licences

17. This stage sets out the minimum requirements that must be met in order for a person to participate in a competitive licensing process. In this case the minimum requirement is the attainment of the minimum 30% of ownership by HDI and possession of an C-ECNS licence. Applicants with less than 30% ownership by HDI at the time of application deadline will be disqualified. Those with 30% or more

and are in possession of an C-ECNS licence will move-on to the next stage which is Auction.

18. In case the prequalification criteria based on a minimum 30% ownership by HDI results in more qualifying entities than the available licences, the Auction phase will be implemented. Applicants who have a minimum 30% of ownership by HDI and are in possession of an C-ECNS licence will be eligible to participate in an Auction.

- (a) The reserve price for the auction is set at a bank guaranteed cheque of R250 000.00 (Two Hundred and Fifty Thousand Rands). This amount is refundable to unsuccessful bidders. The Authority will not accept post-dated cheques.
- (b) The auction will be conducted in the following manner and procedure:
 - (i) An ascending price auction will be utilised. Participants will bid against one another, with each subsequent bid higher than the previous bid. An auctioneer/Authority will announce prices and pronounce on the highest bid.
 - (ii) The auction will end when participants are not willing to bid further, at which point the highest bidder pays their bid.
- (c) It is the responsibility of the participants to arrange their own finance.

Payments must be made within ten (10) working days by the successful bidders.

19. Once the Authority has satisfied itself that the qualifying entities have submitted all the required information, spectrum licences will be granted.

20. The 3.5GHz band licences are for District Municipality and Metropolitan municipality area coverage. The Authority requires that the licencees achieve

population coverage of 50% by the end of two-years of licence being granted.
This will form part of the licence terms and conditions.

SCHEDULE B

1. PARTICULARS OF THE APPLICANT	
Full name of applicant:	
Designated contact person:	
Applicant's street address:	
Applicant's principal place of business (if different from street address):	
Applicant's postal address:	
Applicant's phone number/s:	
Applicant's fax number/s:	
E-mail address of designated contact person:	
2. LEGAL FORM OF APPLICANT	
Indicate if the Applicant is :	
Partnership	
juristic person	
other (specify)	
If the registrant is a juristic person:	
Indicate the legal form of the Applicant (e.g. private company incorporated in terms of the Companies Act, 1973):	
Registration number of the Applicant:	
Attach certified copies of the Applicant's certificate of incorporation and memorandum and articles of association or other constitutive documents of the Applicant (e.g. memorandum and articles of association, association agreement, constitution) indicating the applicant's compliance with the requirements of section 5(8) (b) of the Act, including shareholders' agreement and/or partnership agreements.	
<u>ATTACH AS APPENDIX 2.1</u>	
Provide a written undertaking that the registrant will comply with section 5(8) (b) of the Act.	

ATTACH AS APPENDIX 2.2

Indicate when and how the registrant will comply with section 5(8) (b) of the Act.

Provide a resolution authorizing the signatory to this application to sign this application and/or to represent the applicant in respect of this application.

ATTACH AS APPENDIX 2.3**3. SERVICE DETAILS**

Proposed service name:

Nature of proposed service:

4. PARTICIPATION , OWNERSHIP AND CONTROL - ATTACH AS APPENDIX 4

The applicant is required to demonstrate the involvement of Historically Disadvantaged Individuals at the following levels.

- Participation at Board Level
- Participation at Operational level
- Participation in Management
- Beneficial Participation

5. CONSUMER BENEFITS – ATTACH AS APPENDIX 5

Service Innovation and packaging.

Tarrif level and flexibility

Quality of Service

Geographic Coverage

6. BUSINESS PLAN – ATTACH AS APPENDIX 6

The Applicant must provide proof to the satisfaction of the Authority that it has a minimum of 30% equity ownership by persons from Historically Disadvantaged Groups. The Applicant must provide the certified copies of the identity documents of such persons and shares owned by each person.

7 TECHNICAL PLAN – ATTACH AS APPENDIX 7

Network coverage and detailed schedule of roll-out plans
Details of Network capacity requirements
Demonstrate the efficient utilisation of the radio frequency spectrum
Details of technology solution selected
Details of applicant's plans for network and and its security

WARRANTY UNDERTAKING

I..... (duly authorised person)

Have prepared and/ or compiled, or directly supervised those who have prepared all or parts of this application and/or information constituting this application.

To the best of my knowledge, the application information contained herein, and any attachment thereto, is accurate and not misleading.

I further understand that should any information included herein be found to be false or misleading the entire application will be disqualified and the applicant precluded from further consideration within the application process.

Name and title of the person authorised to sign this undertaking:

Authorised Signature: _____

Date: ____/____/ 2010

I certify that this declaration was signed and sworn to before me at
.....on the day of 2010, by the
deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

COMMISSIONER OF OATHS

Name:

Address:

Capacity: