



**Telecommunications Licence**

**for**

**Marathon Telecoms Limited**

# **JERSEY COMPETITION REGULATORY AUTHORITY**

**Class II Licence issued to  
Marathon Telecoms Limited**

**under**

**THE TELECOMMUNICATIONS (JERSEY) LAW 2002**

The JCRA, in exercise of the powers conferred on it by the Telecommunications (Jersey) Law 2002, grants to the Licensee a Licence to run the Licensed Telecommunication System and provide Telecommunication Services (as these terms are defined in the Conditions of this Licence) within, to and from the Bailiwick of Jersey and subject to the Conditions, all lawful directions of the JCRA, and all applicable laws, rules, regulations, ordinances and orders of the States of Jersey.

**DATED [date]**

**SIGNED**

**Michael Byrne,  
Chief Executive,  
Jersey Competition Regulatory Authority**

## CONDITIONS

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 A word or expression that is used in the Licence and the Conditions and also is used in the Telecommunications (Jersey) Law 2002 (the Law) has, except where otherwise stated in the Licence or Conditions, the same meaning in the Licence and the Conditions that it has in the Law. In addition, the words and expressions set out below have the meanings given to them below:

**“Access”**: means the ability to obtain a required service, facility or function;

**“Associated Company”**: means a company that controls or is controlled by the Licensee or which is under the control of the same person or persons as control the Licensee;

**“BSI”**: means the British Standards Institute;

**“Change in Control”**: has the meaning given in Condition 2.7;

**“Class II Licence”**: means this Licence;

**“Conditions”**: means Conditions 1 through 27 of this Licence, as may be amended, revoked or added to by the JCRA;

**“Control”**: has the meaning given in Condition 2.7;

**“Customer Premise Equipment (CPE)”**: means terminal and associated equipment and inside wiring located at a Subscriber’s premises and connected with the Licensed Telecommunication System;

**“Direction”**: means a written statement issued by the JCRA to the Licensee with which the Licensee must comply;

**“Directory Information Services”**: means services offering information concerning the name, number, address, customer type and directory type in respect of customers who have been provided with telecommunications directories and/or services relating to directory information;

**“ETSI”**: means the European Telecommunications Standards Institute;

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

**“Free-phone”**: means a service provided over the PSTN for which the cost of the call is paid at the termination and not by the caller;

**“Interconnect”**: means the connection of the telecommunication systems of two Licensed Operators;

**“ITU”**: means the International Telecommunications Union;

**“JCRA”**: means the Jersey Competition Regulatory Authority;

**“Licence”**: means this Class II Licence to run the Licensed Telecommunication System, subject to the Conditions;

**“Licence Commencement Date”**: means the date on which this Licence is signed by the JCRA;

**“Licence Fee”**: means the fee prescribed by the JCRA under Article 17 of the Law and payable by the Licensee;

**“Licensed Operator”**: means any person who holds a Licence granted and in force under the Law;

**“Licensed Telecommunication System”**: means the system for the conveyance of messages through the agency of energy which the Licensee is authorised to establish, operate and maintain in the Bailiwick of Jersey;

**“Licensee”**: means Marathon Telecoms Limited;

**“Licensee’s Impact Statement”**: means the full statement of the proposed business provided to the JCRA by the Licensee on application for the Licence;

**“Mobile Telecommunications Network”**: means a mobile network infrastructure constructed in accordance with the standards described below and used for the purpose of providing Licensed Mobile Telecommunications Services in accordance with this Licence; the applicable standards are:

a) any relevant compulsory standards and/or specifications as are listed in the Official Journal of the European Communities for the provision of services, technical interfaces and/or network functions pursuant to Article 17 of the Framework Directive. Where no compulsory standards or specifications have been so published, the Communications Provider shall take full account of any relevant voluntary standards and/or specifications so published, and any relevant standards and/or specifications adopted by the European Standards Organisations;

b) in the absence of such standards and/or specifications referred to in paragraph a) above, international standards or recommendations adopted by the International Telecommunication Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT)<sup>7</sup>, the International Organisation for Standardisation (ISO) and the International Electrotechnical Committee (IEC);

c) in the absence of such standards and/or specifications referred to in paragraphs a) and b) above, any other standard specified by the JCRA in a direction, provided that the JCRA shall not make such a direction if an

appropriate European or other international standard is expected to be promulgated within a reasonable time;

d) in any case, a standard specified by the JCRA for the purpose of enabling an Interconnection and, generally, interoperability as long as this standard does not do more than to require compliance with a relevant standard in existence as referred to in paragraphs a) to c) above.

**“Mobile Telecommunications Service”**: means the system for conveyance of messages or data through a Mobile Telecommunications Network which may also be interconnected with the PSTN;

**“Network”**: means a set of interconnected devices across which a telecommunicated message can be passed;

**“Network Termination Point”**: means the physical point at which a Subscriber is provided with access to a Public Telecommunication Network;

**“Numbers”**: means the formats of codes and subscriber numbers for routing telecommunications services to a Network Termination Point, User, telecommunications equipment, or CPE in the Bailiwick of Jersey; which formats are allocated by either (i) the JCRA or (ii) the UK’s Director General of Telecommunications, appointed under the Communications Act 2003, as administered by Ofcom

**“Number Portability”**: means a service enabling a Subscriber to transfer his contract with the Licensee to another Licensed Operator within the Bailiwick of Jersey and retain the same number allocated to that Subscriber by the Licensee;

**“Number Translation”**: means calls using non-geographic numbers which are translated to geographic numbers;

**“Numbering Conventions”**: means the guidelines from time to time set out in the Bailiwick of Jersey Numbering Plan and/or the Ofcom UK National Telephone Numbering Plan;

**“Other Licensed Operator”**: means any person who, other than the Licensee, holds a licence granted and in force under the Law;

**“Premium Rate Service (PRS)”**: means a commercial information or content provision service for which a high per-minute call charge is levied to the caller;

**“PSTN”**: means Public Switched Telephone Network;

**“Public Pay Telephone”**: means a telephone which is available to the general public for the use of Telecommunication Services, the means of payment for which is coins, cards or other tokens;

**“Public Telecommunication System”**: means a communications system to which the public have Access which includes, but is not limited to, fixed line and mobile telephone networks and the provision of wireless Internet Access services;

**“SMP”**: means Significant Market Power;

**“Special Access Services”**: means dialled services for which the tariff is determined by the type of service being offered;

**“Subscriber”**: means any person who has a contract with the Licensee to receive Telecommunication Services via the Licensed Telecommunication System. For the avoidance of doubt a Subscriber does not include users of pre-paid services;

**“Subsidiary”**: has the same meaning as in the Companies (Jersey) Law 1991;

**“System”**: means a device for the origin and completion of telecommunicated messages;

**“Telecommunication Services”**: has the meaning set forth in Article 1 of the Law and includes the provision of any telecommunication service to the public;

**“Term”**: means, subject to Condition 11, a period of fifteen (15) years from the Licence Commencement Date;

**“Universal Service Obligation (USO)”**: means the provision of basic voice telephony services to any User in the Bailiwick of Jersey including, but not limited to, the provision of basic telephony for (i) Users who are particularly likely to need to summon assistance in their homes or elsewhere due to disability, age, or other factors; and (ii) Users requiring special features because of physical, mental or other challenges in using Telecommunication Services;

**“User”**: means a person, organization or other entity that is a consumer of Telecommunication Services.

- 1.2 In the Licence and these Conditions, unless the context indicates a contrary intention:
- (a) references to Conditions, paragraphs and subparagraphs are to Conditions, paragraphs and subparagraphs of the Conditions, as varied from time to time in accordance with the Conditions;
  - (b) a document will be incorporated into and form part of the Conditions if it is referred to in the Conditions, and reference to such a document is to that document as varied from time to time;
  - (c) headings used for Conditions, paragraphs and subparagraphs are for ease of reference only and will not affect the interpretation of the Conditions;
  - (d) references to any law, rule, regulation, ordinance, order or other legal instrument includes any modification, re-enactment or legislative provisions substituted for the same;
  - (e) use of the word “includes” or “including” should be construed as being without limitation; and
  - (f) the masculine gender shall include the feminine and neuter, and the singular shall include the plural, and vice versa, and words importing persons shall include firms or companies.

## **PART I: ESTABLISHMENT AND ENFORCEMENT**

### **2. SCOPE OF THE LICENCE**

2.1 This Licence authorises the Licensee to run, (including establishing, operating and maintaining) a telecommunication system that is hereby designated as a Public Telecommunication System in the Bailiwick of Jersey for the Term.

2.2 For the avoidance of doubt, this Licence shall be non-exclusive.

2.3 The Licence is personal to the Licensee and the Licensee shall not:

- (a) sub-license, assign or grant any right, interest or entitlement in the Licence nor transfer the Licence to any other person; or
- (b) sell or pledge any of its assets which are necessary to provide the Licensed Telecommunication System which the Licensee is obliged to provide under this Licence, unless such assets are immediately replaced with equivalent assets, without the prior written consent of the JCRA, such consent not to be unreasonably withheld.

Condition 2.3 does not apply to:

- (i) a mortgage or other transaction entered into for the purpose of securing borrowings of the Licensee or a Subsidiary of the Licensee, being borrowings for the purpose of the Licensed Telecommunication System or the provision thereof or anything incidental thereto; or
- (ii) a transfer, assignment or other disposal of an interest in assets under an arrangement whereby the Licensee retains the use and benefit of such assets for the remainder of the useful life of such assets and for the duration of the Licence, or
- (iii) a transfer, assignment or other disposal of assets made in the ordinary course of business.

2.4 Subject to Condition 8 the Licensee shall notify the JCRA of the occurrence of any of the following:

- (a) any fact or event likely to materially affect the Licensee's ability to comply with any Condition including any change to the Licensed Telecommunication System which may detrimentally affect the permanence, availability or quality of the Licensed Telecommunication System or Telecommunication Services;
- (b) an insolvency-related event in respect of the Licensee or a Subsidiary, Associated Company or joint venture of the Licensee, or any preparatory steps being taken that might lead to an insolvency-related event, immediately upon the Licensee becoming aware of the event.

2.5 The Licensee shall notify the JCRA:

- (a) of any proposed Change of Control of the Licensee or Associated Company forthwith upon the Licensee, or its Chairman, Chief Executive Officer, Chief Operating Officer or any Director becoming aware of the proposed change; and
- (b) in any event, on the occurrence of any Change of Control of the Licensee, within thirty (30) days of that event.

2.6 On receipt of notification of Change of Control the JCRA may:

- (a) approve, in writing, the change or the proposed change;
- (b) disapprove, in writing, the change or the proposed change, giving reasons; or
- (c) approve the proposed change or the change subject to the Licensee accepting a modification of the Licence under Article 18 of the Law

and, or in addition to any of the above measures, the JCRA may issue such Directions to the Licensee or invoke any of the sanctions, penalties or remedies in the Law or the Licence as the JCRA considers necessary or appropriate.

In taking action under this section, the JCRA may have regard to whether or not the JCRA would have awarded the Licence to the Licensee had the Change of Control taken effect prior to the award.

2.7 In this Condition 2, “Control” shall mean any direct or indirect possession of any power or right that enables a person or group of persons to direct, or cause the general direction of, the management or policies of the Licensee or Associated Company by any means and in any event. A person or group of persons shall be deemed to Control the Licensee or Associated Company if:

- (a) he or they exercises or controls the exercise of fifty (50) per cent or more of the votes able to be cast at general meetings of the Licensee or Associated Company on all, or substantially all, matters; or
- (b) he is or they are able to appoint or remove directors holding a majority of voting rights at board meetings on all, or substantially all matters or is able to appoint or remove a majority of the governing body of the Licensee or Associated Company; or
- (c) he or they exercises or controls the exercise of fifty (50) per cent or more of the partnership or other ownership interests of the Licensee or Associated Company,

and, in each case, reference to the Licensee or Associated Company shall include any person or group of persons who Controls the Licensee or Associated Company in any of such ways, and “Change of Control” shall mean any change as a result of which any other person or group of persons acquires Control.



- 2.8 The Licensee shall supply to the JCRA, in relation to itself and any Subsidiary of the Licensee:
- (a) a copy of its annual return on the same date on which it is required to be filed in accordance the laws of the Bailiwick of Jersey,
  - (b) a copy of its annual report and accounts on the same date on which it is circulated to the shareholders of the relevant body corporate; and
  - (c) in relation to any Subsidiary of the Licensee where the relevant body corporate is not incorporated in the Bailiwick of Jersey any returns, reports, accounts or other information under the laws of any jurisdiction which are, in the opinion of the JCRA reasonably required, and which are analogous or equivalent annual return and annual report and accounts, at such times and in such forms as the JCRA directs.
- 2.9 The Licensee shall comply with any other requirement in law or practice to obtain any additional consents, permissions, authorisations or licences as may be necessary for the provision of the Licensed Telecommunication System and for the exercise of its rights or discharge of its obligations under this Licence.
- 2.10 The Licensee shall ensure that:
- (a) the administration and management of the business associated with the running (including establishment, maintenance and operation) of the Licensed Telecommunication System shall be conducted from the Bailiwick of Jersey; and
  - (b) its business is conducted in a manner which the JCRA is satisfied is on a normal commercial basis and at arm's length from the business of any of its shareholders, Subsidiaries, Associated Companies or joint ventures.

### **3. LICENCE FEE**

- 3.1 The Licensee shall pay the Licence Fee in the manner directed by the JCRA.
- 3.2 Without prejudice to any other remedies of the JCRA under this Licence or the law, if the Licensee fails to pay any amount due to the JCRA under this Condition 3 by the due date, the unpaid amount will accrue interest daily from the due date to the date of payment at four (4) percentage points above the published base rate of the Bank of England.

### **4. PROVISION OF INFORMATION**

- 4.1 For the purpose of monitoring the Licensee's compliance with the Conditions and the Law, the Licensee shall provide to the JCRA in the manner and at the times required by the JCRA, any documents, accounts, returns, estimates, reports or other information (whether financial, operational, technical or

otherwise) including but not limited to the documents, accounts, returns, estimates, reports and other information specified in this Licence.

- 4.2 The Licensee shall, within ninety (90) days of the Licence Commencement Date, provide the JCRA with a comprehensive report on its use of the radio frequency spectrum, and the anticipated future use, and provide updates on the report as requested by the JCRA from time to time.
- 4.3 The JCRA may require an examination, investigation or audit of any aspect of the Licensee's business relating to the Licensed Telecommunication System or its compliance with the Conditions and the Law, and the Licensee shall provide any assistance requested by the JCRA in relation to any such examination, investigation or audit. The JCRA may issue directions with regard to the manner in which such an examination, investigation or audit is carried out, including the creation of financial and/or technical specifications or documentation.
- 4.4 In particular, the JCRA may authorise a person to carry out an examination, investigation or audit or may require the Licensee to arrange for an examination, investigation or audit of any aspect of the Licensed Telecommunication System to ensure compliance with the Conditions. The Licensee shall allow the JCRA's authorised representative to attend at, enter and inspect any premises under the Licensee's or any of its Subsidiary's or joint venture's control, and to take copies of any documents and to acquire any information in the control of the Licensee or any Subsidiary or joint venture of the Licensee, as may be required in order to carry out the examination investigation or audit.
- 4.5 The Licensee shall bear all reasonable costs associated with any examination, investigation or audit conducted under this Condition 4.

## **5. COMPLIANCE**

- 5.1 In addition to the Conditions, the Licensee shall comply with:
  - (a) any obligation imposed on it by the Law or by any law, regulation, rule, ordinance or order; and
  - (b) any Direction duly issued by the JCRA under the Law, under any other law, regulation, rule, ordinance or order of the States of Jersey, or under this Licence.

## **6. MODIFICATION**

- 6.1 The JCRA may from time to time modify, delete or add to any Condition in this Licence. Any modification, deletion or addition to the Conditions shall be made in accordance with Article 18 of the Law and any other requirements under any applicable law.

## **7. ENFORCEMENT AND REVOCATION**

- 7.1 The JCRA may at any time revoke this Licence in accordance with Article 20 of the Law. The JCRA may also take any action to enforce any Condition of this Licence in accordance with Article 19 of the Law or any Direction issued relating to this Licence.

## **8. EXCEPTIONS AND LIMITATIONS ON THE LICENSEE'S OBLIGATIONS**

- 8.1 If the Licensee is prevented from performing any of its obligations under this Licence because of Force Majeure:
- (a) the Licensee shall notify the JCRA of those obligations it is prevented from performing and the reason why as soon as reasonably practicable; and
  - (b) the JCRA may suspend those obligations and the Licensee will not be liable to perform those obligations, for so long as the Force Majeure continues, only if and to the extent that the inability to perform could not have been prevented by taking steps specifically required under this Licence or other reasonable precautions and the inability cannot reasonably be circumvented by the Licensee at its expense through the use of alternate sources, work-around plans or other means.

## **9. INTEGRITY OF THE NETWORK**

- 9.1 The Licensee shall take all reasonable steps to ensure the integrity of the Network and may refuse to provide the Telecommunication Services which it is obliged to provide in accordance with Condition 13 of this Licence to a particular User, if providing those Telecommunication Services would or would be likely to cause damage or interference to the Licensed Telecommunication System.
- 9.2 The Licensee shall provide details with regard to any proposed refusal to the JCRA. The JCRA shall issue a Direction on the matter.

## **10. MATTERS OF INTEREST TO JERSEY**

- 10.1 The Licensee shall, in connection with its establishment, operation and maintenance of the Licensed Telecommunication System take reasonable steps to prevent any Telecommunication Services from being used in, or in relation to, the commission of offences against the laws of the Bailiwick of Jersey.
- 10.2 The Licensee shall establish and maintain the capability to intercept messages transmitted over the Licensed Telecommunication System and to provide

information regarding the use of Telecommunication Services, in order to be able to meet the requirements of the laws of the Bailiwick of Jersey.

## **11. TERM AND RENEWAL**

- 11.1 The Licence commences on the Licence Commencement Date and continues, subject to the Licensee's compliance with the Conditions and the Law and subject to any revocation or suspension by the JCRA, for the Term.
- 11.2 At any time after the ninth (9<sup>th</sup>) anniversary but prior to the eleventh (11<sup>th</sup>) anniversary of the Licence Commencement Date, the Licensee may serve notice on the JCRA requesting a renewal of this Licence.
- 11.3 Within fifty six (56) days of the receipt of this notice under Condition 11.2, or such further period as may be agreed with the Licensee, the JCRA shall notify the Licensee whether or not it agrees to a renewal of the Licence subject to the same Conditions or any modified, amended or additional Conditions, subject to the Licensee providing all necessary information to the JCRA to enable it to make the notification within the specified time.

## **12. MISUSE OF DATA**

- 12.1 The Licensee shall not make use of network or traffic data, traffic profiles or any other data of any nature which become available to it directly or indirectly as a result of entering into Interconnect arrangements or otherwise as a result of carrying messages, in any way which, in the reasonable opinion of the JCRA, would unduly prefer the interests of any business carried on by the Licensee or a Subsidiary, Associated Company, or joint venture of the Licensee, or place Other Licensed Operators at an unfair disadvantage.

## **PART II: PUBLIC SERVICE CONDITIONS**

### **13. UNIVERSAL SERVICE**

- 13.1 Where so directed by the JCRA, the Licensee shall provide in the Bailiwick of Jersey a Universal Service if the JCRA determines that the Licensee holds SMP in a relevant telecommunications market. The Licensee shall comply with any Direction given by the JCRA in respect to the USO.
- 13.2 Until otherwise instructed, the Licensee shall defray the full cost of the USO set out in this Condition. In the event that the provision of the USO can be demonstrated to represent an unfair burden on the Licensee, the JCRA may introduce a mechanism to share the determined net cost of the USO between Licensed Operators. Such determination may be made following consultation by the JCRA on the appropriate mechanism to be used.
- 13.3 The JCRA may direct the Licensee to contribute to a fund established to cover the net cost of the provision of the USO, and the Licensee shall comply with such Directions.
- 13.4 If required by any Subscriber to whom it provides Telecommunication Services, the Licensee shall also provide a facility for that Subscriber to rent a range of CPE for the purposes of meeting requirements of the USO and to provide maintenance services in respect of any such rented CPE in that Subscriber's control which is to be lawfully connected to the Telecommunication Network at a Network Termination Point, except where:
- (a) the Licensee has notified that Subscriber that the CPE is beyond economic repair or the components or tools necessary to affect the repairs are no longer available and provided that the JCRA has agreed in writing accordingly; or
  - (b) the CPE was supplied by a person other than the Licensee or its Subsidiaries or joint ventures.

### **14. PUBLIC EMERGENCY CALLS**

- 14.1 The Licensee shall provide a public emergency call service, being a Telecommunication Service that enables a User at any time and without incurring any charge or using any coin or token, to communicate with the police, the ambulance or fire services or the marine search and rescue services and to notify them of an emergency by using CPE lawfully connected to the Licensed Telecommunication System at any place in the Bailiwick of Jersey.
- 14.2 The Licensee shall ensure that codes 112 and 999 and other codes which may be designated as emergency access codes are exclusively reserved for calls to emergency services.

## **15. DIRECTORY INFORMATION**

15.1 The Licensee shall ensure that Users have access to Directory Information Services and operator-assisted services offered by the Licensee and any Other Licensed Operator who is obliged to provide such services.

15.2 The Licensee shall, at its own expense:

- (a) maintain a complete and accurate database of its Subscribers' Numbers and make the data available to Other Licensed Operators who become obliged to provide Directory Information Services (but only to facilitate the provision of Directory Information Services);
- (b) co-operate with all such Other Licensed Operators in the supply or compilation of comprehensive and accurate directory information;
- (c) not use any directory information provided to it by any Other Licensed Operator for any purpose other than for providing Directory Information Services unless specifically authorised to do so by the Other Licensed Operator concerned; and
- (d) provide access to a range of Directory Information Services in order to provide subscribers with a choice of services to be compliant with the Numbering Conventions or as directed by the JCRA.

15.3 The Licensee shall comply with the applicable laws covering the protection of data.

## **16. PUBLIC PAY TELEPHONES**

16.1 The Licensee shall ensure that the following Telecommunication Services are accessible at all Public Pay Telephones owned and operated by the Licensee and forming part of the Licensed Telecommunication System:

- (a) Voice Telephony Services;
- (b) competitive Directory Information Services;
- (c) public emergency call services without the need for any charge or the use of any card or other token;
- (d) Free-phone, Premium Rate Services and Special Access Services; and
- (e) operator-assisted services.

In this Condition "Voice Telephony Services" means the conveyance of voice messages between the Licensed Telecommunication System and any other public telecommunications network.

- 16.2 All Public Pay Telephones provided by the Licensee shall display a notice specifying:
- (a) the minimum charge for connection, call charge information and permissible methods of payment and/or a means of accessing this information free of charge;
  - (b) the location of the Public Pay Telephone;
  - (c) a statement that emergency calls can be made without charge, card or token;
  - (d) a statement as to whether or not incoming calls can be received; and
  - (e) contact information in the event of service complaints free of charge.
- 16.3 The Licensee shall be responsible for the installation, maintenance and prompt repair of its Public Pay Telephones and shall ensure that at least one of any such Public Pay Telephones in each location where Public Pay Telephones are located, is equipped for use by people with hearing, sight or other disabilities, unless the JCRA directs otherwise.
- 16.4 If the Licensee wishes to withdraw any Public Pay Telephone from service it shall display a notice to that effect at the Public Pay Telephone concerned not less than sixty (60) days before service is withdrawn, unless the JCRA directs otherwise.
- 16.5 The Licensee shall provide to the JCRA, as directed from time to time, statistics regarding the numbers, location, operation and maintenance of all Public Pay Telephones in the Licensee's control

## **17. DEVELOPMENT OF NETWORK AND SERVICES**

- 17.1 The Licensee shall develop and operate the Licensed Telecommunication System so as progressively to achieve standards in line with international best practice and in particular, the Licensee shall achieve and comply with relevant standards established by ETSI, the ITU and such other international benchmarks as the JCRA may direct from time to time.
- 17.2 In order to meet the objectives set out in this Condition 17, the Licensee shall, within three months of the Licence Commencement Date, submit to the JCRA a plan setting out the target levels it will achieve for the Licensed Telecommunication System (to be known as the "**Telecommunications Development Plan**") and a monitoring plan (to be known as the "**Telecommunications Monitoring Plan**") (together, "**the Plans**"), which provides for accurate measurement of each of the target levels set out in the Telecommunications Development Plan. These Plans should be based on the plans and deliverables which were provided in the Licensee's Impact Statement.
- 17.3 The Plans will describe:

- (a) how actual performance will be monitored;
  - (b) the process for the collection and analysis of suitable data; and
  - (c) the procedures for internal review and performance improvement planning by the Licensee.
- 17.4 The JCRA may direct the Licensee to update and resubmit the Plans.
- 17.5 The JCRA may direct the Licensee as to matters to be included in the Plans and may amend or replace such Directions.
- 17.6 The JCRA may include as a Condition in this Licence the targets specified by the Licensee in the Plan and the Licensee shall be deemed to be in breach of its Licence if the target levels are not achieved.
- 17.7 Within forty five (45) days of the end of each six (6) month period during the Term, the Licensee shall provide the JCRA with a written report in a form required by the JCRA on its achievements under the Plans during the preceding six (6) month period, as set out in Condition 17.2.
- 17.8 The Licensee shall comply with any Directions issued by the JCRA regarding any other quality of service indicators and measurement methods for Telecommunication Services and shall, as and when required, supply to the JCRA, in a form specified by the JCRA, the results of its measurements of actual performance against any quality of service indicators and measurements so specified, and the JCRA may publish or require publication of such information as it considers appropriate.
- 17.9 The Licensee shall provide such information as is required by the JCRA for the purpose of assessing service levels and Network development in its Mobile Telecommunications Service.

## **18. CONSUMER PROTECTION**

- 18.1 The Licensee shall, in the manner and at the times specified by the JCRA, publish the standard terms and conditions, including tariffs under which it provides each category of Telecommunication Services to Subscribers and Users. In the absence of any other Direction from the JCRA, the Licensee shall ensure that a current statement of all applicable terms and conditions is:
- (a) filed with the JCRA; and
  - (b) promptly made available for inspection at the request of any member of the public or promptly sent to them by post and/or electronic means on request.
- 18.2 The JCRA may direct the Licensee to change the Licensee's standard terms and conditions.
- 18.3 The Licensee shall safeguard the privacy and confidentiality of all messages transmitted over the Licensed Telecommunication System and the



Telecommunication Services provided shall comply with all applicable laws regarding the protection of personal data and shall comply with any Directions issued by the JCRA for the purposes of protecting the interests of Subscribers or Users.

- 18.4 The Licensee shall provide each of its Subscribers with an acceptable level of itemised billing for national, international and PRS calls at no additional charge, except where a Subscriber has accepted terms of contract specifying no itemization for all or certain classes of calls. On a Subscriber's request, the Licensee shall also provide itemised billing for local calls at a reasonable charge. The itemised bill produced by the Licensee shall in all cases provide sufficient detail to facilitate verification of charges incurred by the Subscriber in using the Telecommunication Services. Calls which are free of charge to the User, including calls to helplines, need not be identified in the Subscriber's itemised bill. Calls which are nominally free but where a supplementary charge has been added by the Licensee, with the authority of the JCRA or by an upstream provider, must be identified clearly.
- 18.5 The Licensee shall within three (3) months of the Licence Commencement Date publish an appropriate code of practice ("**Consumer Code**") for the resolution of Subscriber or User disputes, including, but not limited to, the non-payment of bills and disconnection of service. The JCRA may issue Directions to the Licensee specifying any modifications or additions that it considers should be made to the Consumer Code.
- 18.6 The Consumer Code shall identify a transparent, simple, inexpensive procedure in order to address, inter alia, the following:
- (a) the appointment of a representative of the Licensee to be the first point of contact for members of the public;
  - (b) a means of recording complaints against and disagreements with the Licensee;
  - (c) the procedure and time frame in which the Licensee will respond to complaints and disagreements;
  - (d) the method and duration of retention of records of complaints and disagreements; and
  - (e) the level of any compensation that the Licensee may offer where complaints have been upheld or not satisfactorily resolved.

If a complaint or disagreement remains unresolved for three (3) months, either party may refer it to the JCRA for determination.

- 18.7 The Consumer Code may be amended by the Licensee, provided that the Licensee shall notify the JCRA and publish the proposed changes twenty-eight (28) days in advance of their coming into effect. The JCRA may issue Directions to the Licensee as to the changes, including but not limited to Directions not to make the changes, Directions to amend the changes further, or Directions as to the timing of the changes.

- 18.8 The Licensee shall participate in good faith in any dispute resolution procedure established by the JCRA for the resolution of disputes.
- 18.9 The Licensee shall publish within three months of the Licence Commencement Date a statement setting out the minimum service levels for Users and Subscribers in respect of each category of Telecommunication Services it offers, any exceptions to these, and the compensation or refunds it will offer to Subscribers or prospective Subscribers where service levels are not met. The Licensee shall also submit the statement to the JCRA.
- 18.10 The JCRA may consult publicly on the statement provided in accordance with Condition 18.9 and issue Directions to the Licensee specifying any modifications or additions that it considers should be made to the statement. The Licensee shall then re-publish the statement in the agreed form, in accordance with any Directions made by the JCRA, and shall forthwith implement the same. The JCRA may issue further Directions requiring modifications or additions to the statement and as to its re-publication and implementation.
- 18.11 The Licensee shall submit at the end of every six (6) month period, or at such intervals as the JCRA directs, a written report to the JCRA setting out:
- (a) the extent to which the Licensee has succeeded in meeting the targets described in Condition 18.9;
  - (b) the compensation that has been paid in relation to complaints or disagreements where complaints were upheld, and reasons why complaints were dismissed; and
  - (c) such other matters that the JCRA directs should be included in the report.
- 18.12 The Licensee shall ensure the accuracy and reliability of any systems, equipment, data or procedures which the Licensee uses to measure or to track the provision of Telecommunication Services or for the calculation of related charges.
- 18.13 The JCRA may require the Licensee to set up, at its expense, a User council or councils for the specific purpose of obtaining and representing the views of customers.
- 18.14
- a) The Licensee shall give a Relevant Subscriber not less than two calendar months' notice in writing of any increase to the unit price of a telecommunication service supplied under a Fixed-Term Contract.
  - b) If the Licensee wishes to increase the unit price of a telecommunication service supplied under a Fixed-Term Contract, it shall allow a Relevant Subscriber to terminate its contract for that telecommunication service without penalty, provided that: (i) notice is given in writing by the Relevant Subscriber to the Licensee at any time during the notice period referred to in sub-condition a); and (ii) the Relevant Subscriber pays to the Licensee any outstanding subsidy in respect of telecommunications equipment supplied at no charge or at a discount by the Licensee under the contract.

c) As part of any notice referred to in sub-condition a), the Licensee shall inform the Relevant Subscriber of (i) its ability to terminate its contract for that telecommunication service without penalty; and (ii) the amount of the outstanding telecommunications equipment subsidy referred to in sub-condition b).

d) This condition shall not apply to an increase in the unit price of a telecommunication service supplied under a Fixed-Term Contract, provided that:

- a. the increase is directly referable to the introduction of, or increase in, direct taxes or other government duties or levies, and the relevant contract clearly permits the Licensee to make that increase; or
- b. the quantum of the increase in unit price and the timing of the increase are set out clearly in the relevant contract (whether as an actual amount, or by reference to a price index),

and, in each case, the provision allowing the operator to make the increase is prominently displayed in the contract.

e) For the purposes of this Condition, a “Relevant Subscriber” shall be a residential or domestic subscriber, or a business with fewer than 10 employees located in the Channel Islands.

f) For the purposes of this Condition, a “Fixed-Term Contract” shall be defined as a contract involving the supply of telecommunication services by the Licensee with a term of more than 2 months.

g) For the avoidance of doubt, any reduction in call and/or text and/or data allowances provided to a Subscriber under a Fixed-Term Contract for a telecommunication service will constitute an increase in the unit price charged to the Subscriber and thus a circumstance to which sub-conditions a), b) and c) would apply. However, for mobile telephone contracts only, increases in charges for calls, texts and data not provided within an inclusive bundle shall be deemed not to be an increase in the unit price.

h) Where costs incurred by the Licensee in the provision of a telecommunication service increase significantly, and such increase was not reasonably foreseeable, then the Licensee may apply to the JCRA for, and the JCRA may grant, a waiver of the requirements of this Condition in respect of Fixed-Term Contracts for that telecommunication service.

## **18A MINIMUM REQUIREMENTS FOR 4G SERVICES**

18A.1 The Licensee shall comply with the minimum requirements for 4G based Services as set out in Schedule B of this Licence.

## **18B PERFORMANCE COMMITMENTS FOR 4G SERVICES**

18B.1 The Licensee shall comply with the 4G performance commitments as set out in Schedule C of this Licence which is Confidential.

### **PART III: GENERAL CONDITIONS RELATING TO THE PROVISION OF TELECOMMUNICATIONS**

#### **19. NUMBERING**

- 19.1 The Licensee shall for the purpose of terminating messages on the Licensed Telecommunication System use only those Numbers that are allocated to it and shall comply with any Directions concerning use and allocation of Numbers that are issued by the JCRA.
- 19.2 The Licensee shall manage any Numbers allocated to it with a view to conserving Numbers as a public resource and shall maintain a record of the status of all Numbers allocated to it and on request shall provide that information to the JCRA in the form directed by the JCRA.
- 19.3 The Licensee shall not charge its customers for allocations of Numbers except where authorised and in accordance with any Direction from the JCRA.
- 19.4 The Licensee shall comply with any Directions issued by the JCRA in respect of Number Portability, Number Translation, Number hosting and compliance with the Numbering Conventions.
- 19.5 MNP shall be provided using a centralized database system (the 'MNP System') in accordance with the requirements specified in Schedule A.
- 19.6 The Licensee shall be entitled to share the costs of acquiring and maintaining the MNP System equally with each of the Other Licensed Operators that provide Mobile Telecommunication Services. Where network investment is required for the Licensee to interface with the MNP System, the Licensee shall fund itself the necessary investment.
- 19.7 The Licensee will ensure that it makes representatives available to attend meetings, upon reasonable notice, with the JCRA and/or its representative to discuss the implementation or operation of MNP.
- 19.8 The JCRA may require information from the Licensee concerning the implementation or operation of MNP.

#### **20. RADIO FREQUENCY**

- 20.1 The Licensee shall provide the Telecommunication Services in accordance with the requirements of the Wireless Telegraphy Act 1949, Wireless Telegraphy (Channel Islands) Order 1952, and the Law.

- 20.2 The Licensee shall at all times facilitate the proper management of the radio frequency spectrum and shall ensure that the equipment and systems of the Licensee are adequate to prevent or, if necessary, eliminate interference with other authorised radio systems. Where the JCRA believes that an emergency exists, the Licensee shall, if so directed by the JCRA in writing:
- (a) modify, in such manner as may be specified in the Direction, the operating characteristics of any radio transmitting station used for the purposes of the Telecommunication Services; or
  - (b) cease operating any radio channel or radio transmitting station used for the purposes of the Telecommunication Services.
- 20.3 The Licensee shall ensure that non-ionising radiation emissions from its Licensed Telecommunication System are within the limits specified by the guidelines published by the International Commission for Non-Ionising Radiation Protection (ICNIRP) and that it complies with any radiation emission standards adopted and published from time to time by BSI, ETSI, the European Committee for Electrotechnical Standardisation and any other standards specified by the JCRA.
- 20.4 The Licensee shall make efficient use of the radio spectrum. If directed by the JCRA the Licensee shall take steps to re-plan radio spectrum usage in order to make the most efficient use of that spectrum or parts of that spectrum allocated to the Licensee.

## **21. ACCESS TO LAND**

- 21.1 The Licensee shall be entitled to all powers and rights and subject to all such obligations as are set out in Part 6 of the Law. Nothing in this Licence shall absolve the Licensee from any requirement in law to obtain such additional consents, permissions, authorisations or licences as may be necessary for the provision of the Licensed Telecommunication System and for the exercise of its rights or discharge of its obligations under this Licence.

## **22. ACCESS TO FACILITIES**

- 22.1 If the Licensee or the Licensee's Subsidiary or Associated Company or joint venture and any Other Licensed Operator fail to reach agreement within sixty (60) days in respect of a request by the Other Licensed Operator for Access, and the JCRA considers that such Access is essential as being the only economically feasible means by which a Telecommunication System can be installed or provided or connected to the premises of a User or Subscriber, over, under, in or across any public right of way or as being the only feasible means of avoiding material damage to the environment, the JCRA may instruct the Licensee to allow, or to procure that the Licensee's Subsidiary, Associated Company or joint venture allows the Other Licensed Operator Access on reasonable terms; unless the JCRA determines that it would be unreasonable to require the Licensee or the Licensee's Subsidiary or

Associated Company or joint venture concerned, alone or with any other person willing or required to do so, to grant the necessary Access.

22.2 In the absence of agreement between the parties, the terms of Access, including time limits for completion of any agreement, shall be determined by the JCRA.

### **23. CESSATION OF THE PROVISION OF THE LICENSED TELECOMMUNICATION SYSTEM**

23.1 If the Licensee proposes to cease to provide all or a material part of the Licensed Telecommunication System it shall give not less than four (4) months notice in writing to the JCRA of the proposal and its plans in relation to the cessation. Such cessation shall be affected only with the consent of the JCRA and in accordance with any Directions given by the JCRA in relation thereto and the Licensee shall comply with any such Directions.

23.2 At any time within four (4) months before the expiry of the Licence or if the JCRA receives a notice under Condition 23.1, or if the JCRA has made a decision pursuant to Article 20 of the Law to revoke the Licence, the JCRA may, after consultation with the Licensee, direct it to take such steps that the JCRA considers necessary or expedient to ensure the safety of the Licensed Telecommunication System or the continuity and continuation of the provision of Telecommunication Services or any constituent parts thereof, and the Licensee shall comply with any such Directions.

### **24. INTERCONNECTION**

24.1 The Licensee shall have the right to Interconnect the Licensed Telecommunication System with the Network or Mobile Telecommunication Network of any Other Licensed Operator, provided the technical standards and specifications for interconnection have been complied with.

24.2 The Licensee shall make available to interested parties such technical standards and specifications as may be required to enable connection to the Licensed Telecommunication System. Technical standards shall be those recognized universally for the specified interface. The JCRA may issue Directions as to the information that must be provided.

24.3 The Licensee shall not be required to enter into an Interconnect agreement or provide Interconnect services if that agreement or the provision of those services would:

(a) be technically infeasible or if it could reasonably be expected materially to impair the quality of any Telecommunication Service; or

(b) threaten the integrity, security, or interoperability of the Licensed Telecommunication System in a material way;

provided that the Licensee informs the Other Licensed Operator, in writing, with a copy to the JCRA forthwith justifying its decision to refuse interconnection or its intention to terminate interconnection services under an interconnection agreement. The JCRA may determine whether the action by the Licensee is reasonable and issue Directions accordingly.

- 24.4 The Licensee shall provide copies of any Interconnect agreements to the JCRA and such agreements shall be made available to interested parties upon a request being made in writing to the JCRA. The JCRA may determine, following consultation with the Licensee, those aspects which deal with the commercial strategy of the parties and those aspects shall not be made available.
- 24.5 The JCRA may direct that changes be made to any Interconnect agreement to ensure that it is in compliance with the Law.

## **PART IV: CONDITIONS SPECIFIC TO THIS LICENCE**

### **25. APPLICATION OF CONDITIONS**

- 25.1 Where the JCRA has determined that a Licensee possesses SMP in a relevant market, it may determine that provisions of this Part IV apply as appropriate.

### **26. CROSS SUBSIDISATION**

- 26.1 The Licensee shall not unfairly cross subsidise or unfairly subsidise the establishment, operation or maintenance of any telecommunication Network or telecommunication services.
- 26.2 To enable the JCRA to evaluate whether any unfair cross-subsidisation or unfair subsidisation is taking place, the Licensee shall record at full cost in its accounting records any material transfer of assets, funds, costs, rights or liabilities between a part and any other part of its business, and between it and its Associated Companies or any Subsidiary or joint venture of the Licensee, and shall comply with any Directions issued by the JCRA for this purpose.

### **27. FAIR COMPETITION**

27.1 The Licensee shall:

- (a) not abuse any position of SMP and/or established position in any telecommunications market;
- (b) not engage in any practice or enter into any arrangement that has the object or effect of preventing, restricting or distorting competition in the establishment, operation and maintenance of telecommunication systems or the provision of telecommunication services; and
- (c) comply with any Direction issued by the JCRA for the purpose of preventing any market abuse or any practice or arrangement that has the object or effect of preventing, restricting or distorting competition in the establishment, operation and maintenance of telecommunication systems or the provision of telecommunication services.