



COMMUNITY NETWORK AND SERVICE PROVIDER LICENCE

GRANTED BY

COMMUNICATIONS AUTHORITY OF KENYA TO

XXXXXXXXX

FOR THE

INSTALLATION OF ELECTRONIC COMMUNICATIONS SYSTEMS AND

PROVISION OF SERVICES

IN

THE REPUBLIC OF KENYA

LICENCE NO. TL/CNSP/XXXXXXXX

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THE LICENCE TERMS

The Communications Authority of Kenya (the "**Authority**"), in accordance with the Kenya Information & Communications Act, 1998 (hereinafter referred to as the "**Act**"), hereby authorises **xxxxxx** (the "**Licensee**") to construct, install and operate electronic communications systems and provide services as described herein (the "**Licensed Networks**") in accordance with the Terms and Conditions set out in this Licence.

1. This This Licence is issued on _____ (the Effective Date) under licence Number xxxxxxxxxxxx
2. This Licence is granted for a period of 10 years (the "**Licence Term**") from the Effective Date unless it is revoked earlier in accordance with the Licence Conditions herein.
3. The Licensed Network consists of transmission systems, switching or routing systems and other resources which permit the conveyance of signals either by wire, by radio, by optical or by other electromagnetic means. The Licensed Network may be used to establish terrestrial fixed and mobile networks. For the avoidance of doubt, these networks include electronic communications networks established over other utilities such as electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.
4. The Licensed Network also includes electronic communications services consisting wholly or mainly in the conveyance of signals on electronic communications networks and includes telecommunications and transmission services over electronic communications networks.
5. The Geographic coverage area of operation shall be defined in terms of unit areas represented by administrative Division Boundaries and as may be amended upon request and approval by the Authority from time to time. The licensee is also free at any time to expand the coverage area by applying for an upgrade commercial license of NFP Tier 3, Tier 2, or Tier 1 and associated Application Service Licence. In the event of such an upgrade, the licensee will be required to pay the difference in the initial operating fees between the CNSP license and the relevant Tier license.
6. The Licensee shall be required to obtain separate authorizations from the Authority, as necessary for utilization of resources, such as radio-frequency spectrum and numbering in case such resources are required, subject to the assignment terms, conditions and procedures as may be defined by the Authority from time to time.
7. The licensee shall only utilize the spectrum and/or numbering resources that have been authorized by the Authority.
8. The Licensee is authorised to connect the Licensed Network to:
 - 8.1. other telecommunication systems and platforms operated under a licence granted by the Authority in accordance with the Act;

- 8.2. any telecommunication apparatus that is approved for connection by the Authority in accordance with its Type-Approval and Certification requirements.
9. All equipment and devices comprising the Licensed Network shall, in all respects, be of an approved standard, type-approved by the Authority and conforming to the regulations as may be issued from time to time.
10. This Licence and the Licensee are subject to the provisions of the Act including, but not limited to, licence modifications, enforcements and Sanctions. The Authority may impose penalties for the contravention of any license terms, conditions or directive issued by the Authority, based on a consideration of several factors, which include, but are not limited to the following:
- 10.1. A determination of whether or not the contravention was deliberate or as a result of the Licensee's recklessness;
- 10.2. The duration of the contravention;
- 10.3. The cooperation or lack thereof of the Licensee in the investigation of any matter relating to the contravention;
- 10.4. Any demonstrable steps, or lack thereof, taken by the Licensee to remedy the contravention;
- 10.5. Any financial gain resulting from the contravention, including any unjustifiable cost incurred by consumers as a result of the contravention;
- 10.6. Whether or not the Licensee has repeatedly contravened a particular or other Licence conditions;
- 10.7. Duration of operation without a compliance certificate for not having met all the compliance requirements
11. Words importing the singular shall include the plural and vice versa; words denoting persons shall include bodies corporate and unincorporated associations of persons and vice versa.
12. Under the Unified Licensing Framework the following terms shall have the following meanings:
- 12.1. "**Act**" means the Kenya Information and Communications Act, 1998 or any successor legislation and any subsequent amendments made thereto;
- 12.2. "**Application Services**" means electronic communications services which are normally provided for remuneration and consist wholly or mainly in the conveyance of signals on electronic communications networks including telecommunications and transmission services over electronic communications networks.

- 12.3. “**Application Service Provider (ASP)**” means a licensee authorised by the Authority to provide Application Services;
- 12.4. “**Compliance Report**” means a report to be prepared periodically by the Licensee detailing its performance in respect of every licence condition;
- 12.5. “**Compliance Certificate**” means a certificate to be issued by the Authority to a licensee following the licensee’s compliance with all regulatory requirements including periodic submission to the Authority of duly completed compliance report and the subsequent receipt and satisfactory review of the same by the Authority;
- 12.6. “**Content Services**” means information of any kind normally provided at a fee and is delivered over electronic communications networks and services. They include broadcasting content, financial information services and other information society services;
- 12.7. “**Content Service Provider (CSP)**” means a person authorised by the Authority to provide content services;
- 12.8. “**Consumer**” means any entity or natural person who uses or requests a publicly available electronic communications service or product;
- 12.9. “**Customer Service Outlet**” means a physical location to be established by the Licensee to, among other things, provide customer service to walk-in customers and manage customer queries;
- 12.10. “**Effective Date**” means the date when the Licence was first issued, or in the case of a Licence replacement, the date when the original Licence was issued;
- 12.11. “**Emergency Access**” means connectivity between the Emergency Organisation and any public access point within the Licensed System;
- 12.12. “**Emergency Services**” means services installed and provided for use by public to access a Public Emergency Service Provider;
- 12.13. “**End-User**” means a User not providing Public Communications Networks or publicly available electronic communications services;
- 12.14. “**Government**” means the Government of the Republic of Kenya;
- 12.15. “**Issuance Date**” means the date when the licensee was issued with this Licence under the Unified Licensing Framework (ULF)
- 12.16. “**License Term**” means the period stated in the license during which the license remains in force unless otherwise revoked.
- 12.17. “**National Emergency Numbers**” are numbers designated by the Authority for provision of Public Emergency Services including, but not limited to Police, Fire, Ambulance and Child helpline.

- 12.18. **National Regulatory Authority (NRA)**" means the body or bodies charged by another country with the regulatory responsibilities as regards electronic communications within that country;
- 12.19. **“Network Facilities Provider (NFP)”** means a licensee authorised by the Authority to build and commercially operate Telecommunication/electronic communications Systems;
- 12.20. **“Network Management Centre”** means a physical point within a network where various management, monitoring, storage and control functions are implemented;
- 12.21. **"Public Communications Network"** means an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services;
- 12.22. **“Public Emergency Service Providers”** means organisations designated by the Government for the provision of emergency services including but not limited to the police, fire brigade, ambulance, and coastguard;
- 12.23. **“Regulations”** means the Regulations made pursuant to Kenya Information and Communications Act, 1998 as may be amended;
- 12.24. **“Renewal Date”** means the date when the license was re-issued on completion of a license term of 15 years or such other term as may be contained in the subsequent license;
- 12.25. **“Template Colocation/Infrastructure Sharing Offer”** means a standard template of the agreement between the Licensee and Requesting Licensees;
- 12.26. **“Reference Service Level Agreement (SLA)”** means a standard template of the SLA between the Licensee and Requesting Licensees of a given Licence Category;
- 12.27. **“Requesting Licensee”** means a person licensed by the Authority who has expressed a desire to interconnect with the licensee;
- 12.28. **“Service Level Agreement”** means an agreement entered between the Licensee and a Subscriber defining the nature of the services to be provided and establishing a set of parameters to be used in measuring the agreed service level;
- 12.29. **"Subscriber"** means any natural person or legal entity who or which is party to a contract with the provider of publicly available electronic communications services for the supply of such services;
- 12.30. **“Tier”** is used to distinguish the scope of the various NFP licences. The Authority shall, from time to time, define the various Tiers;
- 12.31. **“Telecommunication System”** means a system used for transmission, reception and switching of signals, such as electrical or optical, by wire, fibre, or electromagnetic means;

12.32. "**Universal Service**" means the minimum set of services, as may be defined by the Authority from time to time, and which are of a specified quality and which is available to all Users at an affordable price;

12.33. "**User**" means a legal entity or natural person using or requesting a publicly available electronic communications service.

THE LICENCE CONDITIONS

1. CONDITION 1: ESTABLISHMENT OF THE LICENSED NETWORK

1.1. The Licensee shall submit annually, for the Authority's records, network schematic diagrams with actual topographical and physical coordinates of its network. The Licensee shall provide the information using such systems as the Authority may specify from time to time.

2. CONDITION 2: CO-LOCATION AND INFRASTRUCTURE SHARING

2.1. The Licensee shall, when establishing the Licensed Systems, take into account the need for equipment co-location and/or infrastructure sharing with other licensees and shall comply with relevant regulations or guidelines that may be published from time to time.

2.2. The Licensee shall allow other licensees to co-locate, share infrastructure and other facilities on terms that are reasonable, just and non-discriminatory.

2.3. The Licensee shall ensure that any infrastructure sharing and/or co-location arrangement is provided under an appropriate written agreement, which shall among other things guarantee reasonable access and security. For this purpose, the Licensee shall publish and readily make available and accessible on its website a Template for Co-location/Infrastructure Sharing Offer in accordance with the format approved by the Authority and file any agreement entered into within thirty days of execution.

2.4. The obligation in 2.1 and 2.2 shall not apply in the event that it is not, in the Authority's view, reasonable to require the Licensee to comply with such an obligation in the particular circumstances, including, but not limited to circumstances:

2.4.1. Where the requesting person's network has not been approved in accordance with Condition 2.1 above.

2.4.2. beyond the Licensee's control,

2.4.3. where the provision of the service would expose any person engaged in its provision to undue risk to health or safety, and

2.4.4. where it is not reasonably practicable (including where the Licensee is not in a position to provide the requested connectivity in a particular area by reason of the fact that its systems are not sufficiently built out).

2.4.5. The licensee shall not enter into an exclusive agreement with a building owner for access.

2.4.6. Where the licensee is the first entrant to building, the licensee shall, where possible, ensure that there is adequate provision in the building's communication infrastructure to facilitate sharing with other licensees.

3. CONDITION 3: PUBLIC SAFETY

3.1. The Licensee shall in respect of all apparatus, equipment and installations possessed, operated, maintained or used under the license, take all proper and adequate safety measures to safeguard life against any danger, including electromagnetic emissions emanating from the apparatus, equipment or installation so used;

3.2. The Licensee will ensure that any of its telecommunication installation does not become a health, environmental or a safety hazard and is not in contravention of any statute, rule, code of practice, guideline or regulation, on public safety.

3.3. The licensee shall ensure that its Licensed Network complies with the relevant environmental laws.

4. CONDITION 4: ACCESS TO SITES AND RECORDS

4.1. The Licensee shall upon request provide unlimited access to all equipment sites and operational areas to duly authorised staff of the Authority, any person authorised by the Authority or law enforcement agency in order for the said to effectively perform their duties.

4.2. The Licensee shall establish and maintain information records in regard to its operations, in a format prescribed by the Authority from time to time, for a minimum period of three (3) years from the date such records came into being, for purposes of availing such information on request by the Authority, any person authorised by the Authority or any law enforcement agency.

4.3. The licensee shall provide, upon request by the Authority, any information it requires during an inspection including access to any subscriber billing information and call data records. Such information shall be generated from the systems in the presence of Authority's inspectors at the time of the inspection.

4.4. The Licensee shall permit the Authority (or a person authorised by the Authority) to inspect the Licensee's systems, premises, facilities, files, records and other data to enable it to exercise its functions under the Act.

5. CONDITION 5: NUMBERING AND NUMBER PORTABILITY

5.1. The Licensee shall upon application and approval only utilise the number(s) assigned to it by the Authority.

- 5.2. The licensee shall not facilitate delivery of traffic to numbers that do not exist in the national numbering plan.
- 5.3. The Licensee shall provide the Licensed Services in accordance with the national Numbering Plan(s) unless and until the Authority, upon reasonable notice, prescribes a new numbering plan(s) amending or replacing the Initial Numbering Plan(s). Any new numbering plan shall contain transitional provisions.
- 5.4. The licensee shall not facilitate origination or termination of traffic from/to numbers that do not exist in the national numbering plan.
- 5.5. The licensee shall be required to configure the national emergency numbers prescribed by the Authority and deliver free of charge emergency traffic generated on its network to Public Emergency Service providers.
- 5.6. The Licensee shall be required to facilitate the provision of Number Portability Service within their platforms and provide facilities at its physical customer care outlets for receipt of applications during the normal working hours.
- 5.7. The Licensee shall fulfil any rules and requirements, which the Authority may prescribe from time to time in relation to numbering, and provision of Number, Service Portability and other related portability.

6. CONDITION 6: INTERCONNECTION & PROTECTION OF THIRD PARTY FACILITIES

- 6.1. Interconnection procedures shall be in accordance with the Regulations
- 6.2. The Licensee shall permit a Requesting Licensee to connect its licensed platforms to other Licensed Systems so as to enable the establishment and provision of licensed services by the said Requesting Licensee.
- 6.3. The Licensee shall provide the services in 6.2 above on a fair, transparent and non-discriminatory basis.
- 6.4. The Licensee shall install suitable equipment for compatibility with the systems of other licensees so as to enable the provision of the Licensed Services.
- 6.5. The Licensee shall ensure that its equipment, facilities, or operations do not interfere, damage or harm any third party property, systems, installations, facilities, or operations.
- 6.6. In case such damage, harm or interference occurs, the Licensee shall immediately switch off its offending equipment, facilities or operations and inform the Authority and the affected operator as a matter of urgency.
- 6.7. Such information shall in no way prejudice the Authority's or third party rights or claims they may have against the Licensee for the interference, damage, harm or for financial loss that may have been occasioned.

- 6.8. The Licensee shall render the said equipment, facilities or operations harmless and/or compensate those third parties that may suffer damage, as a result of its equipment, facilities, systems or operations causing harm or interference.
- 6.9. The obligation in 6.2 shall not apply in the event that it is not, in the Authority's view, reasonable to require the Licensee to comply with such an obligation in the particular circumstances, including, but not limited to circumstances:
 - 6.9.1. beyond the Licensee's control;
 - 6.9.2. where the provision of connectivity would expose any person engaged in its provision to undue risk to health or safety, and
 - 6.9.3. where it is not reasonably practicable.

7. CONDITION 7: INTERRUPTION OF THE LICENSED SERVICES AND PLATFORMS

- 7.1. Subject to 7.3 and 7.4 below, the Licensee shall not intentionally interrupt nor suspend the provision of any type of Licensed Services and platforms without having first notified the Authority in writing and having provided reasonable advance notice to persons affected by such interruption or suspension.
- 7.2. In the event of an unintentional/unforeseen interruption of the Licensed Services or part thereof, which are significant in nature, the Licensee shall inform the public and notify the Authority in writing within 24 hours outlining the cause of such interruption and the steps being undertaken to rectify such interruption.
- 7.3. The provision in 7.1 shall not apply if, the interruption or suspension is to a person to whom the Licensee provides the Licensed Service and whose system or apparatus (or use thereof) is endangering the integrity of the Licensee's operations
- 7.4. The provision in 7.1 shall not apply if the interruption of service is the result of subscriber disconnection as the result of non-payment or other business related or contractual reasons
- 7.5. Interruption in 7.4 above shall not be effected on any day preceding a non-working day or public holiday for non-payment of applicable charges.

8. CONDITION 8: PROHIBITION ON UNDUE DISCRIMINATION

- 8.1. Subject to 8.3 without prejudice to the obligations imposed on the Licensee under this Licence, the Licensee shall not (whether in respect of the rates or other terms and conditions applied or otherwise) show undue preference to, or exercise undue discrimination against, particular persons or persons of any class or description in respect to the provision of the Licensed Systems.

- 8.2. Subject to 8.3 the Licensee may be deemed to have shown such undue discrimination if it unfairly favours to a material extent the provision of any communications services to another communication business it carries out so as to place at a significant competitive disadvantage persons competing with that business.
- 8.3. The Licensee shall not be deemed to have shown undue discrimination to the extent that:
- 8.3.1. it is due to matters beyond the Licensee's control;
 - 8.3.2. the provision of connectivity would expose any person engaged in its provision to undue risk of health or safety, or
 - 8.3.3. it is not, in the Authority's view, reasonably practicable or technically feasible (including where the Licensee is not in a position to provide connectivity in a particular area by reason of the fact that its systems are not sufficiently built out).
- 8.4. Any question relating to whether any act done or course of conduct amounts to undue preference or undue discrimination shall be determined by the Authority.

9. CONDITION 9: PRIVACY AND CONFIDENTIALITY

- 9.1. The Licensee shall ensure the privacy and confidentiality of proprietary information and business secrets obtained in the course of its business from any person to whom it provides the Licensed Network by establishing and implementing reasonable procedures for maintaining confidentiality of such information.
- 9.2. The Licensee shall not use or allow to be used any apparatus comprised in the Licensed Network (except for the purpose of law enforcement, national interest or where it is in accordance with any statute in force in Kenya) which is capable of recording, silently monitoring, or intruding into its Subscriber's communications traffic.

10. CONDITION 10: REQUIREMENT TO PROVIDE INFORMATION

- 10.1. The Licensee shall maintain and provide such information as will enable the Authority to carry out its functions under the Act in such manner and at such times as the Authority may specify and shall ensure that all information submitted is accurate.
- 10.2. The Authority shall have the right to request the Licensee to submit periodic reports, statistics and other data as well as request additional information with a view to supervise and enforce effectively the terms of this Licence.
- 10.3. In particular, by the 15th July of every year or as may be specified by the Authority, the Licensee shall submit a Compliance Report detailing the performance of the previous operational year ended 30th June.
- 10.4. The Authority shall review the Compliance Report and:

- 10.5. If the Licensee is in compliance with the terms and conditions of this Licence, issue the Licensee with a Compliance Certificate in respect of compliance for the year under review, and
- 10.6. If the Licensee is not in compliance with the terms and conditions of this Licence, require the Licensee to remedy the area of non-compliance in accordance with the provisions of this Licence and the Act.
- 10.6.1. In making a request for information, the Authority will ensure that no undue burden is imposed on the Licensee in procuring and furnishing such information, unless the Authority considers such information is essential to enable it to exercise its functions under the Act.
- 10.6.2. The Authority shall have the right to publish information which it receives under this Condition unless, following representations by the Licensee, the Authority is satisfied that the information is of such confidential nature that disclosure would have a material adverse effect on the Licensee's business.

11. CONDITION 11: SUSPENSION

- 11.1. The Authority may suspend some/part of the operations of the licensee where the Licensee has breached a Condition in this Licence, and in the Authority's opinion the breach is of a material nature, and the Licensee has been notified of the breach of the license and has been given notice to comply within a specified period and failed to comply and even after being issued with a penalty has failed to pay the penalty and/or continues with the non-compliance.
- 11.2. Where the Authority intends to suspend any of the services under this Licence pursuant to 6.1, the Authority shall issue a forty-five (45) days' notice of its intention to suspend such service, which shall identify the breach and give the Licensee an opportunity to rectify the breach and/or make representations within that period.
- 11.3. After the expiry of the notice in 11.2 above, where the Authority is satisfied with the rectification of the cited breach and/or the representations made by the Licensee, it shall lift the suspension notice.
- 11.4. After the expiry of the notice in 11.2 above, and where the Authority is not satisfied with the rectification of the cited breach and/or the representations made by the Licensee, the Authority will issue the Licensee a notice that after a period of fifteen (15) days, the cited service shall be suspended.
- 11.5. The notice issued in 11.4 shall specify the duration of the suspension and the conditions for lifting of the suspension.
- 11.6. Where the Licensee rectifies the breach after suspension in 6.4 above, the suspension notice shall be lifted.
- 11.7. Where the licensee fails rectify the breach at the expiry of the suspension period, the Authority may revoke the License in accordance with condition 11.5

12. CONDITION 12: DISPUTE SETTLEMENT

- 12.1. The dispute settlement mechanism set out in the Act and/or regulations shall apply to any dispute or disputes that arise out of the provisions of this Licence.

13. CONDITION 13: LICENCE REVOCATION

Notwithstanding any other Condition in this License, the Authority may at any time revoke this Licence by giving six (6) months' notice in writing under any of the following circumstances:

- 13.1. if the licensee communicates to the Authority in writing on their intention to terminate the Licence;
- 13.2. if the Licensee does not provide evidence of commencement of the provision of the Licensed Network three (3) months from the Effective Date. The Licensee shall submit such evidence by completing a Compliance Report in order to satisfy the Authority that the Licensee has complied with this requirement;
- 13.3. if any amount payable under this licence is unpaid forty-five (45) days after the Authority notifies the Licensee that the payment is overdue, such notification not to be given earlier than fourteen (14) days after the date on which the payment is due;
- 13.4. if the Licensee has breached a Condition in this Licence, and in the Authority's opinion the breach is of a material nature, and the Licensee has failed to comply with any notice issued by the Authority under the Act or under the Regulations or under this license and thereafter has been given by the Authority a further sixty (60) days in which to make representations in relation to the matters set out in the earlier notice which the Authority has taken into account or matters which the Licensee believes are relevant and the Authority appears not to have taken into account; or,
- 13.5. if the Licensee is dissolved or enters into liquidation, bankruptcy or equivalent proceedings or makes a general assignment for the benefit of creditors.

14. CONDITION 14: LICENCE TRANSFER

- 14.1. The Licensee shall not assign, delegate, transfer or encumber in any manner the rights, interests or obligations under this Licence without the prior, express and written consent of the Authority, such consent not to be unreasonably withheld or delayed.
- 14.2. The transfer of the license shall not include resources assigned by the Authority to the licensee whose license is subject of the transfer.

15. CONDITION 15: TRANSITIONAL PROVISIONS

- 15.1. At the expiry of this license, the licensee shall be considered for award of an appropriate license where the licensee secures access spectrum through a market based spectrum allocation mechanism established by the Authority through a consultative process with stakeholders.

- 15.2. The licensee shall not be eligible to participate in the market based spectrum allocation process if a formal review carried out by the Authority, at least one (1) year before the commencement of the market-based spectrum allocation mechanism, determines that the licensee's performance during the license term has been unsatisfactory.
- 15.3. The Authority shall conclude the market-based spectrum allocation mechanism referred to above at least three (3) years prior to the expiry of this Licence.
- 15.4. In the event that the Licensee is successful in securing access spectrum under Condition 15.1 the Authority may, upon application by the Licensee two (2) years to the expiry of the licence, issue an appropriate Licence, at least one (1) year prior to the expiry of the term of this Licence, in accordance with the terms of the market-based Spectrum allocation mechanism and market structure that shall be in force.
- 15.5. In the event that the licensee is unsuccessful in 15.1, the licensee may, at least two (2) years prior to the end of the term of this license, apply for an appropriate Licence in line with the Market Structure that shall be in force.

16. CONDITION 16: LICENCE FEES

The Licensee shall pay to the Authority:

- 16.1. An initial Licence fee amounting to five thousand Kenya Shillings (KShs. 5,000) only.
- 16.2. On 1st July of each year, an annual operating fee of Kenya shillings five thousand (KShs. 5,000) only.
- 16.3. Any other fee payable under this Licence including but not limited to frequency and numbering fees.
- 16.4. Any of the fees due to the Authority under 16.1 and 16.2 that remain unpaid ninety (90) days after they become due shall attract an interest at a rate of 2% percent per month, which shall become a debt owed to the Authority.

17. CONDITION 17: PROVISION OF LICENSED SERVICES

The Licensee shall ensure that:-

- 17.1. it continues to represent the Community interest that are represented at the time when the licence was granted or last renewed;
- 17.2. it encourages members of the Community that it serves to participate in:
- 17.3. governance of the network;
- 17.4. the operations of the network in providing the services; and
- 17.5. community participation in network development through establishment of a network planning committee.

17.6. it will not operate the service for profit or as part of the profit-making enterprise;

18. CONDITION 18: HUMAN RESOURCE DEVELOPMENT

18.1. The Licensee shall ensure that the composition of its management and staff reflects the racial and gender demographics of the community it serves.

18.2. Within 24 months of license issuance, the Licensee shall submit to the Authority its Human Resource Development Plan outlining a strategic success plan on empowerment of local staff.

18.3. The Licensee shall annually furnish the Authority with a report of implementation of Human Resource Planning.

18.4. Where possible, the Licensee shall facilitate participation of its staff in training within and outside Kenya.

SIGNED FOR AND ON BEHALF OF COMMUNICATIONS AUTHORITY OF KENYA

Sign _____ **Date** _____
DIRECTOR GENERAL