



THE LICENCE TERMS

The Communications Authority of Kenya (the "Authority"), in accordance with the Kenya Information and Communications Act, Cap 411A (the "Act"), hereby authorises (the "Licensee") to establish and provide Subscription Broadcasting Services as described herein the ("Licensed Services") in accordance with the Conditions set out in this Licence.

1. This Licence is issued on (the **Issuance/Renewal Date**)).
2. This Licence is issued for the "**Licence Term**" effective from the "**Licence/Renewal Date**" unless it is revoked earlier in accordance with the Licence Conditions herein.
3. The Licensee is authorized to provide subscription broadcasting services that are described below and any other related service that has been duly approved by the Authority in writing:
 - 3.1. (Technology used) for Subscription Broadcasting Service
4. Where applicable, the licensed services may be accommodated and accessed through platforms provided by other entities duly licensed and/or authorized by the Authority.
5. The Licensee is authorized to provide the Licensed Services provided that:
 - 5.1 The Licensee obtains and files with the Authority the relevant authorizations from other Government Agencies as applicable;
 - 5.2 The Licensee files the details of each service they intend to provide and obtains an approval from the Authority; and
6. All equipment and devices used to provide the licensed services shall be of approved industrial standards, be type approved or type accepted by the Authority where applicable and conform with all rules and Regulations as may be issued from time to time.
7. This Licence is subject to the provisions of the Act including, but not limited to, licence modifications and enforcements.
8. Words importing the singular shall include the plural and vice versa where the context so admits; words denoting persons shall include bodies corporate and unincorporated associations of persons and vice versa.

9. In this Licence the following terms shall have the following meanings:

- 9.1. **“Act”** means the Kenya Information and Communications Act CAP 411A,
- 9.2. **“Authority”** means the Communications Authority of Kenya;
- 9.3. **“Licence”** means the instrument of authorization issued by the Authority to a Licensee stipulating the terms and conditions under which the licensed service (s) shall be offered by the holder.
- 9.4. **“Licensee”** means the legal person or entity issued with a licence by the Authority to provide the licensed service(s) under specified Terms and Conditions;
- 9.5. **“Programme”** means a body of live or recorded material consisting of images, sounds or both embodied in signals and emitted for the purpose of ultimate broadcasting;
- 9.6. **“Programme schedule”** means the hours of broadcasting of programme of an individual licensee;
- 9.7. **“Subscription System”** in relation to a licence, means the system used by the licensee for the distribution of licensed programme services, starting at the head-end and ending either at the system outlets or, in cases where the licensee provides subscribers with a device incorporating specialised decoding means, at the output port of such device, and including all other apparatus directly or indirectly connected between those points,
- 9.8. **“Address”** means the licensee's official physical and postal address
- 9.9. **Terms and Conditions of Licence:** encompass general and special terms and conditions for programme broadcast. General terms and conditions are equal for all stations, while the special terms and conditions include the type of programmes that each individual station is broadcasting, as well as technical operations of each individual Licensee;
- 9.10. **“Rules”** means codes, guidelines and directions issued by the Authority;
- 9.11. **“Regulations”** means all the all relevant regulations under the Kenya Information and Communications Act, CAP 411A of the laws of Kenya.
- 9.12. **Conditional Access** means the protection of broadcasting programme transmissions so that only authorized subscribers with suitable decoding apparatus and/or authorization can have access to the content. This is achieved by a combination of scrambling and encryption.
- 9.13. **“Significant outage”** means non-availability of a licensed service for a continuous period of more than four hours in every 24-hour period.

LICENSE CONDITIONS

1. CONDITION 1: GENERAL TERMS AND CONDITIONS OF LICENCE

- 1.1. Every entity providing Subscription Broadcasting Services in Kenya must have this Licence from the Authority before commencement of service offering;
- 1.2. The Authority may amend, and adjust the terms of this Licence in accordance with the provisions of the Acts and Regulations.
- 1.3. Nothing in this Licence reverses the obligation of the licensee to fulfill all other statutory, legal or contractual obligations necessary for provision of subscription broadcasting services.
- 1.4. Acceptance of this licence constitutes an obligation on the part of the Licensee to comply with all its Terms and Conditions.
- 1.5. This Licence replaces any previous authorization issued to the holder by the Authority, its predecessors or the Ministry in charge of Information and/or broadcasting before the enactment of the Kenya Information and Communications Amendment Act No.1 of 2009.

2. CONDITION 2: NAME AND SERVICE IDENTITY

- 2.1. The Subscription Broadcasting Service(s) shall be offered under the following service identities
 - 2.1.2 (Technology used) for Subscription Broadcasting Service
- 2.2. The Licensee shall not change its business name and service identification without prior written approval from the Authority, which approval shall not be withheld unreasonably.
- 2.3. The licensee shall pay the prescribed fee for change of name and service identification.
- 2.4. The Licensee must clearly identify itself by displaying its service identification logo throughout the period the said subscription broadcasting service is on air.
- 2.5. The Licensee shall ensure that it clearly and consistently identifies the products and services offered to subscribers including but not limited to its content, customer premise equipment, decoders, receiving antennas as applicable.

3. CONDITION 3: HOURS OF SERVICE

- 3.1. The Licensee shall provide the licensed services on a 24-hour period basis or such periods as authorized by the Authority.

4. CONDITION 4: LANGUAGE

- 4.1. The licensee shall provide information regarding its services in (Languages listed)
- 4.2. The licensee shall provide its services in such languages as notified to the Authority from time to time

5. CONDITION 5: LOCAL CHANNELS

- 5.1. The Licensee shall comply fully with such directives as may be issued by the Authority from time to time with respect to Must Carry Obligations/Requirements regarding local channels.

6. CONDITION 6: CONSUMER PREMISES EQUIPMENT

- 6.1. The licensee shall ensure that the receiving equipment at the consumers' premises shall receive all free to air channels using compatible technology on all similar platforms.
- 6.2. The Licensee shall configure its decoders or set top boxes to receive free to air channels transmitted from all available digital platforms with compatible transmission system.
- 6.3. The Licensee shall ensure that it complies with any requirements in the Act and Regulation and/or as specified by the Authority from time to time on access by its subscribers to free to air channels under the 'must carry' rule
- 6.4. The licensee shall not superimpose any advertisements of any nature on any channel received by its decoders or set top boxes, unless consent by channel owner is given in writing.
- 6.5. The Licensee shall ensure that specific steps have been taken as provided for in the Constitution to ensure the enjoyment and access to the Licensed services by Persons with Disabilities (PWDs). In addition, the licensee shall fully comply with the requirements necessary to make the licensed broadcasting service accessible to PWDs within the set timelines as may be specified and duly published in Kenya Gazette by the Authority from time to time.
- 6.6. The Licensee shall ensure that its customer care services and premises cater for PWDs.
- 6.7. The Licensee shall include in their product offering customer premise equipment and apparatus with accessibility features specifically designed for PWDS.

7. CONDITION 7: ADHERENCE TO BROADCASTING CONTENT STANDARDS AND COMPLAINTS HANDLING PROCEDURE

- 7.1. The Licensee shall ensure the Licensed Services offered, which are in their bouquets and are accessible for free, are in conformity with applicable industry Code or content standards as may be prescribed from time to time.

- 7.2. The licensee shall ensure compliance with such industry code or content standards for broadcasting services as may be issued by the Authority from time to time.

8. CONDITION 8: CUSTOMER SERVICE

Communications with Subscribers:

- 8.1. The Licensee shall comply with all customer service regulations/guidelines issued by the Authority from time to time
- 8.2. The Licensee shall have a location reasonably convenient within the licensed service area(s) of the subscription broadcast service provider that will be accessible to subscribers to make bill payments, pick-up and exchange of Subscriber equipment.
- 8.3. The Licensee shall maintain and put in public domain such contact details necessary for facilitating communications with enquirers and/or its subscribers on diverse platforms regarding offered and subscribed services duly manned by the licensee's staff or outsourced representatives. The Licensee's staff or outsourced representatives shall be trained and qualified to answer questions related to the offered subscription services. The licensee shall ensure appropriate mechanisms are in place to ensure reception of subscribers reports of Service Interruptions and Significant Outages twenty-four (24) hours a day, seven (7) days a week.
- 8.4. All installations at the subscriber premises shall be in accordance with applicable rules relating to grounding, connection of equipment, and the provision of required consumer information and literature to adequately inform the Subscriber about using the Licensee-supplied equipment and the subscribed services.
- 8.5. All the Licensee's employees or outsourced agents, including repair and sales personnel, entering private property shall be required to carry an employee identification card, bearing their photo and name, issued by the licensee.
- 8.6. The service vehicles of the Licensee and its contractors shall;
- a) be clearly identified as such to the public,
 - b) have the Licensee's logo plainly visible and
 - c) have the contractor's name plus markings indicating they are under contract to the Licensee.
- 8.7. The Licensee shall give written notice of its billing practices to potential Subscribers before a subscription agreement is reached.
- 8.8. The Licensee shall provide information to all Subscribers about each of the following items at the time of offering the subscription services, and upon request from any Subscriber:
- (a) Products and subscription services offered;

- (b) Prices and options for subscribed services and condition of subscription to subscribed Services, including prices for subscription Service options, equipment rentals, channel guides, installation, downgrades, late fees and other fees charged by the Licensee related to subscription management Service;
- (c) Installation and maintenance policies;
- (d) Channel positions of subscription Services offered on the subscription platforms;
- (e) Complaint procedures, including the name, address and telephone number of the Authority, but with a notice advising the Subscriber to initially contact the Licensee about all Complaints and questions;
- (f) Procedures for requesting Subscription Service credit;
- (g) The availability of a parental control device;
- (h) Licensee practices and procedures for protecting against invasion of privacy.

8.9. Notices of changes of subscription services and/or Channel locations shall include a description of the new subscription Service, the specific channel location, and the hours of operation of the Service if the Service is only offered on a part-time basis. In addition, should the channel location, hours of operation, or existence of other subscription Services be affected by the introduction of a new subscription Service, such information shall be included in the notice.

Billing, Refunds and credits:

8.10. Subscriber bills shall be itemized to describe Subscription Services purchased by Subscribers and related equipment charges, and shall include the information in clear, concise and understandable language and format. Bills shall clearly delineate all Subscription Service activity during the billing period, including optional charges, rebates, credits, and aggregate late charges. In accordance with applicable law(s), the Licensee shall be allowed to itemize as separate line items, without limitation, License Fees, taxes and/or other governmentally imposed fees. The Licensee shall maintain records of the date and place of mailing of Subscriber bills.

8.11. Subscriber payment shall be due on the due date marked on the bill, which date shall be certain. The due date shall not be less than five (5) business days following the mailing date of the bill. Where the licensee provides subscription service on pre-paid basis, subscribers shall be required to pay their subscription fee upfront, failure of which the licensee shall be at liberty to deny access to the subscription services until such a time that the subscriber makes payments. The subscription period shall commence on the date payment is received or when the service is restored whichever comes later. Where licensee uses third parties to receive subscription payments, payments will be deemed to have been received at the instant subscriber submits the payment to third party.

- 8.12. Any billing disputes registered by a Subscriber shall be resolved in accordance with applicable dispute handling procedures adopted by the licensee and approved by the Authority.
- 8.13. The Licensee shall notify the Subscriber of the result of its investigation of any Complaint and shall give an explanation for its decision within thirty (30) business days after the receipt of the Complaint. Any Subscriber who disagrees with the results of the Licensee's investigation shall promptly inquire about and take advantage of any Complaint resolution mechanism, formal or informal, available under this License before the Authority may accept a petition. The Subscriber or the Licensee may petition the Authority to resolve disputed matters within thirty (30) days of any final action.
- 8.14. The Licensee shall forward a copy of any Subscription Service related billing inserts or other mailing sent to Subscribers, to the Authority upon request.
- 8.15. The Licensee shall provide all Subscribers with the option of paying for Subscription Services by cash, cheque, electronic or an automatic payment option where the amount of the bill is automatically deducted from a checking account designated by the Subscriber. The Licensee may, at its discretion, permit payment by using a major credit card on a pre-authorized basis.
- 8.16. The Licensee shall provide the Authority and all affected Subscribers with at least thirty (30) days' notice prior to implementing a change of any of its billing practices.
- 8.17. Refund cheques shall be issued within the next available billing cycle following the resolution of the event, giving rise to the refund (e.g., equipment return and final bill payment).
- 8.18. Credits for Subscription Service shall be issued no later than the Subscriber's next available billing cycle, following the determination that a credit is warranted, and the credit is approved and processed. Such approval and processing shall not be unreasonably delayed.

Rates, Fees and Charges:

- 8.19. All rates, fees, charges, deposits and associated terms and conditions to be imposed by the licensee for the Subscription service shall be in accordance with the provisions of the Act and Regulations.
- 8.20. Nothing contained herein shall prohibit the licensee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice provided they comply with applicable Regulations.
- 8.21. The Licensee shall provide the Authority and all affected subscribers with at least fourteen (14) days' notice prior to implementing a change in any of its rates or charges or a 10-15% change in the number or type of channels in the bouquet.
- 8.22. The licensee shall publish the prices, terms and conditions for distributing, to a member of the public, licensed subscription services and for installing or providing the

means necessary to receive the licensed subscription services and shall publish any changes to such prices, terms and conditions.

- 8.23. The licensee shall provide copies of those prices and corresponding list of associated services and/or channels, terms and conditions to the Authority forthwith, and to members of the public on request, in each case free of charge.

Service Interruptions and outages:

- 8.24. The Licensee shall not intentionally interrupt, suspend nor terminate the provision of any type of Licensed Service on the Subscription system without having first notified the Authority in writing and having provided reasonable advance notice to persons affected by such interruption, suspension or termination.
- 8.25. The Licensee shall exercise commercially reasonable efforts to limit any significant outage for the purpose of maintaining, repairing, or constructing the Subscription System. Except in an emergency or other situation necessitating a more expedited or alternative notification procedure, the Licensee may schedule a significant outage for a period of more than four (4) hours during any twenty-four (24) hour period only after the Authority and all the affected Subscribers in the licence service area have been given prior notice of the proposed significant outage.
- 8.26. The Licensee shall respond to calls from subscribers regarding service interruption or other service problems within twenty-four (24) hours, of receiving subscriber calls and shall begin actions to correct all other Subscription Service problems the next business day after notification by the Subscriber.
- 8.27. In the event that the licensee's Subscription service to any subscriber is completely interrupted for 24 hours or more consecutive hours, the licensee will grant such a subscriber a pro-rata credit or rebate upon request, on daily basis, of that portion of the Subscription service charge during the next consecutive billing cycle or apply such credit to any outstanding balance currently due. Such credit shall be reflected on subscriber billing statements within the next available billing cycle following the outage.
- 8.28. The provision in 8.24 shall not apply if the interruption of service is a result of Consumer's non-payment or other business related or contractual reasons.

9. CONDITION 9: PROVISION OF INFORMATION TO THE AUTHORITY

- 9.1. The Licensee shall, in respect of the subscription broadcasting service and associated services, maintain an accurate register of records related to each service provided
- 9.2. The Licensee shall provide information regarding each service to the Authority in such manner and at such times as Authority shall reasonably request, for purposes of ensuring compliance with this Licence.
- 9.3. The Authority may request the Licensee to submit periodic reports, statistics and other data as well as request additional information with a view to ensure compliance and enforce effectively the terms of this Licence.

- 9.4. The licensee shall by the 15th July of every year or as may be directed by the Authority from time to time, submit a Compliance Report detailing the performance of the previous operational year ended 30th June. The licensee shall also submit to the Authority monthly statistics and quarterly compliance returns for each subscription service before the expiry of the deadlines specified, in the format prescribed by the Authority.
- 9.5. The Licensee shall provide to the Authority promptly upon request and within specified timelines, such recordings of broadcasted programs aired on its platform, inclusive of advertisements and trailers as may be specified by the Authority for purposes of resolving content related complaints.
- 9.6. The foregoing notwithstanding, the Licensee is obliged to notify the Authority in writing of all changes in relation to the following information;
- 9.6.1. The Licensee's address, telephone, fax and other contact information;
 - 9.6.2. Management structure or personnel listed in the licence application;
 - 9.6.3. New or expired agreements with broadcast content providers
 - 9.6.4. Interruptions in broadcasting greater than three hours of scheduled programming; and
 - 9.6.5. Changes to any technical or engineering nature that may result in change or modifications in the receiving apparatus
- 9.7. The Authority shall review the Compliance status of the licensee based on returns as well as inspection reports and:
- 9.7.1. If the Licensee is in compliance with the Licence terms and conditions, issue the Licensee with a Compliance Certificate for the year under review, and
 - 9.7.2. If the Licensee is not in compliance with the Licence terms and conditions, require the Licensee to remedy the area of non-compliance in accordance with the provisions of this Licence, the Act and the Regulations.
- 9.8. 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 essential to enable it to exercise its mandate under the Act.
- 9.9. 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.

10. CONDITION 10: PUBLIC RECORDS

- 10.1. The Licensee shall conform to guidelines or instructions from Authority or other applicable rules for making available to the public the terms and conditions of licence, ownership or such other operating documents as the Authority may deem to be in the public interest.
- 10.2. The Authority may in its discretion make this Licence publicly available in any manner it thinks fit, in whole or in part.

11. CONDITION 11: INTERRUPTIONS TO THE LICENSED SERVICES

- 11.1. The Licensee shall not intentionally interrupt, suspend nor terminate the provision of any type of Licensed Service without having first notified the Authority in writing and having provided reasonable advance notice to persons affected by such interruption, suspension or termination.
- 11.2. In the event of unintentional or unforeseen interruption of the Licensed Services or part thereof, which are significant in nature or lasting more than three continuous hours, the Licensee shall inform the public and notify the Authority in writing within 12 hours outlining the cause of such interruption and the steps being undertaken to rectify such interruption.
- 11.3. The Licensee shall inform its subscribers the period within which the Licensed Services is to run and in any case notify the subscribers of the termination date of that Licensed Service at least when the period of offering that Licensed Service is quarter way to its termination date.
- 11.4. The provision in 11.1 shall not apply if the interruption of service is a result of subscriber's non-payment or other business related or contractual reasons.
- 11.5. Interruption of the services of subscription broadcasting service licensee by the third party entity accommodating the licensee on its platform due to failure by the licensee to meet its obligations necessary for accommodation of the licensed services on the third party platform shall be construed as unauthorised interruption.

12. CONDITION 12: COMPLAINTS RECEIVED FROM SUBSCRIBERS

- 12.1. The Licensee shall ensure the implementation of the approved procedure for handling complaints received from the public in respect of all programming which is included in the Licensee's broadcast schedule..
- 12.2. The Licensee's complaints handling procedure shall be in conformity with the provisions of the Act and the Regulations thereof.
- 12.3. Such procedures shall, inter alia, include a requirement that subscribers and/or members of the public who complain to the Licensee about programmes included in the Licensee's schedule are informed that they have a right to file their complaints with the Authority if not satisfied with the resolution arrived at by the Licensee.

12.4. The Licensee shall send periodic notices to all its Subscribers informing them the manner in which aggrieved subscribers may file complaints with them and that any complaint not satisfactorily handled by the Licensee may be referred to the Authority. The said notices shall be either by:

(a) a separate document attached to a billing statement or attached to the portion of the monthly bill that is to be retained by the Subscriber; or

(b) a separate electronic notification comprising of inserts on the subscription service if permitted or short message service to subscribers.

12.5. The Licensee shall for a period of one year keep a written record of such complaints received and make such records available to the Authority in writing at such times the Authority may require.

12.6. The Licensee shall file with the Authority the details of its officers designated to handle complaints related to the subscription broadcasting services offered.

13. CONDITION 13: TECHNICAL OPERATIONAL PROCEDURES

13.1. The Licensee shall, in the provision of the licensed service, comply with international technical standards.

13.2. The Licensee shall operate its systems and facilities with due regard to the health and safety of employees and the general public, and in accordance with any applicable laws of Kenya.

13.3. The Licensee will implement all necessary work on maintenance and adjustment of its equipment as well as the customer premise equipment, in order to ensure that they are in accordance with the specifications of the Authority and the technical Rules of the International Telecommunications Union (ITU).

13.4. The Licensee shall;

13.4.1. operate the licensed service with such apparatus/ equipment and in such a manner as not to cause harmful interference to any other licensed systems;

13.4.2. Co-operate in every way possible with the Authority, by complying with the directions issued by the Authority, with a view to preventing such interference. If the equipment of the Licensee is causing interference with any other licensed service, the Authority will have the right to switch off such transmitting service;

13.4.3. Implement the interference and billing complaints resolution directive issued by the Authority at no cost to the Authority.

13.4.4. Have the discretion of constructing, operating or maintaining of its transmission and distribution facilities as may be required for provision of the licensed service, provided the necessary authorisations as applicable

have been secured from the relevant authorities and any necessary easements from the property owners.

- 13.5. For provision of subscription broadcasting services in areas not meeting the prescribed standard charge for installation, the licensee may impose additional charges in excess of its standard installation charge for any service installation whose requirement is in excess of the prescribed standards, provided such additional charges shall be reasonable and cost based.
- 13.6. The licensee shall ensure the licensed subscription broadcasting service system is fully capable of operating within the optical spectrum wavelength(s), bandwidth or future technological capacity that is used for the transmission of licensed services to subscribers within the license service area. Nothing in this License shall be construed to prohibit the Licensee from offering any other service over the licensed System provided that any requirements for authorization or licences for such other services, where applicable, are obtained.
- 13.7. The Authority shall have the right to conduct such tests as may be necessary on any of the Licensee's technical equipment used by or on behalf of the Licensee. This may include requiring the Licensee to switch off certain equipment and cease operation for such reasonable period, as the Authority may need to conduct the test in question. In addition, the licensee shall provide a complementary installation of each of the licensed subscription broadcasting service together with appropriate receiving apparatus at the Authority's premises or designated point as appropriate, at no cost to the Authority for purposes of facilitating regulatory monitoring of the licensed service, provided the said installation is technically and economically feasible to provide.
- 13.8. The Licensee shall ensure that the equipment used for provisioning of the licensed subscription broadcasting service are duly type approved /accepted by the Authority where applicable, and complies with international accepted technical standards prior to commissioning and use.
- 13.9. The Licensee shall establish the Licensed Systems taking into account the need for equipment co-location and/or infrastructure sharing with other licensees, and where feasible, allow other licensees to collocate, share infrastructure and other facilities on terms that are reasonable, just and non-discriminatory.
- 13.10. The Licensee shall not offer additional services other than those licensed or authorized by the Authority.
- 13.11. The Licensee shall notify the Authority the physical address of location of its Customer Care outlets or the contact detail of third party subscription management service provider contracted to provide the service before commissioning the service.

- 13.12. The Licensee shall comply with the Emergency Alert System requirements of the Government in order that emergency messages may be distributed over its licensed System.
- 13.13. In installing, operating and maintaining equipment, cables and wires, the licensee shall avoid damage and injury to trees, structures and improvements in and along the routes authorized by the relevant County Government and/or National Government Agency, except as may be approved by the relevant authority if required for proper installation, operation and maintenance of the licensed subscription system.
- 13.14. The construction, maintenance and operation of the licensed subscription system for which this license is granted shall be done in conformance with all applicable laws, by laws, codes and regulations as the same may exist or hereafter amended.
- 13.15. The licensee shall install and maintain its equipment and systems in such a manner as shall not interfere with any installations in the licensed service area. The licensee shall provide written guidelines on installation standards to individuals or organisations, authorised by the licensee, for the installation of components of the licensed subscription system so as to ensure that the recommended leakage and immunity requirements are met.
- 13.16. Where licensee has deployed cable system:
- 13.16.1. all structures and all equipment, cables and wires in, over, under and upon streets, sidewalks, alleys, wherever situated or located shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.
- 13.16.2. Broadcast signal carried on the cable television system shall be carried without material degradation in quality at all subscribing locations within the limits imposed by the technical specifications of cable systems and as set forth by the Authority.
- 13.16.3. The licensee shall be responsible for checking the level of signal leakage, on a regular basis, throughout the area served by the cable system and maintain them in accordance with the internationally accepted levels or such levels that may be specified by the Authority. Where signal leakage is detected and is deemed by the Authority to be causing interference to any service, the licensee shall take whatever steps necessary to immediately eliminate the interference.
- 13.16.4. Whenever the licensee takes up or disturbs any pavement, sidewalk or other improvement of any public right of way or public place, the same shall be restored in good condition as reasonably possible as before entry as soon as practical.
- 13.16.5. The licensee shall maintain a complete set of strand maps of the license service area detailing those areas in which its cable system and

related facilities exist, the location of all streets and the location of all its subscribers' premises. The strand maps, either in paper or electronic format, shall be maintained at the licensee's place of business, and will be made available to the Authority for inspection upon request.

- 13.17. The licensee shall keep a log indicating the dates and results of system audits and maintenance work undertaken. A copy of the maintenance programme and the log shall be made available to an authorised officer of the Authority on request.
- 13.18. Upon notice from the Authority, the licensee shall remedy a general deficiency with respect to the technical standards described therein within thirty (30) days of the date of such notice and a safety deficiency within forty-eight (48) hours of receipt of such a notice and shall notify the Authority when such a deficiency has been corrected.
- 13.19. Adequate test equipment shall be held by the licensee for measurements of the system performance parameters, system emissions and system leakage limits whilst the system is undergoing alignment, regular maintenance and performance audits.
- 13.20. The licensee shall, at its cost, protect, support, temporally disconnect, relocate in the same street or remove from any street or public ways and places, any of its property as required by the National or County Government by reason of traffic conditions, fire, disaster, public safety, street construction, or construction of any public improvement /structure duly authorized by the relevant authorities.
- 13.21. The equipment and apparatus of the Licensee shall be operated and maintained by competent persons at all times.
- 13.22. The Authority shall have the right to conduct such tests as may be necessary on any of the Licensee's technical equipment used by or on behalf of the Licensee. This may include requiring the Licensee to switch off certain equipment and cease broadcasting for such reasonable period as the Authority may need to conduct the test in question
- 13.23. The licensee shall:
 - 13.23.1. co-operate in every way possible with the Authority, by complying with the directions issued by the Authority, with a view to preventing such interference. If the equipment of the Licensee is causing interference with any other licensed service, the Authority will have the right to order switch off of the licensed subscription broadcasting service in the affected area;
 - 13.23.2. implement the interference resolution directives issued by the Authority at no cost to the Authority.

14. CONDITION 14: INSPECTION

- 14.1. The Licensee shall permit the Authority or its authorized agents to inspect the Licensee's systems, premises, facilities, files, records and other data to enable it to exercise its functions under the Act.

15. CONDITION 15: FAIR TRADING

- 15.1. Without prejudice to other obligations imposed on the Licensee under this Licence, the Licensee shall not engage in any activities, whether by act or omission, which have, or are intended to or likely to have, the effect of unfairly preventing, restricting or distorting competition in Kenya, in relation to any business activity relating to the Licensed services. Without limiting the generality of the foregoing, any such act or omission shall include:

15.1.1. any abuse by the Licensee, either independently or with others, of a dominant position in Kenya which unfairly excludes or limits competition between the Licensee and any other party;

15.1.2. entering into any contract or engaging in any concerted practice with any other party, which unfairly prevents, restricts or distorts competition in Kenya, or

15.1.3. effecting anti-competitive changes in the broadcasting market in Kenya, and in particular, anti-competitive mergers and acquisitions in the sector.

- 15.2. In the event it appears to the Authority that the Licensee is in breach of 20.1, the Authority shall give written notice to the Licensee:

15.2.1. stating that the Authority is investigating a possible contravention,

15.2.2. setting out detailed reasons why it appears to the Authority that there is a breach by the Licensee of this Condition, and

15.2.3. setting out the steps the Authority believes the Licensee should take in order to remedy the alleged breach and giving the Licensee a reasonable time within which to correct the alleged breach.

- 15.3. The Authority shall allow the Licensee thirty (30) days from the date of the notice to make representations to the Authority, before the Authority takes further action.

16. CONDITION 16: COPYRIGHT OBLIGATIONS AND EXCLUSIVE RIGHTS

- 16.1. Licensee shall be responsible for all obligations and liabilities to any third party associated with copyright or other rights that may arise from the broadcast of copyright programme.

- 16.2. The Licensee shall first confirm that the broadcast content service provider has first negotiated and agreed to legal contracts with copyright licensing bodies or authorized

legal vendors before broadcasting copyrighted material. In the event of a breach of this Regulation, the Authority shall take necessary action against the licensee.

- 16.3. The Licensee is obliged to facilitate appropriate access by its subscribers to content that the licensed broadcaster has valid contracts to broadcast copyrighted material.
- 16.4. Where the broadcast content service provider is not based in Kenya, it shall be the responsibility of the Licensee to provide to the Authority any information related to copyright and related matters
- 16.5. Where the Licensee obtains exclusive rights of acquired broadcast content, it shall be a mandatory requirement to deposit a certified copy of the original document of such exclusive rights with the Authority before airing the programme(s).
- 16.6. Where the Licensee acquires exclusive rights on any premium broadcast content, the licensee shall be under obligation to sub-let the content to other interested licensees at reasonable mutually agreed charge, which shall be referred to the Authority for determination in the event of disagreement or dispute.
- 16.7. Documents deposited with the Authority in compliance with No. 16.5 shall be treated as confidential unless otherwise advised.

17. CONDITION 17: PROHIBITION OF CROSS-SUBSIDIZATION

- 17.1. The Licensee shall not subsidise or cross-subsidise, or permit itself to be subsidised or cross-subsidised or give or receive undue preference to or from, Broadcasting Services, print media and/or any other licences granted to the Licensee by the Authority.
- 17.2. The Licensee shall maintain necessary records to evidence resource transfers between its associated businesses or persons. The Authority may at its discretion request the licensee to submit this or other information related to the licensed businesses to satisfy the Authority that no cross-subsidy is taking place.
- 17.3. In the event that the Authority determines that cross-subsidy has occurred the Authority shall give written notice to the licensee setting out the steps the Authority believes the Licensee should take in order to remedy the alleged breach and giving the Licensee a reasonable time in which to correct the alleged breach. The Authority shall allow the Licensee 30 days from the date of the notice to make representations to the Authority, before the Authority takes further action.
- 17.4. Where the Authority deems it requires to supervise and confirm compliance with the provisions of this Licence, it may order the Licensee to provide the Subscription Broadcasting Services through a separate division or divisions, a separate branch or branches or a separate subsidiary or subsidiaries.

18. CONDITION 18: DISPUTES

- 18.1. In the event of any dispute arising regarding the interpretation of any provision of the licence, the Authority shall be entitled to make a ruling regarding the interpretation of that provision, provided that the Licensee shall be afforded an opportunity to make submissions to the Authority before any such ruling is made.

19. CONDITION 19: NOTIFICATION OF CHANGE IN SHAREHOLDING

- 19.1. The shareholding of a licensee shall at all times comply with the prevailing Government's Communications Sector Policy, as may be published from time to time.
- 19.2. The Shareholding as at the date of licence Issuance is as detailed in Appendix III
- 19.3. The licensee shall seek approval for change of shareholding as provided in the Act and Regulations:
- 19.4. The licensee shall, on quarterly basis, submit to the Authority a copy of its shareholding certificate detailing its current shareholding status.

20. CONDITION 20: PRE-NOTIFICATION OF JOINT VENTURES

- 20.1. The Licensee shall notify the Authority at least thirty (30) days before the taking effect of any agreements or arrangements to which this Condition applies giving particulars of the agreements and/or arrangements. The agreements or arrangements are an agreement with any person for the establishment or control of any body corporate for the purpose of:
- 20.1.1. the running of a broadcasting system in Kenya which requires a licence under the Act;
 - 20.1.2. providing broadcasting services in Kenya which requires a licence under the Act;
 - 20.1.3. carrying of content over broadcasting systems which requires a licence under the Act;
 - 20.1.4. the production of broadcasting apparatus for supply in Kenya where that production would lead, in the Authority's view, to a monopoly situation which would not otherwise exist in relation to the supply of broadcasting apparatus of any description in Kenya;
 - 20.1.5. carrying out of subscription management service and/or access control
 - 20.1.6. an agreement for the establishment of a partnership for any of those purposes and in those circumstances, and

- 20.1.7. any other agreement or arrangement in the nature of the joint venture for the purpose of running a business which requires a licence under the Act or for the purpose of providing broadcasting services in Kenya.
- 20.2. The above applies only in relation to an agreement or arrangement for the establishment or control of anybody corporate or partnership where the Licensee has or is to have not less than twenty (20%) per cent of the voting power in any organ controlling that body.

21. CONDITION 21: INDEMNITY

- 21.1. The Licensee shall indemnify and keep indemnified the Authority against any and all losses, claims, charges, expenses, actions and demands whatsoever which it may incur or be subject to, as the case may be, as a result or in relation to:
- 21.1.1. any breach or alleged breach of or failure or alleged failure to observe or perform any condition of this licence by or on behalf of the Licensee; or
 - 21.1.2. any act or omission by or on behalf of the Licensee in the actual or purported operation or performance of the Service or conditions of this Licence; or
 - 21.1.3. any loss of business incurred by the licensee as a result of the Authority carrying out enforcement action due to licensee's non-compliance with any or a combination of licence terms and conditions.

22. CONDITION 22: FORCE MAJEURE

- 22.1. Where in its opinion, the Licensee is impeded, hindered or otherwise prevented from carrying out any obligation contained herein, or as required by the Authority, by an act of God, fire, flood, natural disaster, action of government, state of war, civil common or insurrection, riots, embargo, industrial disputes, sabotage or any other cause beyond the control of the Licensee, the Authority may exempt the Licensee from such obligation for so long as and to the extent that the performance of the obligation is affected by such force majeure
- 22.2. The Licensee has without undue delay, duly notified the Authority the nature of the event and the extent to which the broadcaster is prevented from complying with the terms and conditions of this licence;
- 22.3. The Authority has duly received the notification, assessed the nature of event and is convinced that the occurrence is beyond the control of the Licensee.
- 22.4. The Licensee shall take all reasonable steps to minimize the impact of the force majeure on the performance of its obligations and where any licensed systems damaged by such force majeure, shall take reasonable steps to repair or rebuild such systems once the force majeure has ceased or been eliminated
- 22.5. The exemption of force majeure shall not be held to permit suspension of licence fee payments.

23. CONDITION 23: HUMAN RESOURCE DEVELOPMENT

- 23.1. The Licensee shall file with the Authority its Human Resource Development Plan outlining strategic success plan on empowerment of the Kenyan staff.
- 23.2. The Licensee shall annually furnish the Authority with a report of implementation of Human Resource Development Plan.
- 23.3. A proposal for employment of Non Kenyans approved by immigration authorities shall be filed to the Authority.
- 23.4. The Licensee shall facilitate participation of its technical staff in training within and outside the Republic of Kenya.
- 23.5. The Licensee shall ensure that its officers, consultants and contractors, including script-writers adhere to the Codes of Practice relating to programme, advertising and technical standards.

24. CONDITION 24: ACCOUNTING REQUIREMENTS

- 24.1. The Licensee shall file with the Authority within nine (9) months after the issuance date of this licence a proposal for the accounting principles relating to the running of the Licensed Systems and which allows the recording of investments, expenses and revenues in accordance with accounting standards recognised in Kenya.
- 24.2. The Authority shall approve or disapprove the proposed accounting principles within THREE (3) months after its submission and may, in case of disapproval, propose modification or order the Licensee to adopt a prescribed accounting principles within a reasonable time period but in no event later than ONE (1) year from the date of approval.
- 24.3. The Licensee shall, not later than ninety (90) days to the end of each fiscal year deliver to the Authority its balance sheet as at the end of such fiscal year and the related statements of operations, equity and cash flows, in each case accompanied by a report thereon of independent auditors stating that such financial statements give a true and fair view of the financial position of the Licensee and that the operational results are in accordance with International Financial Reporting Standards, and comply with the Companies Act Cap. 486 and were prepared in accordance with the generally accepted accounting principles as approved by the Authority in accordance with 24.2 above.
- 24.4. The Authority may request the Licensee to submit other accounting information it may require in order to effectively supervise and enforce the terms of this Licence and in particular if the accounting principles established by the Licensee fail to achieve the objectives set forth in that Condition.

25. CONDITION 25: UNIVERSAL SERVICE FUND

- 25.1. The Licensee shall be required to contribute to the Universal Service Fund as may be specified by the Authority from time to time.
- 25.2. The Licensee shall comply with the obligations related to the Universal Service Fund as provided under the Act and the Regulations.

26. CONDITION 26: LICENCE FEES

- 26.1. The Licensee shall pay to the Authority such fees as may be prescribed by the Authority in accordance with its approved fee schedule. Such fees shall include;
 - 26.1.1. An initial Licence and annual operating fees to be paid before a licence is issued for the specified licence duration;
 - 26.1.2. On 1st July of each year, an annual operating fee based on a specified percentage (%) of the audited annual gross revenues accruing from the Licensed Services during the previous financial year, subject to a minimum fee as the Authority may prescribe from time to time;
 - 26.1.3. Annual frequency utilisation fees based on the amount of frequency resources utilized, if any, and computed in accordance with the approved methodology for charging broadcasting frequency fees by the Authority;
 - 26.1.4. Any other fee payable under this Licence including but not limited to Licence Renewal, Licence Transfer, licence amendment and change of business name/service identity.
- 26.2. Any of the fees due to the Authority that is delayed for more than ninety (90) days or such a period as may be prescribed by the Authority from time to time following the due date shall attract an interest rate to be specified by the Authority unless prior exemption had been obtained.
- 26.3. Where a licensee fails to submit the gross revenue returns, the Authority shall estimate the licensee's annual operating fees based on the information that is available to the Authority.
- 26.4. The payment of any prescribed fee shall not be construed to be an automatic approval by the Authority for the service requested for.

27. CONDITION 27: RENEWAL OF THE LICENCE

- 27.1. The Authority may renew this Licence at the request of the Licensee following the expiry of the validity period for another licence term provided that the Authority has carried out a formal review to determine whether or not the Licence should be renewed.
- 27.2. The licence shall terminate upon expiry of the validity period if it is not renewed.

- 27.3. The licensee shall submit an application for renewal six months before the licence expiry date and pay the prescribed licence renewal application fee.
- 27.4. The Authority shall, following undertaking the due process for licence renewal, communicate the decision to the Licensee within three months from the date of application.

28. CONDITION 28: LICENCE TRANSFER

- 28.1. 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 shall not be unreasonably withheld or delayed.
- 28.2. The Licensee shall not transfer or assign this licence, by sale through special agreement, partly or in whole, to other entity or entities except with express and written consent of the Authority following compliance with the due process for transfer. In case of termination of the operations of Licensee as an entity or in the case of being declared bankrupt, this Licence shall cease to be valid forthwith.

29. CONDITION 29: PENALTIES FOR BREACH OF LICENCE CONDITIONS

- 29.1. The Authority shall apply the relevant penalties and fines against the Licensee for breach of the terms and conditions of the licence in accordance with the provisions of the Act and the Regulations

30. CONDITION 30: LICENCE SUSPENSION

- 30.1. 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.
- 30.2. Where the Authority intends to suspend any of the services under this Licence pursuant to 30.1, 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.
- 30.3. After the expiry of the notice in 30.1 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.
- 30.4. After the expiry of the notice in 30.2 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.

- 30.5. The notice issued in 30.4 shall specify the duration of the suspension and the conditions for lifting of the suspension.
- 30.6. Where the Licensee rectifies the breach after suspension in 30.4 above, the suspension notice shall be lifted.
- 30.7. Where the licensee fails rectify the breach at the expiry of the suspension period, the Authority may revoke the License in accordance with Condition 31

31. CONDITION 31: LICENCE REVOCATION

- 31.1. Notwithstanding any other Condition in this License, the Authority may at any time revoke this Licence by giving six (6) months' notice in writing in any of the following circumstances:
- 31.1.1. if the licensee communicates to the Authority in writing on their intention to terminate the Licence;
 - 31.1.2. if the Licensee does not provide evidence of commencement of the provision of the Licensed Systems six (6) months from the Issuance Date. The Licensee shall satisfy the Authority that it has complied with this requirement after a successful inspection by the officers of the Authority;
 - 31.1.3. if any amount payable under Conditions 26.1 and 26.2 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;
 - 31.1.4. 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 and thereafter has been given by the Authority a further sixty (60) days within which they should make representations in relation to the matters set out in the earlier notice which the Authority has taken into account or matters which the Authority believes are relevant and the Licensee appears not to have taken into account;
 - 31.1.5. if the Licensee is dissolved or enters into liquidation, bankruptcy or equivalent proceedings or makes a general assignment for the benefit of creditors.
- 31.2. After the lapse of the six (6) months' notice, the Authority shall publish a notice of its intention to revoke the Licence in the Kenya Gazette, setting out the basis of such intention. The revocation shall then take effect seven (7) days from the date of publication of the notice in the Kenya Gazette.
- 31.3. The revocation of the licence shall not in any way absolve the licensee from responsibility to settle debts and any other liabilities incurred as a result of previously providing the licensed service.

32. CONDITION 32: LICENSEE'S TERMINATION RIGHT

- 32.1. The Licensee shall have the right to terminate this License provided a notice to terminate under this Section shall be given to the Authority and the Broadcast Content Service Provider(s), in writing, explaining the basis of such determination, with such termination to subsequently take effect no sooner than one hundred and twenty (120) days after such written notice was provided to the Authority. The Licensee shall also give its Subscribers at least ninety (90) days' notice of its decision to cease providing subscription broadcasting service(s).
- 32.2. The Licensee shall be responsible for settling any claims or compensation demanded by its subscribers prior to termination of the subscription broadcasting service. For prepaid subscribers where the licensee terminates the service prior to exhaustion of the payment, the licensee shall refund the subscriber's unutilized credit.
- 32.3. In accordance with applicable laws and regulations, nothing in this licence shall limit the right of the Licensee to deny Subscription service to a post-paid subscriber for non-payment of previously provided Subscription services, refusal to pay any required deposit, theft of Subscription service, damage to the Licensee's equipment, abusive and/or threatening behaviour toward the Licensee's employees or representatives, or refusal to provide credit history information or refusal to allow the Licensee to validate the identity, credit history and credit worthiness via an external credit agency.
- 32.4. The terminating licensee in liaison with the Broadcast Content Service Provider(s) may, upon obtaining consent by the Authority, appoint a licensed subscription broadcasting service provider to take over [migrate] its subscribers under the same terms and conditions.

33. CONDITION 33: SUBSCRIBER MANAGEMENT IN THE EVENT OF DISCONTINUATION OF SERVICES

- 33.1. Within three (3) months from the Renewal Date, the Licensee shall submit for the Authority's approval, a subscriber transfer management plan that shall facilitate transfer of subscribers to another licensee to ensure continuity of services in the event of license revocation or non-renewal.
- 33.2. The licensee shall immediately effect the approved subscriber transfer management plan upon the license revocation or non-renewal of this license.
- 33.3. The referenced plan in 33.1 above shall;
- 33.3.1. ensure smooth, uninterrupted and seamless transfer of customers under the same or better terms and conditions of services
 - 33.3.2. ensure continuity of services during the transition period of two (2) years in the event of revocation or in the event of non-renewal which shall be limited to provision of the existing services only and to the existing customers only

- 33.4. The Licensee must engage and develop a subscriber transfer and management procedure detailing, at the very least, number of subscribers to be transferred, date of transfer, proposed service/product mapping, subscriber information and notification procedure, subscriber information on how to complain and consent to transfer/ decline transfer.
- 33.5. In the event the licensee is no longer able to offer the licenced services by virtue of exiting the market other than licence revocation, the licensee shall prepare subscriber management plan three months prior to exit to facilitate subscriber transfer and/or compensation.



APPENDIXES

APPENDIX I: LICENSED AREA (S)

1. Countrywide in Kenya

APPENDIX II: PROGRAMME SERVICES

a) List of Programme Services

Local Live TV and Audio Channels:	
FTA CHANNELS	CATEGORY
Pay TV and Audio Channels:	
PREMIUM CHANNELS	CATEGORY

Headend Details

Location	Contacts

APPENDIX 3: SHAREHOLDING STRUCTURE

The licensee shareholding structure as at the date of licence/renewal is as shown Appendix 3.

