Revised Regulations of Anguilla: P175-3

PUBLIC UTILITIES COMMISSION ACT (R.S.A. c. P175)

RESALE OF TELECOMMUNICATIONS SERVICES CLASS LICENCE REGULATIONS

Note: These Regulations are enabled under section 53 of the Public Utilities Commission Act, R.S.A. c. P175*.

(Am. in L.R. 15/12/2014)

Class Licence granted

1. The class licence granted to a person for the Resale of Telecommunications Services is contained in the Schedule.

Forbearance

2. (1) The Commission may refrain, in whole or in part and conditionally or unconditionally, from requiring a licensee to comply with any condition of the licence, where the Commission finds that to refrain would be appropriate for a particular type of service.

(2) Before determining to refrain from requiring a licensee offering a particular type of service to comply with any condition of the licence pursuant to subsection (1), the Commission shall publish a notice of the decision in the *Gazette*.

Citation

3. These Regulations may be cited as Resale of Telecommunications Services Class Licence Regulations, Revised Regulations of Anguilla, P175-3.

* This Note has been corrected to reflect the renumbering of the Act by Act 1 of 2014.

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SCHEDULE

LICENCE

GRANTED BY THE COMMISSION UNDER THE TELECOMMUNICATIONS ACT, R.S.A. c. T6

FOR THE PROVISION OF CERTAIN PUBLIC TELECOMMUNICATIONS SERVICES IN

ANGUILLA

BY RESALE

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LICENCE FOR THE PROVISION OF CERTAIN PUBLIC TELECOMMUNICATIONS SERVICES BY RESALE (POST PAID)

THE LICENCE AND AUTHORISATIONS

1. Interpretation

1.1 In this Licence and Authorisations—

"Act"	means the Telecommunications Act;
"Annual Licence Fee"	means the licence fee payable by the Licensee to the Commission on each anniversary date of registration;
"Government"	means the Government of Anguilla;
"Licensed Services"	means those telecommunications services set forth in 1.2 ;
"Licensee"	means a person licensed under condition of the licence;
"Universal Service Fund"	means the fund established by the Commission to compensate licensees for carrying out the Universal Service Obligations.

1.2. A person "resells telecommunications services" if he—

(a) offers a public telecommunications service;

(b) resells, with or without repackaging, the telecommunications services operated by other persons for the purposes of offering the telecommunications services under a brand name different from that of or designated by the person with whom he makes an arrangement for the provision of the telecommunications service; and

(c) controls the tariffs for the telecommunications service offered;

1.3. For the avoidance of doubt, "brand names" includes the incorporated name, trading name or business name of a person.

1.4 Any word, phrase or expression used in this Licence and these Authorisations shall, unless the context requires otherwise, have the same meaning as it has in the Act and the Regulations.

1.5 Words importing the singular shall include the plural and vice versa.

2. Grant of Licence

2.1 Subject to Condition 2.2 and the terms and conditions of this Licence, a person who is—

(a) incorporated or registered under the Companies Act[†]; and

(b) registered under Condition 5 (provided that such registration has not been cancelled, withdrawn or suspended pursuant to Condition 5.5 below)

is licensed to resell telecommunications services.

[†] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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2.2 A person referred to in Condition 2.1 is not licensed to resell telecommunications services that are operated by—

(i) a fixed public telecommunications licensee; or
(ii) a mobile public telecommunications licensee;

when the person referred to in Condition 2.1 is an associated corporation or business of a licensee referred to in Condition 2.2(b) operating telecommunications services which are or are intended to be resold by the person referred to in Condition 2.1.

3. General

3.1 This Licence shall not be construed as granting an exclusive right to the Licensee.

3.2 This Licence shall remain in full force unless expressly revoked by the Commission.

4. Compliance

4.1 The Licensee shall comply with this Licence, the Act, the Telecommunications Code, the Regulations or any other instruments which may be issued by the Commission under the Act and such guidelines or directions which may be issued by the Commission for the purpose of providing practical guidance on any particular aspect of any conditions of the Licence.

4.2 If the Licensee employs any person under contract for the purpose of the offering a telecommunications service under this Licence (a "contractor"), the Licensee shall continue to be responsible for compliance with the conditions of this Licence, and the performance thereof, by the contractor.

5. Registration

5.1 Subject to Condition 5.5, where a person who is incorporated or registered under the Companies Act[‡] intends to resell telecommunications services or provide public telecommunications service via Voice over Internet Protocol, it shall register the following information with the Commission before it will be licensed pursuant to Condition 2.1—

(a) the name and contact details of that person;

(b) the name(s) of person(s) and/or operator(s)/service provider(s) involved in the arrangement to provide the telecommunications services offered by the that person under Condition 2.1;

(c) the access code(s) or number(s) used for obtaining prepaid telecommunications services if available, if not available upon registration the access code(s) or number(s) must be provided as soon as available and in any event before offering the service to the public;

(d) the nature and the brand name(s) of the services being offered;

(e) a copy of the certificate of incorporation where the person is incorporated in Anguilla; or

(f) a certificate of registration of foreign company where the person is a foreign company; and

(g) a copy of the latest annual return.

[‡] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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5.2 The Licensee shall update the information provided under Condition 5.1 before changes to the information are put into effect.

5.3 The Commission shall keep a register containing the information provided by the Licensee and may publish all or part of the information contained in the said register.

5.4 The Licensee shall notify the Commission three months before it ceases to offer the services under the Class Licence.

5.5 The Commission may cancel, withdraw or suspend for such period as may be appropriate the registration of the Licensee under Condition 5.1 in the event of any breach of the Act, Regulations, Telecommunications Code of any conditions in this Licence by the Licensee.

6. Licensee's obligations to users

6.1 The Licensee shall, in accordance with the Act, take such steps as are necessary to ensure that, in relation to its services, users can reasonably and reliably have access to information services to assist them with queries relating to the Licensed Services, including installation, fault reporting, billing and directory assistance.

6.2 The Licensee shall develop, implement and publish procedures for responding to complaints from and disputes with users related to the quality of any Licensed Services, to statements of charges and to prices, and Licensee shall respond quickly and adequately to any complaints but, in no event, by later than one (1) month after the filing of such complaint with the Licensee.

6.3 The Licensee shall be subject to the Commission's procedures for resolving such complaints from and disputes with users as are submitted to the Commission, where such disputes arise out of the Licensee's exercise of its rights and obligations under this Licence.

6.4 The Licensee shall, no later than three (3) months after registration, submit to the Commission, for its approval, forms of its standard customer agreements, containing the terms and conditions for the provision of Licensed Services to users and shall, thereafter, file annually with the Commission, for its approval, all forms of standard customer agreements for the provision of Licensed Services. If the Commission has not disapproved any such agreements within sixty (60) days after they have been submitted by the Licensee, then the Commission shall be deemed to have approved such agreements.

6.5 The Licensee shall notify all users of Licensed Services of the terms and conditions of the applicable standard customer agreements in the manner specified by the Commission and shall thereafter provide Licensed Services based upon the applicable agreement.

6.6 The Licensee may from time to time modify its standard customer agreements and shall notify the Commission and users of such modification.

6.7 The standard customer agreements and any modifications made shall be compliant with the Act and any other applicable laws. In the event that the standard customer agreements or modifications do not comply with the Act and any other applicable laws, the Commission shall instruct the Licensee to make the appropriate amendments. Such amendments shall be notified to users in accordance, and shall not have retroactive effect.

6.8 The Licensee shall publish the prices, terms and conditions for its Licensed Services no less than annually and, in addition, upon any change thereof, in such manner as the Commission shall prescribe. Prices published by the Licensee for Licensed Services shall take effect immediately upon such date as the Licensee shall specify.

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6.9 The Licensee shall not require residential and small business subscribers to deposit as security an amount of money in excess of two month's service and shall accrue annual interest on any such deposit at the average rate of the two largest commercial banks with branches in Anguilla. Upon termination of service, the Licensee shall within 120 days refund to any such subscriber all monies deposited, including all accrued interest, less any monies owed by the subscriber for unpaid bills.

7. Non-discrimination and fair trading

7.1 In providing the Licensed Services and transmitting communications, the Licensee shall not discriminate unduly as between similar types of users and shall offer the Licensed Services on the same terms and conditions to similar types of users.

7.2 The Licensee shall refrain from impairing or terminating the telecommunications service provided to a user during a bona fide dispute, without the prior written approval of the Commission, except that the Licensee may (a) in respect of a billing dispute, collect from any such user amounts that are not in dispute; and (b) enforce the terms of its user agreement (for example, to prevent fraudulent usage of such service), provided that such terms do not incorporate matters that are the subject of any Regulation or prevent persons from submitting disputes to the Commission pursuant to the Act and, if a user timely submits a dispute over such impairment or termination to the Commission, then the Licensee shall refrain from impairing or terminating the telecommunications service except as may be authorised by the Commission. Any breach of this provision shall result in such penalties as the Commission may impose

8. *Force Majeure* and service interruptions

8.1 The Licensee shall not be in breach of this Licence, if and to the extent that it is prevented from fulfilling its obligations by reason of *force majeure.*

8.2 During any period of *force majeure* or service interruption for a significant period, the Licensee shall not charge any affected user for any service affected and shall use its best endeavours to restore any affected Licensed Service as soon as reasonably practicable.

9. Compliance and disputes

The Licensee and the Authorisation Holder shall comply with the ITU Treaties, other applicable international agreements or acts, regulations, directions, orders and recommendations, including but not limited to the Act, and shall comply with the directions, orders and recommendations issued by the Commission.

10. Interconnection

10.1 The Licensee shall comply with Regulations with respect to the offering of interconnection on a cost-oriented basis if and as the Commission may prescribe.

10.2 The Licensee shall permit other operators and service providers to have equal access to operator services, directory assistance and directory listing without unreasonable delay, for a reasonable fee, in accordance with the requirements specified by the Commission.

10.3 The Licensee shall provide dialing parity to other operators and service providers in accordance with requirements specified by the Commission.

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11. Offer of satisfactory service

11.1 The Licensee shall at all times and from time to time during the subsistence of this Licence offers the services within the description of Condition 2.1 in a manner satisfactory to the Commission.

11.2 The Commission may issue such guidelines directions for the purpose of providing practical guidance on Condition 11.1.

12. Requirement to furnish information to the Commission

12.1 The Licensee shall furnish to the Commission, in such manner and at such times as the Commission may request in writing, such information related to the business, including financial information, accounts, traffic information, technical configuration, circuit routing and other records or information as the Commission may reasonably require in order to perform his functions under the Act and this Licence and to ensure the Licensee's compliance with the conditions of this Licence and the Act.

12.2 Without limiting the generality of Condition 12.1, the Licensee shall, upon request by the Commission, supply to the Commission, at such intervals and on/before such deadlines as may be specified by the Commission in the request, copies of agreements, contracts, invoices, statements and other relevant documents as may be specified by the Commission to show the arrangements that the Licensee has entered into with such person(s) and/or operators or service providers in relation to the operation or provision of the telecommunications services offered by the Licensee under this Licence.

13. Privacy and confidentiality

13.1 The Licensee shall maintain the confidentiality of, and refrain from using or disclosing, any—

13.1.1 confidential, personal and proprietary information obtained in the course of its business from any user, where such information originates from any such user;

13.1.2 information received or obtained in connection with the operation of a Licensed Service; unless the customer has given his or her consent to such use or disclosure.

13.2 Notwithstanding Condition 13.1, the Licensee is permitted to use information to operate its Licensed Services, bill and collect charges, protect its rights or property or prevent users or other operators or providers from the fraudulent use of the Licensed Services.

13.3 The Licensee shall establish and implement procedures for maintaining the confidentiality of information subject to this Condition 13.

14. Billing accuracy

14.1 The Licensee shall take all reasonable steps to ensure that any billing equipment used in connection with the services offered under this Licence is accurate and reliable. The Licensee shall, in relation to the billing system used for the offer of the services, keep such records and make them available for inspection by the Commission.

14.2 Upon written request of the Commission, the licensee shall conduct or take all practicable steps to procure the tests on billing equipment to assess its accuracy, reliability and conformity to the technical standards, if any, specified by the Commission. The Licensee shall submit the test result to the Commission within 14 days after the date of the test or such other longer period as the Commission may determine.

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15. Unsolicited advertisements

The Licensee shall not use the services, and shall endeavour to prevent the services from being used by any user, for the transmission of unsolicited advertising information or unsolicited promotional information and shall comply with all guidelines and direction which may be issued by the Commission from time to time concerning unsolicited advertising information or unsolicited promotional information.

16. Numbering plan

The Licensee shall conform to any numbering plan made or approved by the Commission and any guideline or direction given by the Commission in respect of the numbering plan.

17. Licence fees and monies owed

17.1 The Licensee shall pay all fees charges pursuant to section 48 of the Act.

17.2 If the Licensee owes money to the Commission in relation to fees payable in respect of this Licence, the Licensee shall be in breach of the Licence in the event that the Licensee fails to pay that money within ninety (90) days after receiving a written notice from the Commission indicating that payment is due.

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