

## GRANT OF RIGHTS OF USE OF RADIO FREQUENCY SPECTRUM FOR THE ESTABLISHMENT AND OPERATION OF A TERRESTRIAL SYSTEM CAPABLE OF PROVIDING MOBILE ELECTRONIC COMMUNICATION SERVICES

**Licence Reference: MCA/L/11-0485**

*This Licence is being granted by the Malta Communications Authority in exercise of its powers under the Electronic Communications (Regulation) Act (Cap. 399 of the Laws of Malta)*

<b>Date of Issue:</b>	<b>26 August 2011</b>
<b>Name of Licensee:</b>	<b>Mobisile Communications Limited</b>
<b>Registered Address:</b>	<b>Spencer Hill, Marsa MRS 1950, Malta</b>
<b>Company Registration Number:</b>	<b>C24655</b>

### **Article 1. Definitions**

1.1 Any reference in this Licence to "the Act" is a reference to the Electronic Communications (Regulation) Act (Cap. 399 of the Laws of Malta), and subject to Article 1.2 of this Licence, the provisions of the said Law shall apply to this Licence.

1.2 In this Licence, unless the context otherwise requires:

"Authority" means the Malta Communications Authority;

"the Commencement Date" means for the purposes of Channels 2 and 3 in the 900 MHz band (885 - 895 MHz / 930 - 940 MHz) and Channels 1 to 4 in the 1800 MHz band (1710 - 1730 MHz / 1805 - 1825 MHz) the **27 August 2011** and for the purposes of Channel 4 in the 900 MHz band (895 - 900 MHz / 940 - 945 MHz) **a date in accordance with the conditions found in the Proposal;**

"coverage territory" means all the islands of the Maltese Archipelago, excluding the territorial waters and airspace thereof, within which access by users to the services being provided over the relevant network is possible;

"the Expiry Date" means for the purposes of Channels 2 and 3 in the 900 MHz band (885 - 895 MHz / 930 - 940 MHz) and Channels 1 to 4 in the 1800 MHz band (1710 - 1730 MHz / 1805 - 1825 MHz) the **26 August 2026** and for the purposes of Channel 4 in the 900 MHz band (895 - 900 MHz / 940 - 945 MHz) **a date in accordance with the conditions found in the Proposal;**

"GSM System" means an electronic communications network that complies with the GSM Standards, as published by European Telecommunications Standards Institute (ETSI), in particular EN 301 502 and EN 301 511;

"the Licensee" means Mobisle Communications Limited;

"LTE System" means an electronic communications network that complies with the LTE Standards, as published by ETSI, in particular EN 301 908-1, EN 301 908-13, EN 301 908-14, and EN 301 908-11;

"Proposal" shall mean the proposal based on the outcome of the brokered meetings put forward by the Authority on 7<sup>th</sup> April 2011, which was accepted by the Licensee on 18<sup>th</sup> April 2011 and which contains the final terms and conditions related to the issuance of this Licence;

"the Radio Frequency Spectrum" means that defined in Annex I to this Licence;

"terrestrial mobile system" means a terrestrial system compliant with the technical parameters laid down in Annex I to this Licence, which is capable of providing mobile electronic communications services;

"UMTS System" means an electronic communications network that complies with the UMTS Standards, as published by ETSI, in particular EN 301 908-1, EN 301 908-2, EN 301 908-3 and EN 301 908-11; and

"WiMAX System" means an electronic communications network that complies with the WiMAX Standards, as published by ETSI, in particular EN 301 908-1, EN 301 908-21 and EN 301 908-22.

## **Article 2. Grant of Licence**

- 2.1. By virtue of this Licence, the Authority hereby assigns to the Licensee the right of use of the Radio Frequency Spectrum, for the purpose of establishing and operating a terrestrial mobile system/s capable of providing electronic communication services according to the conditions listed hereunder.

## **Article 3. Licence Duration**

- 3.1 This Licence shall commence on the Commencement Date and shall remain in force until the Expiry Date, unless otherwise lawfully terminated in accordance with the Act and/or this Licence.
- 3.2 This Licence shall cease to have effect immediately on the Expiry Date.
- 3.3 Irrespective of whether the Licensee is still using the Radio Frequency Spectrum, the right of use of which is granted to it by virtue of this Licence, the Authority shall, at any time prior to the expiry of this Licence, have the right to commence any procedures necessary for the re-assignment of the rights of use of the Radio Frequency Spectrum upon the expiry of this Licence.

**Article 4. Use of Radio Frequency Spectrum**

- 4.1 The Radio Frequency Spectrum shall be used by the Licensee only to establish and operate a terrestrial mobile system and subject to the terms, conditions and limitations stated in this Licence, unless otherwise previously authorised in writing by the Authority.
- 4.2 The Licensee shall at all times ensure that the Radio Frequency Spectrum is used efficiently and in accordance with the Authority's directions.
- 4.3 The Radio Frequency Spectrum shall only be used by the Licensee. The right of use of the Radio Frequency Spectrum may not be assigned or transferred to third parties, unless otherwise previously authorised in writing by the Authority:

Provided that a change in any way whatsoever in the ownership of shares with voting rights of the Licensee shall be considered to constitute an assignment or transfer of the Radio Frequency Spectrum.

- 4.4 The Licensee shall immediately in writing inform the Authority of any changes effected to its corporate structure, including, but not limited to, any changes in shareholding, and to its registered address.

**Article 5. Fee for Right of Use of Radio Frequency Spectrum**

- 5.1 The Licensee shall immediately upon issue of this Licence and thereafter quarterly, in advance, for the duration of this Licence, pay to the Authority the fees stipulated in the relevant legislation:

Provided that the Licensee shall effect such payments punctually and that any late payments shall be subject to the maximum interest rate applicable at law:

Provided further that any non-payment or late payment of dues under this Article shall also constitute a breach of this Licence and entitle the Authority to terminate the same Licence.

- 5.2 All payments effected by the Licensee in accordance with Article 5.1 of this Licence are not refundable by the Authority and/or Government of Malta.

**Article 6. Non-Interference**

- 6.1 The Licensee shall comply with any decisions however so described, issued by the Authority in relation to harmful interference.
- 6.2 The Licensee shall ensure that the terrestrial mobile system at all times complies with the technical and performance standards generally accepted by the industry, or as may be prescribed by the Authority, or accepted by the Authority as being adequate to ensure that such system does not cause harmful interference with, seriously reduce the quality of, or repeatedly disrupt the lawful use or operation, of any other electronic communications networks and, or services:

Provided that the Licensee shall take all the necessary precautions to ensure coexistence with current and future systems for aviation communication, operating in frequency bands adjacent to the Radio Frequency Spectrum. In this regard the Licensee may be required to implement mitigation measures considered necessary by the Authority such as those recommended by European Conference of Postal and Telecommunications Administrations (CEPT) in its Reports 41 and 42.

- 6.3 The Licensee shall ensure that its terrestrial mobile system does not cause harmful interference with, seriously reduce the quality of, or disrupt the lawful use or operation of, any other electronic communications networks and, or services.
- 6.4 Neither the Authority, nor the Government of Malta, shall be held responsible in any manner whatsoever by the Licensee for any harmful interference that may hinder the use or operation of its terrestrial mobile system.

**Article 7. Exposure to Electromagnetic Fields**

- 7.1 The Licensee shall comply with any radiation emission standards adopted and published by the International Commission for Non-Ionising Radiation Protection (ICNIRP) and any other appropriate standards as may be specified by law or by the Authority.
- 7.2 The Licensee shall comply with any decisions however so described issued by the Authority in relation to electromagnetic radiation, and shall ensure that its terrestrial mobile system at all times complies with the technical and performance standards generally accepted by the industry, or as may be prescribed by the Authority in line with national and European Community Law, or accepted by the Authority as being adequate to ensure the limitation of exposure of the general public to electromagnetic fields.
- 7.3 The Licensee shall ensure that its terrestrial mobile system is not installed or operated at a location and in a manner such as to be the cause of the aggregate non-ionising radiation emissions exceeding the limits published by the ICNIRP or any other appropriate standards as may be specified by law or by the Authority.

**Article 8. Rollout and Coverage Requirements**

- 8.1 The Licensee shall ensure that access to its terrestrial mobile system is made available to users in the Coverage Territory in accordance with the coverage requirements and timeframes set out in Annex II of this Licence and the conditions listed in this Licence such that users can adequately access its terrestrial mobile system:

Provided that the Licensee's obligations under this article shall not apply if, subsequent to a request in writing by the Licensee, the Authority agrees in writing that it is not practicable for the Licensee to carry out its obligations under this article.

**Article 9. Information**

- 9.1. The Licensee shall facilitate and ensure access to any information that the Authority may, in accordance with its functions at law, request.
- 9.2. The Licensee shall promptly provide the Authority, in such a manner and at such times as the Authority may reasonably request, any information related to the use of the Radio Frequency Spectrum assigned to the Licensee, the terrestrial mobile system operated by the Licensee or any other information that the Authority considers necessary to ensure compliance with this Licence and, or with the provisions of any law, or for statistical purposes.

**Article 10. Further Compliance**

- 10.1. The Licensee shall comply with:

- a) all laws;
- b) any decisions, however so described, of the Authority; and
- c) all the articles of this Licence.

- 10.2. Nothing in this Licence shall absolve the Licensee from any legal requirement to obtain any other permissions, authorisations or licences, however so described, as may be necessary for the provision of the service and for the exercise of its rights and the discharge of its obligations under this Licence:

Provided that failure on the part of the Licensee to comply with any other requirements shall not exempt the Licensee from any failure to discharge its obligations under this Licence:

Provided further that the Licensee shall be solely responsible for all costs, expenses and other commitments, however so described, whether financial or otherwise, in respect of the Licence and the provision of the service, and the Authority shall bear no responsibility for any such costs, expenses or commitments.

**Article 11. Termination**

- 11.1. Without prejudice to any other measures, including the imposition of any sanctions however so described, that may be taken at law for the non-observance of the conditions of this Licence, this Licence may be withdrawn at any time by the Authority if any of the conditions laid down at law or in any part of this Licence are not observed.
- 11.2. The Authority shall be entitled to automatically terminate this Licence giving no less than two (2) weeks prior written notice and request the Licensee to return the Licence to the Authority, in any of the following instances:

- a. upon the expiration of the term of the Licence;

- b. upon the Licence being handed back in accordance with Article 12 of this Licence;
  - c. upon renunciation by the Licensee;
  - d. upon revocation of this Licence in accordance with the articles of this Licence and, or of law;
  - e. upon insolvency, liquidation or bankruptcy of the Licensee; or
  - f. upon the winding up or dissolution of the Licensee.
- 11.3. Termination of this license in terms of Article 11.2, shall take place with immediate effect from the date specified in the written notification and the Licensee shall have no claim against the Authority in respect of such termination.
- 11.4. In addition to the above, if the Authority is of the view that the spectrum, the rights of use of which is awarded by virtue of this Licence, is not being utilised efficiently, it will communicate its view in writing to the Licensee and the Licensee will have within such periods as the Authority may consider appropriate in the circumstances, which period shall in no case exceed more than three months, to rectify the situation, failing which the Authority will be entitled to terminate without further warning the rights of use being granted herein.
- 11.5. The termination of this Licence on any of the grounds mentioned in paragraphs (c) to (f) of Article 11.2 and Article 11.4 of this Licence will be without prejudice to the obligation of the Licensee to pay with immediate effect upon termination the fee for the right of use of Radio Frequency Spectrum laid down in Article 5.1 of this Licence that would have been paid by the Licensee for the subsequent three years of this Licence and fulfil any obligation arising prior to the said termination.
- 11.6. The termination of this Licence on any of the grounds mentioned in paragraphs (b) to (f) of Article 11.2 and Article 11.4 above will be without prejudice to any measures that may be taken by the Authority with respect to the Licensee's failure to comply with its rollout and coverage obligations as mentioned in Article 8 of this Licence.
- 11.7. The termination of this Licence in relation to the Rights of Use of Spectrum will entitle the Authority to automatically re-assign the spectrum in question to third parties.

## **Article 12. Hand back**

- 12.1. Without prejudice to Article 11.6 of this Licence, in the event that the Authority so authorises, on the grounds that the demand for radio frequencies in the 1800 MHz band never exceeded supply in this band, the Licensee may choose to hand back to the Authority any number of the radio frequencies in the 1800 MHz band listed in Annex I.
- 12.2. The right of the Licensee to hand back the Licence in accordance with Article 12.1 of this Licence will be without prejudice to its obligation to effect any payments due to the Authority at the time of the hand back in accordance with Article 5.1:

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Provided that any payments that would have already been duly effected by the Licensee to the Authority in accordance with Article 5.1 will not be reimbursed by the Authority or the Government of Malta upon hand back:

Provided further that the balance due to the Authority for the payment of the fee between the date of the hand back and the fourteenth anniversary date, shall no longer be due to the Authority.

**Article 13. Rights and Remedies of the Authority**

13.1. In addition to its power to terminate this Licence in accordance with Article 11 above, the Authority shall, in accordance with its powers at law, have the power to impose administrative fines on the Licensee for any non-compliance with the conditions of this Licence and, or call upon any bank guarantees issued by the Licensee in favour of the Authority where the conditions for such an action occur.

13.2. The Authority may add to, or amend or revoke any of the terms and conditions of this Licence, including the Radio Frequency Spectrum, the right of use of which is being granted by this Licence, when such additions or amendments are necessary as a result of any international obligations entered into by the Authority or by the Government of Malta, or by the need to ensure compliance with the Act or any other law, or by the need to ensure efficient frequency planning:

Provided that the Authority shall not be held responsible in any manner whatsoever for any damages suffered or expenses incurred by the Licensee as a result of any amendment of the terms or conditions of this Licence:

Provided further that the Authority should inform the Licensee in advance and take into account its views if relevant impact is foreseeable on the Licensee's terrestrial mobile system and if circumstances so permit, grant a reasonable timeframe for the implementation of the relevant additions and, or amendments to the conditions.

13.3. If any article of this Licence is declared to be unenforceable by any court of law or tribunal however so described, such declaration shall have no effect on the enforceability of the remaining articles of this Licence, all of which will remain in force until the termination of this Licence.

13.4. The Authority and any persons duly authorised by the Authority to act on its behalf, shall have the right to carry out inspections and measurements on any site being operated by the Licensee at any reasonable time, for the purpose of ensuring that the Licensee is abiding with the articles of this Licence and, or with any legal requirements:

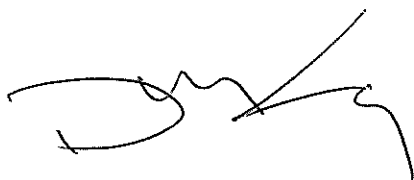
Provided that in cases of urgency the Authority may carry out any such inspections outside normal business hours.

- 13.5. All the articles under this Licence shall for the purpose of law be considered as decisions imposed by the Authority and any failure to abide with any such articles may, without prejudice to any other measures that the Authority may in accordance with law take, be sanctioned by the imposition of the appropriate fines in accordance with law.
- 13.6. Any further conditions on the basis of which this Licence is being issued and which are contained in the Proposal, the Act, any other national laws, and decisions however so described of the Authority shall apply to the Licensee for all purposes and shall form an integral part of this Licence.

Signed in duplicate.



**Philip Micallef**  
Chairman  
Malta Communications Authority



**David Kay**  
Chief Executive Officer  
Mobisile Communications Ltd

## **Annex I - Description of Radio Frequency Spectrum and Technical Parameters**

### **A. Radio Frequency Spectrum:**

<p><i>900 MHz band:</i></p> <p><i>Channel 2: 885 - 890 MHz / 930 - 935 MHz</i>  <i>Channel 3: 890 - 895 MHz / 935 - 940 MHz</i>  <i>Channel 4: 895 - 900 MHz / 940 - 945 MHz</i></p> <p><i>1800 MHz band:</i></p> <p><i>Channel 1: 1710 - 1715 MHz / 1805 - 1810 MHz</i>  <i>Channel 2: 1715 - 1720 MHz / 1810 - 1815 MHz</i>  <i>Channel 3: 1720 - 1725 MHz / 1815 - 1820 MHz</i>  <i>Channel 4: 1725 - 1730 MHz / 1820 - 1825 MHz</i></p>
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### **B. List of Terrestrial Systems that can operate in the Radio Frequency Spectrum:**

The following technical parameters shall be applied as an essential component of conditions necessary to ensure coexistence of these systems with GSM in the absence of bilateral or multilateral agreements between neighbouring networks, without precluding less stringent technical parameters if agreed among the operators of such networks.

<b>Systems</b>	<b>Technical Parameters</b>
GSM complying with the GSM Standards, as published by ETSI, in particular EN 301 502 and EN 301 511	
UMTS complying with UMTS Standards, as published by ETSI, in particular EN 301 908-1, EN 301 908-2, EN 301 908-3 and EN 301 908-11	<ol style="list-style-type: none"> <li>1. Carrier separation of 5 MHz or more between two neighbouring UMTS networks.</li> <li>2. Carrier separation of 2,8 MHz or more between a neighbouring UMTS network and a GSM network.</li> </ol>
LTE complying with LTE Standards, as published by ETSI, in particular EN 301 908-1, EN 301 908-13, EN 301 908-14, and EN 301 908-11	<ol style="list-style-type: none"> <li>1. A frequency separation of 200 kHz or more between the LTE channel edge and the GSM carrier's channel edge between a neighbouring LTE network and a GSM network.</li> </ol>

	<p>2. No frequency separation is required between the LTE channel edge and the UMTS carrier's channel edge between a neighbouring LTE network and a UMTS network.</p> <p>3. No frequency separation is required between LTE channel edges between two neighbouring LTE networks.</p>
<p>WiMAX complying with WiMAX Standards, as published by ETSI, in particular EN 301 908-1, EN 301 908-21 and EN 301 908-22</p>	<p>1. A frequency separation of 200 kHz or more between the WiMAX channel edge and the GSM carrier's channel edge between a neighbouring WiMAX network and a GSM network.</p> <p>2. No frequency separation is required between the WiMAX channel edge and the UMTS carrier's channel edge between a neighbouring WiMAX network and a UMTS network.</p> <p>3. No frequency separation is required between WiMAX channel edges between two neighbouring WiMAX networks.</p>

## **Annex II – Coverage Requirements and Timeframes**

The following indicates the percentage of access in coverage territory (outdoor) of the Licensee's services that shall be ensured by the Licensee within the timeframes set hereunder in accordance with Article 8 of this Licence:

<b>Coverage Territory</b>	<b>Timeframe (From Date of Issue of Licence)</b>
99 %	Within 24 months