

eircom Ltd. (FWPMA Narrowband Licence)

**General Telecommunications Licence
Part 5**

Part 5: Additional Provisions applying where the Licensee is designated as a person to whom Part 5 shall apply.

25. Definitions and interpretations

25.1 In this Part 5, the expressions set out below have the meanings given to them below (and other grammatical forms of the expressions have corresponding meanings):

“Designated Commencement Date” means the date upon which the Licensee is designated by the Director as a person to whom Part 5 of this Licence shall apply;

“Fixed Wireless Point to Multi-Point Access” or **“FWPMA”** means point to multi-point radio systems operating between terminal equipment at fixed locations and base station(s) at fixed locations and where such base stations may be connected to a telecommunications network;

“FWPMA Network” means a network for the provision of Fixed Wireless Point to Multi-point Access (FWPMA);

“FWPMA Regulations” means the Wireless Telegraphy (Fixed Wireless Point to Multi-Point Access Licence) Regulations, 1999;

“Required Services” means those Licensed Services provided by the Licensee via FWPMA, as set out in Part I of the Second Schedule.

26. Application of Part 5 of Licence

26.1 The provisions of this Part 5, and the rights and obligations contained therein, apply solely to a Licensee who is designated by the Director as a person to whom the said Part 5 shall apply, and to no other Licensee. A Licensee to whom this Part 5 applies has the right to use FWPMA for the provision of Licensed Services.

27. Term

27.1 The provisions of this Part 5 will commence on the Designated Commencement Date and unless revoked or amended shall, subject to the conditions and provisions of the 1983 Act, as amended, and to the 1996 Act, and such other legislation as has been or may be adopted from time to time, continue for a period not exceeding 10 years from the Designated Commencement Date.

28. Rights and Obligations

- 28.1 The Licensee shall provide the Required Services in accordance with the Second Schedule.
- 28.2 The Licensee may refuse to extend or continue the provision of the Licensed Services to or from particular Network Termination Points and/or terminal equipment if such extension or continuation would, or would be likely to, cause damage or interference to the FWPMA Network, or the Required Services or any other FWPMA Network, Telecommunications Network, or telecommunications services.
- 28.3 Condition 2.2 shall not apply to:
- (a) a mortgage or other transaction entered into with a financial institution for the purpose of securing borrowings of the Licensee or a subsidiary, being borrowings for the purposes of the FWPMA Network and the Required Services or provision thereof or anything incidental thereto; or
 - (b) a transfer, assignment or other disposal of assets that are intended to be, and are, immediately after their transfer, assignment or other disposal, assigned by way of lease to the Licensee.
- 28.4 The Licensee shall comply with any lawful direction issued by the Director including directions for the purposes of protecting the interests of Users. Such directions may include, but not be limited to, directions regarding conditions and obligations contained in the Second Schedule.

29. Ownership

- 29.1 The Licensee shall not issue or transfer or redeem shares such as would give rise to a change in control of the Licensee or a material change in the ability of the Licensee to perform the Licensed Services without the prior consent of the Director (which shall not be unreasonably withheld).
- 29.2 A consent under subparagraph (a) shall be subject to such conditions (if any) as the Director may determine and shall specify in writing to the Licensee, and any such condition shall be deemed to be a condition of this Licence.
- 29.3 The Licensee by itself or through its Board of Directors shall not act to give effect to any change in the beneficial or legal ownership of shares such as would give rise to a change in control of the Licensee or a material change in the ability of the Licensee to perform the Licensed Services without the prior consent of the Director (which shall not be unreasonably withheld).

29.4 In this Condition 29 "shares" means shares of any class in the Licensee.

30. Suspension, Revocation or Expiration

30.1 Upon the revocation of this Licence, or the revocation or expiration of the licence issued to the Licensee under the FWPMA Regulations, or where the rights and obligations accorded to the Licensee under this Part 5 have been revoked or have expired, the Licensee shall not be entitled as of right, or be deemed to enjoy any equity entitling it to the right to use FWPMA for the provision of Licensed Services.

31. Enforcement and Amendment

31.1 Where the Director has served a Warning Notice in accordance with Condition 4.2, and where the specified condition or direction by which the Licensee is failing to comply is solely a condition of or a direction in relation to this Part 5, then the sanctions that may be imposed by the Director under Condition 4.3. shall, in such circumstances, relate solely to the revocation, suspension, or amendment by way of reduction of the term, or imposition of specific measures, as may be decided by the Director, of the rights and obligations of the Licensee under the provisions of this Part 5.

31.2 Where the circumstances under which the Director may suspend or revoke the Licence under Condition 4.8 relate solely to this Part 5, the said revocation or suspension may, at the discretion of the Director, refer solely to the rights and obligations accorded to the Licensee under the provisions of this Part 5. In such circumstances, the reference in Condition 4.8 (i) to the Declaration shall be construed to include the Licensee's application for a licence to provide FWPMA.

32. Review of Spectrum

32.1 Notwithstanding the rights of the Director under Condition 4.1, the Director may, after the elapse of three years from the Designated Commencement Date, and in accordance with her responsibilities, in particular with regard to the efficient and effective use of the frequency spectrum, conduct a review from time to time of the Licence having regard to such matters as, inter alia, international developments, new technologies and market requirements. Any review may include an examination of the allocation of spectrum and the terms and conditions of the Licence. Following such a review, the Director may supplement, amend or revoke the rights and obligations of the Licensee under this Part 5.

Second Schedule

Definitions

1. In this Second Schedule, the expressions set out below have the meanings given to them below (and other grammatical forms of the expressions have corresponding meanings):

“Coverage” means:

- (i) when the service availability is 99.9% or better (including the customer equipment) and with a BER of 10^{-6} or better, and
- (ii) when the service is available within 80% of the claimed coverage area;

“CPE” means the radio part of the customer premises equipment;

“Geographical Coverage” means the proportion of the total landmass of the State covered by the Licensee.

“Population Coverage” means the proportion of the total population of the State covered by the Licensee, where the total population of the State is 3,626,087 (taken from the Central Statistics Office Census of 1996).

“System Availability” means the availability of the FWPMA Network from the CPE to the FWPMA base station, including the CPE and the FWPMA base station. For the avoidance of doubt, planned outages and outages caused by storm damage and/or accidental equipment damage shall not be deemed to create system unavailability.

Second Schedule

Part I: Required Services

1 The following services are deemed to be Required Services for the purposes of Condition 28.1 and shall be provided by the Licensee within two months of the Designated Commencement Date unless otherwise indicated:

- **Voice** -All the same services as in the wired access network including:
 - PSTN:
Customer lines, Domestic PSTN, IDD
 - Call Management Services:
Call waiting, call diversion, three way calling, alarm/reminder calls, call answering/voicemail, caller display, caller ID restriction, call completion.
 - Number Translation Services:
Freephone 1800, Callsave 1850, LoCall 1890, International freephone, Information services 1530 - 1580,
 - Operator Services:
Operator assistance, directory enquiries, emergency services, special directory services.
 - Payphones
- **Data:**
 - ISDN Basic Rate
 - Leased Lines (64 kbps, 128kbps from launch, and asymmetric 384 kbps within 11 months from the Designated Commencement Date)
 - Flexible Bandwidth
 - X25
 - Frame Relay (128 kbps from launch, and 384 kbps within 11 months from the Designated Commencement Date)
 - IP Packet Services (speeds of 2Mbps within 28 months of the Designated Commencement Date)

- **Managed Services**
 - **Managed Data Services:**
Managed LAN service, LAN interconnect, managed CPE, managed Intranets and Extranets, Audioconferencing.
 - **Multimedia and Internet Services:**
 - Internet Access
 - Groupworking
 - E-Commerce, Web Advertising and Associated Services:
 - Web design, hosting, web site management, e-mail and messaging solutions, management information, transaction management and secure payment mechanisms.
 - Content Services
 - **Other Services:**
 - Real time file sharing, remote access to corporate networks, off-net access to corporate VPNs.
- 2 Notwithstanding the above, where the Licensee can demonstrate, to the satisfaction of the Director, that it is not technologically feasible to provide a particular Required Service within the permitted timescale, the Licensee may, at the discretion of the Director and for a time period specified by the Director, delay the provision of that service.
- 3 Where in the opinion of the Licensee, a Required Service becomes obsolete due, in particular, to technical and market changes, the Director, following a request from the Licensee and where the Director considers it appropriate to do so, may modify the list of the Required Services.

Second Schedule

Part II: Service Quality, Performance Standards and Obligations

1. Availability

- 1.1 The Licensee shall ensure a System Availability of not less than 99.98%.
- 1.2 The Licensee shall establish and maintain a network log (the 'log') for the purposes of recording and tracking all periods of system unavailability. The Licensee shall maintain this log in a manner that will demonstrate, to the satisfaction of the Director, that such a log is an adequate means of assessing whether the Licensee is complying with its system availability obligations under this licence.
- 1.3 The log, or as may be appropriate part thereof, shall be made available on request to the Director.
- 1.4 The Licensee shall calculate the System Availability for any period specified by the Director from the information recorded in the log, and shall upon request and within such time as may be specified by the Director, provide the Director with the results of the calculation.

2. Maps and Data

The Licensee shall provide, on request, to the Director, and within such time as may be specified by the Director, the following:

- (a) maps showing coverage for the areas in which Required Services are offered.
- (b) an up to date list of the locations of the base transceiver stations.
- (c) an up to date list of the addresses of the customer terminals.
- (d) an adequate number of test numbers.
- (e) such other information as the Director may request from time to time.

3. Grade of Service

- 3.1. The grade of service provided by the Licensee shall not exceed the failure rate limits specified in table 1 below. The grade of service specified shall be based on an average taken over the complete FWPMA Network for the busiest hour.

Table 1: Grade of Service by Element

FWPMA access network	Local access (CPE to line card)	0.50%
	Switch	0.10%
	CPE to Switch	0.60%
By call type at interface	Local Calls	0.35%
	National Calls	0.80%
	International calls	1.00%

- 3.2 The Licensee shall provide to the Director, on request, such grade of service measurement information as the Director considers necessary to determine performance against mandatory service standards as specified to the Licensee.

4 Equipment Standards

The FWPMA radio equipment used by the Licensee shall, at minimum, comply with the following CDMA ETSI equipment standards:

- 4.1 EN 301 055: Transmission and Multiplexing (TM) Digital Radio Relay Systems (DRRS) Direct Sequence Code Division Multiple Access (DS CDMA) Point to Multipoint DRRS in the band 1-3 GHz.
- 4.2 EN 301 124: Transmission and Multiplexing (TM) Digital Radio Relay Systems (DRRS) Direct Sequence Code Division Multiple Access (DS CDMA) Point to Multipoint DRRS in frequency band in the range 3GHz to 11 GHz.
- 4.3 The standards in this section shall apply unless and until alternative standards are notified to the Director by the Licensee and agreed by the Director.

5 Customer Service

The Licensee shall ensure that customers in receipt of the Required Services are provided with the same level of customer service as is provided to customers of the Licensee's wired access network. Such customer service in respect of the Required Services shall include, guarantees relating to installation times, fault repair times, grade of service and service availability.

6 Non-Ionising Radiation

The Licensee shall ensure that non-ionising radiation emissions from each radio installation associated with the Licensee's FWPMA network are within the limits specified by the guidelines published by the International Commission for Non-Ionising Radiation Protection ("ICNIRP") or its successors, as specified from time to time by the Director. For the purposes of this provision, "successors" means any relevant standards of the European Committee for Electrotechnical Standards or any relevant standards specified by the European Union.

Second Schedule

Part III: Coverage and Roll-Out Targets

1. At minimum, the Licensee shall provide Coverage and service roll-out of the FWPMA Network in accordance with the schedule in Table 1 below.

Table 1 : Coverage and Roll-out

End year¹	1	5	8	9	10
Geographical Coverage²	19%	35%	44%	44%	44%
Population Coverage	25%	70%	70%	70%	70%
Counties Covered (area > 400 km²)	11	25	25	25	25

2. Acquisition and Development of New Sites

- (a) The Licensee shall only develop new sites where no suitable sites are in the ownership of the Licensee or are reasonably available to the Licensee from other organisations on a commercial basis.
- (b) Notwithstanding paragraph (a), the Licensee shall ensure that not more than seven of the total number of antenna sites are greenfield sites acquired and developed by the Licensee for the purposes of installing antennas for the provision of the Required Services.

3. Modifications

The Director, following a request from the Licensee and where the Director considers it appropriate to do so, may modify the obligations contained in this Part III.

¹ End year 1 shall mean 16 months from the Designated Commencement Date, with each end year thereafter increasing in 12 monthly increments up to end year 9. End year 10 shall mean 120 months from the Designated Commencement Date.

² Assessment of compliance by the Director with the Coverage specified in Table 1 shall be made using a typical customer antenna and a typical customer receiver (as included in a standard subscription) at 7metres above ground level or such other means as may be specified by the Director from time to time.

Second Schedule

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1. Tariffs for the Required Services shall be set at the same level and on the same terms and conditions as similar services offered by the Licensee over the Licensee's wired access network.

Second Schedule

Part V: Performance Guarantees

1. Launch Date and Roll-out Guarantees

In the event that the Licensee fails to meet the performance targets specified in Table 1 below, the amounts guaranteed, as shown in Table 1, will become and be payable on demand to the Director.

Table 1: Performance Targets and Financial Guarantees (Launch Date and Roll-out)

Performance Target	Financial Guarantees	Maximum Financial Commitment
<p>Launch Date: Within 2 months of the Designated Commencement Date: 1 base Station available and capable of providing a basic rate ISDN service to customers</p>	£500,000 for non compliance on promised date plus an additional £100,000 per month of non-compliance up to a maximum of 5 months	£1 million
<p>Roll-out: - Population Coverage</p> <p>1. 15% of population covered within 8 months of the Launch Date</p>	£60,000 for non-compliance on promised date plus an additional £60,000 per month of non compliance up to a maximum of 4 months thereafter.	£300,000
<p>2. 25% of population covered within 14 months of the Launch Date</p>	£60,000 for non-compliance on promised date plus an additional £60,000 per month of non compliance up to a maximum of 4 months thereafter.	£300,000
<p>3. 70% of population covered within 62 months of the Launch Date</p>	£225,000 for non-compliance on due date plus an additional £225,000 for non compliance 4 months thereafter.	£450,000
<p>4. 70% of population covered within 98 months of the Launch Date</p>	£225,000 for non-compliance on due date plus an additional £225,000 for non compliance 4 months thereafter.	£450,000

Roll-Out – Geographical Coverage		
1. 11% Geographic Coverage within 8 months of the Launch Date	£60,000 for non-compliance on promised date plus an additional £60,000 per month of non compliance up to a maximum of 4 months thereafter.	£300,000
2. 19% Geographic Coverage within 14 months of the Launch Date	£60,000 for non-compliance on promised date plus an additional £60,000 per month of non compliance up to a maximum of 4 months thereafter.	£300,000
3. 35% Geographic Coverage within 62 months of the Launch Date	£225,000 for non-compliance on due date plus an additional £225,000 for non compliance 4 months thereafter.	£450,000
4. 44% Geographic Coverage within 98 months of the Launch Date	£225,000 for non-compliance on due date plus an additional £225,000 for non compliance 4 months thereafter.	£450,000

2. Service Guarantees

In the event that the Licensee fails to meet the performance targets specified in Table 2 below, the amounts guaranteed - whether shown in the Table, or contained in the Licensee's wire line Customer Charter for PSTN services - will become and be payable on demand to the Director, or customer, as appropriate. The Financial guarantees payable to the Director and specified in Table 2 of this Part V shall apply only for a period of 64 months from the Designated Commencement Date.

Table 2: Performance Targets and Financial Guarantees (Service Guarantees)

Performance Target	Financial Guarantees	Maximum Financial Commitment
<p>Minimum upper limit of bandwidth offered Within 2 months of the Designated Commencement Date: 144kbps</p> <p>Within 16 months of the Designated Commencement Date: 384kbps</p>	<p>£200,000 for non compliance on promised date plus an additional £200,000 per month of non compliance, up to a maximum of four months thereafter.</p> <p>£200,000 for non compliance within 16 months from the Designated Commencement Date, plus an additional £200,000 per month of non-compliance, up to a maximum of four months thereafter.</p>	<p>£1 million</p> <p>£1 million</p>
<p>Speed of Installation</p> <p>All orders installed as per wire line Customer Charter for PSTN services</p>	<p>Compensation payable to customer for missing this target as per wire line Customer Charter for PSTN services</p>	<p>N/A</p>
<p>Fault Clearance</p> <p>All faults cleared as per wire line Customer Charter for PSTN services.</p>	<p>Compensation payable to customer for missing this target as per wire line Customer Charter for PSTN services.</p>	<p>N/A</p>
<p>Grade of Service on Local Access</p> <p>0.5% in the busy hour</p>	<p>£100,000 per month for each month of non-compliance up to a maximum of 20 months, where the grade of service averaged over that month is worse than 0.5% in the busy hour.</p>	<p>£ 2 million</p>
<p>System Availability (from CPE to FWPMA base station)</p> <p>99.98%</p>	<p>£100,000 per month for each month of non-compliance up to a maximum of 20 months, where the availability averaged over that month is less than 99.98%.</p>	<p>£ 2 million</p>

3. Tariff Guarantee:

Customers in receipt of Required Services will be charged the same tariff by the Licensee as if their service was delivered by the Licensee over the Licensee's conventional wired network. In the event that the Licensee fails to meet this performance target, £200,000 will be payable to the Director in the case of any single deviation, up to a maximum of five deviations (total commitment = £ 1 million).

4. Reporting Procedures.

The Licensee shall, before commencement of the Required Services, put in place a set of procedures to measure and monitor compliance with the performance targets set out above. These procedures shall include the reporting procedures to the Director and shall be in such form as may be agreed by the Director or as may be specified by the Director from time to time.