



TURKS AND CAICOS ISLANDS

CHAPTER 112

PUBLIC TELECOMMUNICATIONS ORDINANCE

Revised Edition
showing the law as at 15 May 1998

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

PUBLIC TELECOMMUNICATIONS ORDINANCE

Ordinance 11 of 1990 .. in force 12 June 1990 (G.N. 449/93)

No Subsidiary Legislation has been made under this Ordinance

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PUBLIC TELECOMMUNICATIONS ORDINANCE

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The Government

CHAPTER 112

PUBLIC TELECOMMUNICATIONS ORDINANCE

(Ordinance 11 of 1990)

AN ORDINANCE TO REPEAL AND REPLACE THE PUBLIC TELECOMMUNICATIONS ORDINANCE, TO GIVE EFFECT TO THE AGREEMENT SET OUT IN THE SCHEDULE AND FOR CONNECTED PURPOSES.

[12 June 1990]

Commencement

1. This Ordinance may be cited as the Public Telecommunications Ordinance.

Short title

2. This Ordinance shall expire on such day as the Agreement ceases to have effect.

Duration

3. (1) The purpose of this Ordinance is to give effect to the Agreement.

Purpose

(2) In the interpretation of a provision of this Ordinance, a construction that would promote the purpose referred to in subsection (1) shall be preferred to a construction that would not promote that purpose.

4. (1) In this Ordinance—

Interpretation

“Agreement” means the Turks and Caicos Islands Telecommunications Licence Agreement set out in the Schedule;

“Company” means Cable and Wireless (West Indies) Limited and includes its successors and permitted assigns;

“line” includes any wire, conductor or other means used for the purpose of transmitting telephonic or electric signalling communication with or without any casing, coating, covering, tube, pole or pipe enclosing, surrounding or supporting the line and any insulations or apparatus connected therewith;

“post” includes any post, pole standard, bracket stay, tower, support, strut or other contrivance for carrying, suspending or supporting a line; and

“tree” means any tree, wood, bamboo, underwood or other produce of the soil whether cultivated or not.

(2) In this Ordinance, expressions referring to the construction or maintenance of a line along any street, road, land or building means the placing or maintaining of the wires, conductor or other means of telephonic communication over, under or across such street, road, land or building, and the placing or maintaining of posts and other structures in or on such street, road, land or building.

(3) Any expression used in this Ordinance which is not defined in this Ordinance has the meaning, if any, assigned thereto in the Agreement.

The Company's
exclusive right

5. (1) The Company shall have, in accordance with and subject to the Agreement and this Ordinance, the sole and exclusive right to provide, install, maintain, operate and augment the National Telecommunications Systems and Services and the International Telecommunications Systems and Services.

(2) Without affecting the generality of subsection (1), the sole and exclusive right conferred by that subsection shall not be assigned or transferred other than in accordance with clause 17 of Part IV of the Agreement.

Operating
without a licence

6. (1) No person, other than the Company or a person licensed under this Ordinance, shall provide, install, maintain, operate or augment any National Telecommunications Systems and Services or International Telecommunications Systems and Services.

(2) A person who contravenes subsection (1) commits an offence and is liable upon summary conviction to a fine of \$25,000 and if the offence is a continuing one, to a further fine of \$5,000 for every day or part of a day during which the offence has continued.

Injunctions

7. (1) On the application of the Attorney General the Supreme Court may, without regard to whether or not proceedings have been, or may be taken against any person for an offence against section 6, grant an injunction—

- (a) restraining a person from doing or causing or permitting to be done any thing that constitutes or would constitute a contravention of, or an attempt to contravene, section 6; or
- (b) requiring a person to take or cause to be taken such reasonable steps as the Supreme Court considers necessary to prevent the doing of any thing that constitutes or would constitute a contravention of, or an attempt to contravene, section 6.

(2) The Supreme Court shall not, as a condition of granting an injunction under this section, require any undertaking as to damages.

(3) An injunction granted under this section—

(a) shall have effect for such period as is specified therein; and

(b) may be varied or rescinded by the Supreme Court.

(4) Nothing in this section limits any right of the Attorney General that would exist but for this section to apply for an injunction, and the grant, refusal, variation, rescission or expiry of an injunction granted under this section shall not affect the taking of proceedings against any person for an offence against section 6 nor the making of an order under that section.

8. Nothing in sections 5, 6 or 7 shall affect or preclude the right of the Government to establish, extend, maintain or operate any telecommunications apparatus or station or to authorize any other person to do so on behalf of the Government, subject to the proviso to clause 4(2) of Part V of the Agreement, for any of the purposes set out in paragraphs (a) to (i) of that clause.

Certain activities
not to require a
licence

9. (1) Subject to this section, upon application being made by any person in such form and accompanied by such information as the Government may determine, the Government may grant to that person, in such form, upon payment of such fee and subject to such terms, conditions, restrictions or limitations as the Government may determine, a licence to provide, install, maintain, operate or augment any National Telecommunications Systems and Services or International Telecommunications Systems and Services.

Licences

(2) The Government shall not grant a licence under subsection (1) while the Agreement is in force unless it first complies with clause 4(1) of Part V of the Agreement.

10. Subject to this Ordinance, the Company shall have all such powers as may be reasonably necessary to enable it to fulfill its obligations under the Agreement and, in particular, shall have the powers set out in sections 11 and 12.

General powers
of the Company

11. Subject to the Agreement and, in particular, to clauses 11, 12, 13, 14 and 15 of Part IV thereof and clause 2 of Part V thereof, the Company shall have all such powers in relation to the placing or maintaining of the works of the Company in, over or above Crown land as may be reasonably implied from those clauses.

Powers in
relation to
Crown land

Powers in
relation to land
other than Crown
land

12. (1) The Company may, with the consent of the owner thereof—

- (a) place and maintain lines under, upon or over any land or building in the Islands or place and maintain posts upon any land in the Islands; and
- (b) trim or lop any tree upon any land likely to damage, interfere with or obstruct the National Telecommunications Systems and Services or the International Telecommunications Systems and Services.

(2) If the owner referred to in subsection (1) refuses his consent, the Company may apply to the Magistrates Court for an order that the dispute between the Company and the owner be referred to arbitration in accordance with the Arbitration Ordinance.

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Alteration of the
Company's
works

13. (1) If the Government, or any other person or authority having in law the power so to do (in this section referred to as “the other person”), decides to widen, alter, divert or improve any street or road under or along which any line or work of the Company is placed, the Government or the other person as the case may be shall notify the Company of the decision so to do not less than one month before it is intended so to do.

(2) Upon being notified in accordance with subsection (1), the Company shall remove the line or work referred to in subsection (1) and replace it in such position and manner as the Government or the other person, as the case may be, may require.

Charges for
services

14. (1) Subject to clause 4(1) and (2) of Part III of the Agreement, notwithstanding anything in any contract between the Company and any subscriber of the Company, the Company shall not charge any charges for the telecommunications services referred to in the Schedule to the Agreement other than the charges set out therein in relation to those services.

(2) Nothing in subsection (1) shall affect charges for any telecommunications services not referred to in the Schedule.

(3) If a revision of the charges set out in the Schedule to the Agreement is agreed to between the Government and the Company in accordance with clause 4 of Part III of the Agreement, the Government may, by Order published in the *Gazette*, amend the Schedule to this Ordinance so far as may be necessary to give effect to any such revision.

Telecommunica-
tions apparatus
not distrainable

15. Where any apparatus belonging to the Company is placed in or upon any premises not being in the possession of the Company for the purpose of supplying a telecommunications

service under the provisions of this Ordinance and the Agreement, the apparatus shall not be subject to distress or to the landlord's remedy for rent of the premises where the apparatus may have been placed, nor shall the apparatus be liable to be taken in execution under any process of any court or under any proceedings in bankruptcy or insolvency against the person in whose possession the apparatus may be.

16. (1) No proceedings in tort shall lie against the Government or the Company in respect of any loss or damage suffered by any person by reason of—

Protection from
proceedings in
tort

- (a) failure to provide, or delay in providing, any telecommunications service, apparatus associated therewith or service ancillary thereto;
- (b) failure, interruption, suspension or restriction of any telecommunications service or service ancillary thereto;
- (c) delay of or fault in communication by means of any telecommunications service; or
- (d) error in, or omission from any directory for use in connection with any telecommunications service.

(2) No employee of the Company shall be subject, except at the suit of the Company, to any civil liability for any loss or damage in the case of which liability of the Company therefor is excluded by subsection (1).

17. (1) Any person who wilfully—

- (a) destroys, removes or damages any thing which forms part of, or is used or employed in or about the working of the public telecommunications system; or
- (b) prevents, obstructs or interferes with the sending, transmission or delivery of any communication by the public telecommunications system,

Damaging or
obstructing the
public
telecommunica-
tions system

commits an offence and is liable upon summary conviction to a fine of \$1,000.

(2) Where the Company incurs any expenses as a consequence of the commission of an offence under subsection (1), the Court may, upon conviction of any person for that offence, order that person to pay to the Company a further penalty not exceeding the full amount of any such expenses.

(3) Any sum payable to the Company by virtue of an order made under subsection (2) may be recovered in the Magistrates Court as a civil debt.

(4) In this section, “public telecommunications system” means the telecommunications system provided, installed, maintained, operated or augmented by the Company for the benefit of the public under this Ordinance and the Agreement.

Fraudulently
using public
telecommunica-
tions system

18. Any person who dishonestly obtains a telecommunications service provided by the Company under this Ordinance and the Agreement with intent to avoid payment of any charges payable in respect of the provision of that service commits an offence and is liable—

(a) upon summary conviction, to a fine of \$25,000 or to imprisonment for a term of 3 years, or to both;

(b) upon conviction on indictment, to a fine of \$50,000 or to imprisonment for a term of 7 years, or to both.

Obstructing the
Company

19. (1) Any person who wilfully obstructs the Company in the exercise of any power conferred on the Company by this Ordinance commits an offence and is liable upon summary conviction to a fine of \$1,000.

(2) In this section “Company” includes any person authorized by the Company to do any thing which the Company is authorized to do under this Ordinance and the Agreement.

Offences by
bodies corporate

20. Where any offence against this Ordinance has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was acting or purporting to act in any such capacity shall also be guilty of the offence unless he proves that the offence was committed without his consent or knowledge and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in such capacity and in all the circumstances.

SCHEDULE

TURKS AND CAICOS ISLANDS
TELECOMMUNICATIONS LICENCE AGREEMENT
BETWEEN
THE GOVERNMENT OF THE TURKS AND CAICOS ISLANDS
AND
CABLE AND WIRELESS (WEST INDIES) LIMITED

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**TURKS AND CAICOS ISLANDS
TELECOMMUNICATIONS LICENCE**

THIS LICENCE is made the 12th day of June 1990 BETWEEN THE GOVERNMENT OF TURKS AND CAICOS ISLANDS (hereinafter referred to as "the Government") of the one part and CABLE AND WIRELESS (WEST INDIES) LIMITED whose registered office is situate at Mercury House, 110/124 Theobalds Road, London, WC1X 8RX, England (hereinafter referred to as "the Company", which expression shall include its successors and permitted assigns) of the other part.

WHEREAS by an Agreement made the 17th day of July 1973 between William West Hutton Acting Governor for and on behalf of the Government of the Turks and Caicos Islands and the Company, the Company was authorised to provide, install, maintain and operate the national telephone system of the Turks and Caicos Islands for a period of twenty (20) years to expire on the 22nd day of August 1992.

Recitals

AND WHEREAS by a Licence (Agreement) made the 18th day of December 1973 between William West Hutton Acting Governor for and on behalf of the Government of the Turks and Caicos Islands and the Company, the Company was authorised to provide and operate the external telecommunication services of the Turks and Caicos Islands for a period of twenty (20) years to expire on the 31st day of December 1992.

AND WHEREAS the Company has applied to the Government for the renewal and consolidation of the Agreement and the Licence (Agreement) into a single Licence and the Government has agreed to grant such a renewed and consolidated Licence upon the terms and conditions hereinafter set out:

NOW IT IS AGREED THAT

PART I

INTRODUCTION

1. In this Licence, unless the context otherwise requires:—

Definitions

(1) **External** shall mean places outside the Turks and Caicos Islands (as hereinafter defined).

(2) **Licence** shall mean the authority and powers granted to the Company by the Government hereunder to operate National and International Telecommunications Systems and Services.

(3) **Licensed Apparatus** shall mean any telecommunications apparatus the subject of this Licence.

(4) **International Telecommunications Systems and Services** shall mean any telecommunications systems and services between the Turks and Caicos Islands and any one or more points beyond the Turks and Caicos Islands or which pass in transit through the Turks and Caicos Islands. Such services shall include the transmission and reception of voice, record, data, facsimile or any other services or facilities of a similar nature as may be developed and become available from time to time but shall exclude the broadcasting of radio and television programmes by any means for reception by the general public of any other Territory.

(5) **I.T.U. Convention** shall mean the International Telecommunication Convention of Nairobi 1982 and the General and Administrative Regulations thereof and includes any Convention and/or Regulations which may from time to time be in force in revision thereof or in addition thereto.

(6) **Message** shall mean any telegrams, phototelegram, telephone or telex call, data, facsimile or text transmission, electronic mail or voicegrams.

(7) **Government** shall mean the Governor in Council of the Turks and Caicos Islands.

(8) **The Minister** shall mean the member of the Executive Council having responsibility for the time being for telecommunications services in the Turks and Caicos Islands.

(9) **National Telecommunications Systems and Services** shall mean the telecommunications systems and services provided within the Turks and Caicos Islands. Such services shall include the transmission and reception of voice, record, data facsimile or other services or facilities of a similar nature as may be developed from time to time but shall exclude the broadcasting of radio and television programmes by any means for reception by the general public of the Turks and Caicos Islands.

(10) **Net Revenue** shall mean the proceeds of all billings to customers within the Turks and Caicos Islands for national and international telecommunications services provided under this Licence and, in the case of international telecommunications services, billings, less all outpayments from the Company to other Foreign Administrations and National Bodies for traffic originating in their territories which terminates in or transits the Turks and Caicos Islands.

(11) **Profit** shall mean the total revenue received from the provision of telecommunications services authorised by this Licence less all expenses incurred in the provision of these services as shown in the accounts prepared on a historic cost basis and as certified by an independent firm of Chartered Accountants approved by the Government or an approved auditor for the purposes of the Banking Ordinance 1979 or any legislation replacing the same; but without prejudice to the generality of the foregoing the Company being permitted to incur as an expense (a) any sum payable to the Government pursuant to subclause 1(1) and 1(2) of Part III hereof and (b) the actual amounts of payments up to a maximum of 5% of Net

Revenue made to the corporate headquarters of the Company outside the Turks and Caicos Islands in respect of central support services, but levying no interest charge on the capital employed in the business (except, for the avoidance of doubt, interest charges incurred pursuant to financing arrangements with financial institutions and suppliers both within and without the Turks and Caicos Islands); and provided that no deduction shall be made in respect of fees for services of a nature similar to such central support services and which are paid to a person other than the corporate headquarters of the company.

Any dispute concerning the calculation of profit shall be determined by arbitration in accordance with clause 6 of this Part, the single arbitrator to be nominated by the President of the Institute of Chartered Accountants of England and Wales; such arbitrator to make his determination on the basis of generally accepted accounting principles in the United Kingdom prevailing at the time of his determination.

(12) **Telecommunications** shall mean any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic means.

(13) **Turks and Caicos Islands** shall mean the Turks and Caicos Islands and shall include the territorial waters and airspace.

(14) Any expression or word not specifically herein defined shall if defined in the Interpretation Ordinance have such meaning, otherwise it shall have the meaning assigned to it by the I.T.U. Convention.

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(15) Words importing the singular only shall include the plural and *vice versa*.

2. The notes inserted in the margin of this Licence are for convenience of reference only and shall not in any way affect or control the construction of this Licence or of any provision herein contained.

Margin notes

3. Unless expressly stated otherwise this Licence shall be construed and interpreted in accordance with the laws of the Turks and Caicos Islands.

Laws

4. Upon the coming into force of the Licence hereby granted the Agreement and the Licence (Agreement) referred to in the first and second recitals hereof shall terminate but without prejudice to any rights or liabilities subsisting immediately before that date.

Existing Licences

5. (1) The Company shall not be held liable or deemed to be in default under this Licence for any failure to perform its obligations hereunder if and to the extent that such failure results directly or indirectly from *force majeure* which shall include but not be limited to any law, order, regulation or direction of the Government of the Turks and Caicos Islands; major strikes or any significant or protracted industrial action; major insurrection; riots; national emergencies; war; fire; floods or other catastrophies; acts of God; or any causes beyond the control of the Company.

Force Majeure

(2) The Government shall not be held liable or deemed to be in default under this Licence for any failure to perform its obligations hereunder if and to the extent that such failure results directly or indirectly from *force majeure* which shall include but not be limited to major strikes or any significant or protracted industrial action; major insurrection; riots; national emergencies; acts of God or any causes beyond the control of the Government.

Arbitration

6. Any matter which in pursuance of the provisions herein contained is to be determined by arbitration and any other dispute or difference which should arise as to the meaning of the provisions of this Licence or as to the rights or obligations of either party hereunder shall be referred to arbitration in accordance with the provisions of the Arbitration Ordinance 1974 or any subsisting statutory modification or re-enactment thereof.

Notices

7. Any notice request or consent (whether expressed to be in writing or not) to be given by the Government under this Licence may be under the hand of any officer duly authorised by the Government and may be served by sending the same in a registered letter addressed to the office of the Company in the Turks and Caicos Islands and any notice to be given by the Company under this Licence may be served by sending the same in a registered letter to the Minister.

PART II

THE LICENCE

The Grant

1. IN CONSIDERATION of the fees to be paid to the Government as are hereinafter referred to THE GOVERNMENT in exercise of all the powers and authorities enabling it in that behalf does by these presents GRANT to the Company the LICENCES, POWERS AND AUTHORITIES to provide, install, maintain, operate and augment the National Telecommunications Systems and Services within the Turks and Caicos Islands and the International Telecommunications Systems and Services between the Turks and Caicos Islands and places or mobile stations within or outside the Turks and Caicos Islands or passing in transit through the Turks and Caicos Islands to include such authority as may from time to time be necessary for these purposes:

(1) To establish, maintain and operate land based telecommunications station(s) of any type in the Turks and Caicos Islands; and

(2) To lay and/or maintain and operate on and along the foreshore and bed of the sea at such location(s) as may be approved by the Government in a seaward direction a line or lines of submarine telecommunications cable of any type; and

(3) To provide, install, lease and/or maintain licensed apparatus of any type in the Turks and Caicos Islands; and

(4) To provide any necessary circuits between the installations referred to in sub-clauses (1), (2) and (3) above and between such installations and subscribers' installations as may be required for the control, operation and co-ordination of the National and International Telecommunications Systems and Services.

TO HOLD the same unto the Company for a period commencing on the date hereof until terminated (subject to prior determination as hereinafter mentioned) by either party giving to the other in writing eight (8) years notice of termination, such notice to be given not sooner than the 31st day of December 2004.

PART III

FINANCIAL PROVISIONS

1. It is hereby agreed that:

Fees

(1) The Company shall pay to the Government quarterly within sixty (60) days of the Company's normal quarterly accounting date a fee corresponding to the percentage amount specified in sub-clause 1(2) hereof of the Net Revenue in respect of that quarter (the first payment to be made within sixty (60) days of the end of the first full accounting quarter following the date of this Licence); such payments to be subject to adjustment as necessary within six (6) months of the end of the relevant twelve (12) month period based on the audited accounts of the Company for that period.

(2) The percentage amount for the purposes of sub-clause 1(1) shall in respect of the first seven year period of this Licence be three (3) %, shall in respect of the second seven year period of this Licence be four (4) % and shall in respect of the remainder of this Licence be five (5) %.

(3) The Company shall pay to the Government that amount specified in sub-clause 1(4) hereof being the specified percentage of all that part of the Profits made by the Company each year over and above a Profit of seventeen and one half (17½)%, (calculated as a percentage of the Company's net assets in the Turks and Caicos Islands as shown in the audited accounts in accordance with the provisions of Part 1 clause 1(11) of this Licence) such payments to be paid in arrears within sixty (60) days of the Company's normal annual accounting date and in any event not later than the 1st day of October following the year in question and to be based on the audited accounts of the Company for that year; (and for the avoidance of doubt the percentages referred to in this sub-clause shall not be taken as a guideline in determining whether the return is reasonable or unreasonable for the purposes of Part III clause 3(3).)

(4) The percentage amount for the purposes of sub-clause 1(3) shall in respect of the first seven year period of this Licence be twenty (20) %, shall in respect of the second seven year period of this Licence be

twenty two and one half (22½)% and shall in respect of the remainder of this Licence be twenty-five (25)%.

Customs Duties

2. It is hereby agreed that:

(1) Subject to sub-clause (2) hereof all apparatus, equipment, instruments, vehicles and materials imported from any source into the Turks and Caicos Islands by the Company and which are certified by the senior representative of the Company in the Turks and Caicos to be necessary for the maintenance and development of the telecommunications services the subject of this Licence shall be exempted from Customs and other import dues provided that no article so imported shall be sold or otherwise disposed of in the Turks and Caicos unless all such dues shall have been paid thereon and provided also that there shall be no exemption with respect to vehicles and materials imported by the Company for hire or imported substantially for the private use of the Company's employees.

(2) The Government may, upon not less than three (3) years written notice to the Company withdraw in whole or in part the provisions of subclause (1).

No Exclusive
Taxation

3. (1) During the currency of this Licence the Company shall not nor shall any of its revenues or property in the Turks and Caicos Islands be subjected to any exclusive taxation. Provided that nothing herein contained shall be construed as exempting the Company from the dues or liability of any tax under any proposed Income Tax Ordinance or any statutory modification or re-enactment thereof.

(2) For the avoidance of doubt it is hereby declared that sub-clause (1) hereof shall not affect the telecommunications tax in force at the date of this Licence.

Rates of Charge

4. It is hereby agreed that:

(1) The rates of charge for the transmission of messages and for the telecommunications services each referred to in the Schedule hereto shall be introduced as soon as administratively possible following the date hereof (and in any event within three (3) months from the date hereof), shall remain in force for a period of not less than two (2) years from the date hereof and thereafter shall be subject to review pursuant to the provisions of this clause.

(2) The rates of charge for message transmission services which fall within clause 4 of Part V and which are not referred to in the Schedule hereto shall remain in force at their current rate until such time as they may be revised pursuant to the provisions of this clause.

(3) Either the Government or the Company may propose to the other a revision of any of such rates and a review of such proposal shall commence within three (3) months of application. The criterion on which such review shall be undertaken shall be the need for the Company to

operate on an economic basis so as to earn a reasonable return on net assets employed by the Company in the telecommunications systems in the Turks and Caicos Islands.

Subject to the criterion aforesaid it shall be the aim of any review that overall the rates and tariffs applicable in the Turks and Caicos Islands shall become generally comparable with those applicable to other Caribbean territories, due allowance being made for the costs of providing the telecommunications systems and services of the Turks and Caicos Islands.

(4) In the event that the parties hereto cannot agree the rates of charge within six (6) months of the commencement of the review referred to in sub-clause (3) above then either party may refer the matter to arbitration in accordance with the provisions of Part 1 clause 6 hereof and in deciding what the rates of charge shall be the arbitrator shall take into account the criterion referred to in the said sub-clause (3).

(5) In order to facilitate reviews of rates of charge the Company shall from time to time at the request of Government supply information on the National Telephone and International Services respective cost and profit centres in the Turks and Caicos Islands.

(6) In order not to delay the introduction of new message transmission services which fall within clause 4 of Part V the Company shall be entitled to establish an initial rate of charge therefor upon notification and explanation of the initial rate to the Minister. In cases where any such rate for a new message transmission service is disputed or questioned by the Minister, it shall be subject to discussion, verification and, if appropriate, revision under the review procedure in sub-clause 3 above.

(7) All scales of charges referred to in sub-clauses (1) or (2) above shall be made available by the Company to the public of the Turks and Caicos Islands upon request at the Principal Office of the Company in Grand Turk, Turks and Caicos Islands and shall be included in the Company's appropriate service directory upon its next scheduled reprinting and advertised on introduction or amendment in a local newspaper.

PART IV

THE COMPANY'S OBLIGATIONS

Equipment and Services

1. (1) Throughout the term of this Licence, the Company shall develop, expand and improve the National and International Telecommunications Systems and Services with a view to providing an efficient service over as wide an area of the Turks and Caicos Islands as may be practicable and economic, paying due regard to the advance of telecommunications technology and shall utilise suitable equipment employing the latest proven

Expansion &
improvement

technological developments wherever these are appropriate and can be shown to be cost effective.

(2) As part of its obligations under this clause the Company shall consult with the Government from time to time as may be necessary to ensure that the development goals of the Government are known by the Company.

Maintenance and operation

2. (1) Throughout the term of this Licence the Company shall use its best endeavours to maintain and operate the licensed apparatus in proper working order.

(2) Throughout the term of this Licence the Company shall use its best endeavours to provide an efficient and reliable service in accordance with the needs of the Turks and Caicos Islands to achieve the development goals of the Government. Provided always that the Company's operations in the Turks and Caicos Islands shall be conducted on a commercial and economic basis.

(3) Representatives of the Government and of the Company shall meet from time to time with a view to establishing service standards, and to review and report on the performance of the Company's obligations under this clause, provided that the meetings held pursuant to the provisions of this clause shall be held at intervals not exceeding two (2) years.

Operation of Systems

Frequencies

3. The Company shall use such frequencies in the operation of the National and International Telecommunications Services and Systems as shall be agreed by the Government, due regard being given to frequencies determined by international agreement.

As to interference

4. The Company shall so operate the licensed apparatus that it will not cause troublesome interference with any other authorised apparatus within its range and with a view to the avoidance of such interference the Company shall comply with any instructions given by the Government as to the operation of the licensed apparatus.

Routing of messages

5. (1) If and whenever the Government shall require the Company, its servants or agents to give priority over all other messages insofar as this may be consistent with the provisions of the I.T.U. Convention and the Company, its servants and agents shall as soon as is reasonably possible transmit the same and shall insofar as may be necessary to effect such transmission suspend the transmission of other messages.

(2) The Company shall not be entitled to claim any compensation in respect of the suspension of the transmission of messages as aforesaid.

Equal Priority of Messages

6. Subject to Part IV clause 5 and Part VI hereof and Article 25 of the I.T.U. Convention concerning safety of life the Company shall transmit

over its system of telecommunications all messages on equal terms and with equal priority due regard being given to recognised differences between one class of message and another PROVIDED that nothing in this clause shall prevent the Company from providing for the delivery of telegrams at convenient hours according to the local time at the respective places by transmitting the same in such order of priority as shall be reasonably adapted for that purpose having regard to the respective longitudes of such places.

7. If at any time the telecommunications service operated by the Company under this Licence shall become interrupted the Company shall give notice of any abnormal circumstances surrounding such interruption to the Government and shall use all reasonable endeavours to supersede its normal services by provisional items. For the purpose of this clause "interruption" shall mean the known total failure of any major telecommunications facility provided by the Company under this Licence for a period in excess of three (3) hours during the business day.

Notice of interruptions

8. (1) The company shall not divulge to any person (other than properly authorised officials of the Government of the Turks and Caicos Islands or the Government of the United Kingdom or a competent legal tribunal) or make any use whatsoever of telecommunications traffic that comes to the knowledge of or is intercepted by the Company.

Secrecy

(2) The Company shall use its best endeavours to ensure that all staff members observe the rules of secrecy relating to telecommunications pursuant to Article 22 of the I.T.U. Convention.

Information and Inspection

9. The Company shall establish and maintain in the Turks and Caicos Islands in respect of its business conducted pursuant to this Licence an accounting system, business planning system and other systems for the management of information and the maintenance of commercial service and engineering standards concerning such business and on the basis of such systems, the Company shall on request submit to the Government:

Information on Company's business

(1) Quarterly an interim profit and loss account and balance sheet; and

(2) Annually a final (audited) profit and loss account, balance sheet and statement of source and application of funds and a business plan for the next following year; and

(3) Such other information concerning such business as the Government may from time to time reasonably require having regard to the ordinary staff and administrative capacity of the Company.

Provided that all information so furnished shall (except for the purposes of this Licence and any determination of differences in accordance with

Part 1 clause 6 hereof) be treated as strictly private and shall be in no way published or publicly made use of (except as aforesaid) without the written consent of the Company.

Information on
traffic

10. The Company shall from time to time furnish to the Government at its request all such particulars of the traffic passing over its system of telecommunications and originating in or destined for the Turks and Caicos Islands as the Government may from time to time reasonably require, PROVIDED ALWAYS that regard shall be had to the ordinary staff and administrative capacity of the Company as regards the volume of statistics to be supplied and that all particulars so furnished shall (except for the purposes of this Licence and any determination of differences in accordance with Part I clause 6 hereof) be treated as strictly private and in no way published or publicly made use of (except as aforesaid), without the written consent of the Company or when included with published General Returns of the Company.

Inspection of
installations

11. The Company shall permit the Government, its duly authorised officers, servants or agents at all reasonable times to enter upon all or any of the stations, offices or installations in the Turks and Caicos Islands in the possession or occupation of the Company (either solely or jointly with any other person or persons) for the purpose of inspecting any of the licensed apparatus and the working and use of such apparatus provided that any information thereby gained with regard to the Company's apparatus and systems shall be regarded as confidential.

Construction

Safety of
Installations

12. In addition to the requirements imposed by laws in force for the time being in respect of planning and development and by orders or permissions made under such laws, the Company shall at its own expense comply with directions given to it by Government as to the location of the Company's installations including buildings, as may from time to time be desirable for the purposes of safeguarding them from accidental or malicious damage, provided that any sites used for purposes outlined in this clause by the Company prior to entry into force of this Licence shall be deemed to have the approval of the Government to continue to be used for such purpose.

Construction on
foreshore and
seabed

13. The Company shall not without the consent in writing of the Government first had and obtained place any buildings, works or materials or do any other act on the shore or bed of the sea which may in the opinion of the Government prejudice or obstruct or tend to prejudice or obstruct navigation or be or become injurious to the public interest.

Removal of
certain structures

14. The Company shall without unreasonable delay remove from the shore and bed of the sea all buildings, works and materials which have been placed there by the Company without the consent or approval hereby

required thereto or which by reason of having been abandoned or suffered to fall into decay may be in such a condition as in the opinion of the Government to prejudice or obstruct or cause reasonable apprehension that they may prejudice or obstruct navigation or be or become injurious to the public interest and shall restore the said shore and bed of the sea to the former or proper condition thereof, PROVIDED ALWAYS that where the Company shall fail to take any action required by virtue of this clause it shall be lawful for the Government, its duly authorised officers, servants or agents to carry out the said actions and the Company will pay to the Government, its duly authorised officers, servants or agents as aforesaid all expenses thereby incurred.

15. The Company shall land, maintain and secure its submarine cable to the satisfaction of and at locations approved by the Government.

Cables

General

16. The Company shall at all times observe the provisions of:

International
conventions and
local legislation

(1) The I.T.U. Convention.

(2) The Convention for the Protection of Submarine Cables signed in Paris on the 14th day of March 1884 and any provision which may for the time being be in force in substitution thereof or amendment thereof.

(3) Legislation from time to time in force in the Turks and Caicos Islands.

(4) The Commonwealth Telecommunications Organisation Financial Agreement of 1983 and any other Agreement which replaces it and to which the Company becomes a party.

17. The Company shall not without the consent in writing of the Government first had and obtained assign or dispose of this Licence or any benefit arising therefrom whether in whole or in part or delegate any of the powers hereby conferred, PROVIDED that the Government shall not unreasonably withhold its consent to a proposed assignment to a company being the holding company or another subsidiary or that holding company or a subsidiary of the Company (and for this purpose "holding" company and "subsidiary" shall be as defined by section 736 of the Companies Act 1985 of the laws of England), or any re-enactment thereof.

Assignment

18. The Company shall at all times indemnify the Government against all actions, claims and demands which may be brought or made by any person in respect of any injury or the death of any person or damage to any property arising from any tortious act of the Company licensed or permitted by these presents PROVIDED that the provisions of this clause shall not apply in respect of any injury arising to or the death of any person or damage to any property to the extent that the Company is deprived of the

Indemnity

control of the telecommunications service under the provisions of Part VI of this Licence.

Employees

19. (1) The Company shall so far as is reasonably possible having regard to the persons who are Belongers and who are available from time to time, their willingness to accept employment and their physique and skills as may be relevant to the vacancies for employment existing and occurring in the operation of the Company's business in the Turks and Caicos Islands use its best endeavours to engage Belongers to fill any such vacancies.

(2) The Company shall prepare and introduce a comprehensive training programme to train Belongers in all aspects of the operation and development of the business and shall keep under revision the programme of training and a programme of localisation of appropriate jobs, submitting such programmes periodically for the consideration of the Government and using its best endeavours to implement such programmes as agreed from time to time with the Government. In any event, the Company shall localise the following posts by the respective dates stated:

- (i) Senior Technician, Switching 31.12.1989;
- (ii) Radio Technician 31.12.1989;
- (iii) Senior Technician, Customer Services 31.12.1992;
- (iv) Engineering Manager 31.12.1993;

save that such dates shall be deferred to the extent justified by a delay caused by *force majeure*.

(3) Every six months starting with the date of this Licence, or at such other times as may be agreed, representatives of the Company shall meet a committee of public officers representing the departments of Government responsible for labour, immigration and telecommunications to review issues of training, localisation of posts and personnel problems.

PART V

THE GOVERNMENT'S OBLIGATIONS

Legislation

1. The Government undertakes at the request of the Company to use its best endeavours to enact, maintain in force and update such legislation as may be requisite to enable the Company to carry out its rights and obligations under this Licence.

Land Sites

2. (1) The Government shall at the request of the Company use its best endeavours to make available on leasehold terms at commercial rentals and for such periods as the Company may require such Government-owned sites or sites on Crown land as may be suitable and available for the provision of the services the subject of this Licence, PROVIDED ALWAYS that any lease granted pursuant to this section shall be

determinable on the date that this Licence or any further Licence granted to the Company shall terminate.

(2) The Government shall assist the Company by using its best endeavours to provide and/or maintain suitable legislation to obtain sites and/or wayleaves for the installation and maintenance of poles and pole routes, cables and cable routes, exchange buildings, stores and cabinets and public pay booths and shall furnish the Company with permissions as may be reasonably necessary to break up roads and streets for the installation and maintenance of telephone ducts and cables, PROVIDED ALWAYS that where the Company proposes to break up or does break up any road or street in pursuance of such permissions the Company shall notify the authority in control of such road or street at the earliest opportunity and shall take such steps as are necessary to ensure that public traffic on the road or street is not unreasonably impeded, obstructed or interfered with and upon completion of the works shall reinstate such road or street to the reasonable satisfaction of such authority (and for the avoidance of doubt such reinstatement shall not be considered reasonable unless the road or street is reinstated to a condition comparable to its condition prior to the work being commenced by the Company) and shall take all reasonable precautions against accidents to its employees and to the general public.

(3) The Government undertakes that it will not control the acquisition or occupation of land by the Company so as to prevent the Company from fulfilling its obligations under this Licence.

3. During the currency of this Licence the Government shall at all times permit the Company direct relations with the public for the provision of all types of telecommunications services which are the subject of this Licence including the distribution of advertising matter and other activities relating to the promotion and development of telecommunications traffic over its systems of telecommunications and the billing of and collection of monies from its customers in respect of services provided by the Company and the taking of all such legal and other action as may be required for the recovery of debts.

Freedom of
association

4. During the currency of this Licence:

Exclusivity

(1) Subject to sub-clause (2) herein, the Government agrees not to undertake itself nor to issue to any person or company any licence or permission to operate, maintain and/or provide any National or International Telecommunications Systems and Services unless the Company has first been offered the opportunity to provide such Systems or Services and has not, within a period of six (6) months or such other period as may be reasonable in the circumstances, agreed to provide such systems or services or, having so agreed, fails to provide such systems or services within a further period of two (2) years or such other period as may be reasonable in the circumstances. The Government's undertaking itself or its issue of any Licence shall not inhibit the Company's subsequent operation, maintenance and/or provision of any service on a non-exclusive basis.

(2) The foregoing provisions shall not prejudice or affect the right of the Government or a private person or company with Government's permission to establish, extend, maintain or operate any telecommunications apparatus or station:

- (a) For any Government purposes;
- (b) For experimental purposes;
- (c) For broadcasting (to include radio and television);
- (d) For aeronautical or maritime services;
- (e) For radio communication by any foreign Government authorised by the Government of the Turks and Caicos Islands and used solely for military, naval or airforce purposes;
- (f) For private radio links within the Turks and Caicos Islands to include but not be limited to Citizens Band Radio, VHF and other radio communications required by businesses within the Turks and Caicos Islands;
- (g) For non-radio telecommunication systems in a single set of premises under single ownership and occupation;
- (h) For amateur "radio hams";
- (i) For beeper services.

Provided any such apparatus or station is not without the prior written consent of the Company connected to any of the Company's telecommunications systems.

Transfer of
money

5. The Government shall not unreasonably restrict the Company transferring money for the settlement of international telecommunication accounts with other administrations or to pay for goods and services imported for the Telecommunications Systems and Services the subject of this Licence and, if and when any profits are made from transferring such profits to the Company overseas in the appropriate currency, or, if and when the Government purchases the Company's telecommunications assets, from transferring the purchase price to the Company overseas in the appropriate currency.

PART VI

TERMINATION OF LICENCE

Termination
Provisions

1. In any of the following cases:

(1) If during the currency of this Licence the Company shall be dissolved or go into liquidation otherwise than for the purpose of reconstruction (and such reconstruction does not in the opinion of the Govern-

ment destroy the identity of the Company) or shall cease to carry on a telecommunications business; or

(2) If any act done or suffered whereby either wholly or particularly this Licence or permission hereby granted or any benefit arising therefrom or any powers hereby conferred, shall without the consent of the Government first obtained become vested in, or delegated to, any body or person other than the Company; or

(3) If default shall be made in the observance or performance of any covenant, term or provision herein contained other than in the circumstances referred to in sub-clauses 1(1) and 1(2) of this Part and on the part of the Company to be observed and performed, and such default shall not have been remedied within 90 days after written notice to the Company or within such longer period as is justified by *force majeure* as defined in this Licence; then and in any such case it shall be lawful for the Government by notice in writing served on the Company to revoke and determine this Licence or any permission granted hereunder as the Government shall in its absolute discretion think fit and such Licence or permission shall thereupon cease and determine accordingly but without prejudice to any right or remedy of the Government in respect of the breach of any covenant or provision herein contained and on the part of the Company to be observed and performed.

2. (1) Subject to the provisions of sub-clause (3) of this clause the Government shall on the termination of this Licence, otherwise than on a breach by the Company of any of the covenants, terms or provisions herein contained and on the part of the Company to be observed and performed purchase upon such terms and conditions as may be fair and reasonable the Company's telecommunications assets (which expression shall include all reasonable outstanding commitments incurred by the Company in respect of the carrying on of the operations which it is by this Licence authorised to carry on) in the Turks and Caicos Islands at the then current value of such assets as determined by an independent valuer to be agreed by the Government and the Company.

Compensation

(2) In this clause:—

“assets” means the land, buildings, including staff quarters, plant, land, apparatus, spares and stores in the Turks and Caicos Islands belonging to and necessarily used or intended to be used by the Company in the provision or operation of the National and International Telecommunications Systems and Services the subject of this Licence;

“then current value” shall mean the fair value at the time of purchase by the Government.

(3) The Government shall not be obliged to purchase any of the Company's assets as aforesaid nor to compensate the Company in any other manner if on the termination of this Licence otherwise than on a breach by the Company the Government offers to the Company the grant of

a further Licence upon terms and conditions which in the light of circumstances then prevailing in the Turks and Caicos Islands are not less favourable to the Company than those contained in this Licence.

(4) Before undertaking any major extensions or renewals of its equipment, plant, apparatus or buildings in the Turks and Caicos Islands during the last three (3) years of this Licence the Company shall refer its proposals for such extensions or renewals in general terms to the Government for its consent.

IN WITNESS WHEREOF the parties to these presents have hereunder set their hands on the day and year first above written.

Signed on behalf of the Government of the Turks and Caicos Islands by Michael John Bradley, Governor.

Signed on behalf of Cable and Wireless (West Indies) Limited by Duncan Black McArthur, Regional Director.

THE SCHEDULE**RATES OF CHARGE****National Telephone**

	<i>Monthly Rental</i>	<i>Installation Fee</i>
Residential Line – any local exchange area	\$15.00	\$95.00
Business Line – any local exchange area	\$33.00	\$150.00
Standard telephone instrument	\$2.00	NIL*

Note: For any installation beyond 2 pole spans of the established line distribution network, a special construction charge may apply.

* *When undertaken at same time as an exchange line installation.*

Local and Trunk Calls – Subscriber Dialed

Peak charges apply from 6.00 AM–7.00 PM Monday to Friday. Off-peak charges apply from 7.00 PM–6.00 AM Monday to Friday and all day Saturday and Sunday.

Time obtained per 10 cent unit

	<i>Peak</i>	<i>Off-Peak</i>
Local L	5 minutes	10 minutes
Trunk A	24 seconds	72 seconds
Trunk B	18 seconds	54 seconds
Trunk C	12 seconds	36 seconds

Operator connected local and trunk calls

The above subscriber-dialed rates apply, but with a minimum call duration of 3 minutes plus an operator call fee of \$1.

Local Exchange Areas

Salt Cay
Grand Turk
South Caicos
Middle Caicos
North Caicos
Providenciales

Local calls (Rate L) are calls made within one of the local exchange areas.

Trunk calls (Rates A, B or C) are calls made from one exchange area to another.

The Table sets out the applicable rate of charge for local and trunk calls.

Calls From	Calls to Salt Cay	Grand Turk	South Caicos	Middle Caicos	North Caicos	Provi- denciales
Salt Cay	L	A	A	B	C	C
Grand Turk	A	L	A	B	C	C
South Caicos	A	A	L	A	B	B
Middle Caicos	B	B	A	L	A	B
North Caicos	C	C	B	A	L	A
Providenciales	C	C	B	B	A	L

Telephone Tariff Zones

International Calls

ZONE 1 CARIBBEAN

Bahamas, Jamaica

ZONE 2 CARIBBEAN/USA

American Virgin Islands, Anguilla, Antigua, Barbados, Bermuda, Belize, British Virgin Islands, Cayman Islands, Dominica, Dominican Republic, Dutch West Indies, French West Indies, Grenada, Guyana, Haiti, Montserrat, Puerto Rico, St. Kitts, St. Lucia, St. Vincent, Trinidad, USA.

ZONE 3 CANADA, UK

Canada, United Kingdom

ZONE 4 WESTERN EUROPE

Austria, Belgium, Canary Islands, Denmark, Eire, France, Finland, Greece, Gibraltar, Italy, Luxembourg, Portugal, Netherlands, Norway, Spain, Sweden, Switzerland, West Germany.

ZONE 5 REST OF THE WORLD

Countries not specified in Zones 1-4.

International Telephone

Peak charges apply from 6.00 AM – 7.00 PM Monday to Friday. Off-peak charges apply from 7.00 PM – 6.00 AM Monday to Friday and all day Saturday and Sundays.

International Minute Charges – Subscriber Dialed

	<i>Peak</i>	<i>Off-Peak</i>
Zone 1	\$1.95	\$1.55
Zone 2	\$2.50	\$1.95
Zone 3	\$3.30	\$2.70
Zone 4	\$4.00	\$3.60
Zone 5	\$5.00	\$5.00

(Complete details of Zones are given overleaf)

Operator Assistance Charges

Minute charges are the same as those indicated above for subscriber-dialling, subject to a 3 minute minimum chargeable duration for each call.

Per Call Charges

Station to Station Call	Nil
Person to Person Call	\$3.00 for a successful call.
	No charge for an unsuccessful call where the called number does not answer.
	\$1.00 report charge for a call where the called number answers but the person-to-person call does not take place.

Inward Collect Calls/Credit Card Calls (paid in Turks and Caicos)

Operator-assisted charges apply.

Public Payphone Tariff

Local and Trunk Calls

	<i>Time obtained per 25 cent unit</i>	
	<i>Peak</i>	<i>Off-Peak</i>
Local L	5 minutes	10 minutes
Trunk A	1 minute	3 minutes
Trunk B	45 seconds	2 minutes
		15 seconds
Trunk C	30 seconds	1 minute
		30 seconds

International Calls

	<i>Peak Per Minute</i>	<i>Off-Peak Per Minute</i>
Zone 1	\$2.00	\$1.50
Zone 2	\$2.50	\$2.00
Zone 3	\$3.25	\$2.75
Zone 4	\$4.00	\$3.50
Zone 5	\$5.00	\$5.00

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