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General Notice No.



THE MALAWI COMMUNICATIONS REGULATORY AUTHORITY GENERAL TERMS AND CONDITIONS FOR A CONTENT SERVICE LICENCE

1. Application

1.1 These General Terms and Conditions for a Content Service Licence (hereinafter referred to as the "General Terms and Conditions") shall apply to all Content Services Licensees.

2. Definitions

In these General Terms and Conditions unless the context otherwise requires, the terms used will have the same meaning as set out in the Communications Act, Number 34 of 2016 and—

- (a) any word or phrase importing any one gender shall include all other genders;
- (b) any word or phrase importing the singular shall include the plural;
- (c) words and phrases shall have the meanings assigned herein-

“**Acts**” means the Communications Act Number 34 of 2016, as currently in force and as the same may hereafter be amended, re-enacted or superseded from time to time;

“**Authority**” means the Malawi Communications Regulatory Authority, established under section 3 of the Act;

“**Application Services**” means the provision of electronic communication services to end users using licensed network services but does not include content services;

“**Content Services**” means broadcasting services consisting of electronic media including sound, data, text or images for general reception by the public;

“**Constitution**” means the Constitution of the Republic of Malawi;

“**Current Affairs**” means contemporary issues and events of national importance;

“**Delay Machine**” delay means a device that enables a licensee to postpone, block or obliterate, obscene, unwanted or offensive content;

“**Drama**” means story-telling by means of play-acting using human characters and other props, through the medium of audio (sound), conveyed by means of sound broadcasting signals and equipment;

“**Licence**” means a Licence authorizing the Licensee to provide content services

“**Licence year**” means every twelve months period commencing initially on the Effective Date, and thereafter on each and every anniversary of the Effective Date;

“**Licensee**” means any person holding a Content Services licence;

“**local content**” means the total of all television or radio programmes that contain Malawian material;

“**Effective date**” means the date on which a Content Service Licence is published in the Gazette for the purpose of bringing the Licence into effect or on the date stipulated in the Gazette that the Licence shall come

into effect;

“**Studio equipment**” means all equipment that is found in a studio and used for broadcasting purposes

“**Subscriber**” means any person who subscribes to the Licensee in order to access content services.

“**Subscription broadcasting service**” means broadcasting service which transmit programmes by satellite or terrestrial or any other means whether by means of encoded or uncoded signals and is made available to persons on payment of a subscription fee;

“**News**” means reports on events and occurrences of the day covering international and local matters;

“**Ordinary broadcasting hour**” means any hour falling between 09h00 and 15h00 on any one day, and between 22h00 of the same day and 06h00 the next day;

“**On-air**” means a continuity broadcast in a studio and live from an outside broadcast facility;

“**Station identification jingle**” means an electronically recorded jingle in which the station or Licensee is identified on air;

“**Republic**” means the Republic of Malawi as constituted under Chapter 1 of the Constitution;

3. **Licence Principles**

3.1 A Content Service Licence shall be issued by the Authority subject to and in accordance with the following principles:

- (a) the protection of the best interests of consumers and other users of broadcasting content services;
- (b) promotion of open access to information by means of broadcasting content services;
- (c) promotion of efficiency within broadcasting content service of the Licensee;
- (d) encouraging the introduction of new and innovative programmes to enhance the needs, aspirations and best interests of the people of Malawi;
- (e) fostering the development of broadcasting content services in accordance with recognized national and international standards;
- (f) informing and educating the masses on religious, development, political, social and economic issues; and
- (g) entertaining the public in accordance with the national and cultural values

4. **Protection of Constitutional Rights and Freedoms**

4.1 The Licensee shall uphold and respect the constitutional rights, freedoms and privileges enshrined in the Constitution. Without derogating from the generality of the foregoing, the Licensee shall function without any political bias and independently of any person or body of persons, but shall in so doing respect citizens' and the community's rights, among others, to:

- (a) privacy;
- (b) economic activity;
- (c) economic, social, cultural and political development;
- (d) freedom of association;
- (e) freedom of conscience and opinion;
- (f) freedom of expression;
- (g) access to information;
- (h) administrative justice; and
- (i) equality and equity.

5. **Scope of a Content Service Licence**

5.1 A Content Service Licence shall be issued subject to the Act and any Regulations made thereunder.

5.2 For the purpose of providing the Services under the Licence, the Licensee shall be authorized:

- (a) to provide content Services ; and
- (b) to do all other things necessary or requisite to the provision of content services;

5.3 The Licence shall be valid in the Republic of Malawi.

6. Station Identification

- 6.1 A Licensee shall ensure that its radio station identifies itself on-air at intervals of not more than twenty (20) minutes or at a programme junction, whichever is convenient, provided that the station is not obliged to interrupt its programmes. For this purpose, it shall be permissible for the Licensee to use real-time speech or pre-recorded station identification jingles, as the case may be.
- 6.2 The Licensee may not alter the name of the Station without notification to the Authority in accordance with such procedures as may be determined by the Authority from time to time.

7. Rights and Obligations

- 7.1 A Licensee shall provide content services in accordance with the Act and applicable Regulations.
- 7.2 Without prejudice to clause 7.1, the Licensee shall be entitled to:
- (a) establish studios where applicable; or
 - (b) in the case of Television content services provide an interface to a licensed network service operator.
- 7.3 In providing the services under the Licence, the Licensee shall:
- (c) protect the best interests of the community, consumers and other users of content services;
 - (d) promote open access to information;
 - (e) encourage introduction of new and innovative content services to enhance the needs, aspirations and best interests of the people of Malawi;
 - (f) foster the development of content provision service in accordance with recognised national and international standards;
 - (g) inform and educate the masses on issues of national importance including religious, academic, development, political, social and economic issues; and
 - (h) entertain the public in accordance with the national and cultural values.
- 7.4 Where the licensee provides subscription based services, the Licensee shall ensure that it develops and maintains Master Service Contracts which shall include service level agreements for its services.

8. Universal Service (US) Obligations

- 8.1 The Licensee shall contribute to the Universal Service Fund (USF) through levies payable under the Licence and in accordance with the provisions of the Universal Service (US) Regulations.
- 8.2 The Authority shall from time to time determine the percentage of the levies payable to the Universal Service Fund from the levies collected under the Licence.

9. Hours of broadcast

- 9.1 The Licensee may provide its Services up to twenty four hour a day but not less than eighteen (18) hours a day.
- 9.2 The Licensee shall notify the Authority of any service interruption within two (2) hours of becoming aware of such interruption and shall take reasonable steps to ensure resumption of the Service within the shortest time possible.
- 9.3 Notwithstanding the provisions of sub-clauses 9.1 and 9.2, the Licensee may, on good cause shown, for example for the purposes of carrying out maintenance, and subject to the prior written authorization from the Authority, temporarily suspend the provision of the Service subject to such terms and conditions as the Authority may reasonably impose.

10. Programming

- 10.1 The Licensee shall ensure that at least 60 percent of its programming is comprises of local content.

11. Accounting Requirements

- 11.1 The Licensee shall within three (3) months of the end of each financial year either:
- (a) provide the Authority with annual financial statements audited in a manner consistent with internationally recognized standards and certified by a qualified independent auditor; or
 - (b) provide the Authority with a written statement of the reasons the audited financial statements cannot be provided within that period and agree with the Authority a date for their provision, which date shall not be more than six (6) months after the end of the financial year to which the accounts relate.
- 11.2 The Licensee shall maintain management accounts in a manner specified by the Authority.

12. Provision of Information

- 12.1 The Licensee shall establish and maintain adequate records to permit the effective supervision and enforcement by the Authority of the Licensee's obligations under this Licence.
- 12.2 The Licensee shall furnish the Authority with records, audited financial statements, management accounts, estimates ICT indicators, reports, returns, or any other information that may be reasonably required by the Authority for the purpose of monitoring and enforcing compliance by the Licensee with its obligations under this Licence.
- 12.3 The Licensee shall submit information requested by the Authority under this clause within reasonable time and in a manner and format as specified by the Authority.
- 12.4 The Authority may inspect files, records, accounts and any other data if necessary make copies of the documents inspected for the purpose of enabling the Authority to monitor and enforce compliance with this Licence.
- 12.5 The Licensee shall bear the cost of any expenses it incurs in ensuring compliance with record keeping and provision of information.

13. Compliance

The licensee shall comply with any order or directions made by the Authority pursuant with any powers granted to it under the Act, Regulations and the Licence.

14. Technical Standards

- 14.1 In the provision of its content services, the Licensee shall comply with technical standards prescribed by the Authority from time to time.
- 14.2 The Licensee shall ensure that its content service conforms to Schedule 1.
- 14.3 The technical equipment used by the Licensee shall at all times satisfy the requirements of the Authority. Such equipment shall be maintained in a technically sound condition and shall not cause harmful interference to the efficient working, maintenance or use of any other lawful communication services.
- 14.4 The transmitting station or stations of the Licensee shall at all times be operated and maintained by suitably qualified, experienced and competent personnel.
- 14.5 The Authority may at any time conduct such independent tests as it may consider necessary, on any of the Licensee's technical equipment. To this end, and if necessary, the Authority may require the Licensee to switch off certain equipment and cease broadcasts for such reasonable period as the Authority may need to conduct such tests.

15. Type Approval

- 15.1 Subject to applicable Regulations, the Licensee shall submit to the Authority for type approval any content service equipment to be used for connection or access to the network services licensee prior to its installation.
- 15.2 Any submissions made to the Authority by the Licensee pursuant to this clause shall be made in the form and manner specified by the Authority.
- 15.3 The Licensee shall from time to time consult with the Authority on arrangements for testing and type approval of its content service equipment.

16. Access to Network Service Operators

- 16.1 The Licensee shall enter into agreement with Network Service Operators for access to its network services for the provision of services under this licence.
- 16.2 The Licensee shall notify the Authority of any Network Services Access Agreement it has entered into and file a copy of the agreement with the Authority within fifteen (15) days from the conclusion of the Agreement.
- 16.3 Where a dispute arises between any parties to the agreement under clause 16.1, either party may request the Authority to make a determination.
- 16.4 The Authority shall make a determination or resolution on a dispute submitted to it 16.3 within sixty (60) days from the date of submission.

17. Consumer Protection

- 17.1 The Licensee shall ensure that Consumer Rights applicable to content services consumers are respected in the provision of services under this Licence.
- 17.2 The Licensee shall comply with any Consumer Protection Regulations made under the Act.
- 17.3 The Licensee shall provide clear and understandable information to consumers.

- 17.4 The licensee shall notify consumers about the availability of complaint procedures and they have in place systems for registering and handling complaints.
- 17.5 Where applicable, the Licensee shall submit to the Authority for approval Master Customer Contract with Service Level Agreements (SLA) containing the standard terms and conditions for the provision of services under this Licence.
- 17.6 The Master Customer Contract stipulated in clause 17.5 shall include:
- (a) consumer rights
 - (b) the services offered and covered by the terms of the agreement;
 - (c) the conditions referring to suspension or interruption of the service in case of non-payment by the customer;
 - (d) the compensation or refund arrangements for the consumers which apply if the agreed service levels are not met and, if none are applicable, a statement to that effect;
 - (e) information on service quality levels offered;
 - (f) procedure for settling disputes with consumers as approved by the Authority; and
 - (g) any other reasonable condition deemed necessary by the Authority.
- 17.7 In exercising its powers under clause 17.5 the Authority may direct the Licensee to amend or alter any term or condition of the Master Customer Contract to ensure compliance with the Act or any Regulations made there under.
- 17.8 The licensee shall honor all terms and conditions under its Master Customer Contract.
- 17.9 Where a dispute arises between a consumer and the Licensee on the interpretation of a service agreement that had not been submitted to the Authority for approval prior to the dispute or complaint and the dispute is submitted to the Authority for resolution, the decision of the Authority shall prevail over the provisions in the service agreement.
- 17.10 The Licensee shall make available to the public any approved Master Customer Contract in any of the following ways:
- (a) filing a copy with the Authority;
 - (b) making copies available during regular business hours at its principal offices and any branch offices open to the public;
 - (c) by posting a copy on its website; or
 - (d) Any other mode specified by the Authority.
- 17.11 Where applicable, the licensee shall establish and maintain a call centre at all times and Customer Care Centre during working hours.
- 17.12 The Licensee shall submit to the Authority every quarter or as directed by the Authority a report summarising the number of complaints received from its customers, the nature of the complaint and the steps taken by the Licensee to address those complaints. The report shall be in a manner and format as specified by the Authority
- 17.13 The Licensee shall provide services under this Licence to the public generally without discrimination.
- 17.14 Where applicable, the Licensee shall ensure that it offers affordable basic packages for its services to the average local Malawian.
- 18. Notifications to Customers**
- 18.1 Where applicable and subject to applicable Regulations, the Licensee shall give its customers three (3) days notice prior to effecting any changes in its tariffs and seven (7) days notice prior to carrying out planned service outages.
- 18.2 A licensee shall immediately and without delay notify its customers of any problems affecting thirty (30) percent of the national service area.
- 18.3 The notices to customers under this clause shall be published in the following manner:
- (a) media; or
 - (b) any other mode deemed necessary by the Authority.
- 19. Anti-Competitive Conduct, Unfair Competition and Discrimination**
- 19.1 The Licensee shall not engage in anti-competitive conduct which in the view of the Authority inhibits or impedes fair competition including exploiting a position of dominance such as to unreasonably gain an advantage which impedes, limits, restricts or distorts fair competition.

- 19.2 The Licensee, on his own or through others, shall not engage in any practice which unfairly restrict or is likely to restrict competition in the industry or which deters or restricts or is likely to deter or restrict new entrants into the market .
- 19.3 The Licensee shall provide the services to any individual in Malawi including consumers located in the rural and under- served areas without discrimination.
- 19.4 The Licensee shall not enter into any contract with, merge with or acquire any other entity with the intention or effect of preventing, restricting or distorting competition in the provision of content services.
- 19.5 The Licensee shall comply with any other laws and Regulations which relate to fair trading or competitive behavior.
- 19.6 Where the Authority is satisfied that there are reasonable grounds to believe that the Licensee is, alone or in concert with others, engaged in anti-competitive practices to the disadvantage of users of the Services contrary to the Act and any applicable law, it shall make a determination and impose any applicable regulatory sanctions under this licence.
- 19.7 In making a determination on anti-competitive practices under clause 19.6, the Authority shall consult the Competition and Fair Trading Commission established under the Competition and Fair Trading Act.

20. Monitoring

The Authority shall monitor and enforce compliance by the Licensee with its obligations under the Act, any applicable Regulations and this Licence.

21. Syndicates And Re-Broadcasts

21.1 The Licensee shall not syndicate, relay or re-broadcast any programme material from any other source or station without the prior written authorization of the Authority.

22. Live Broadcasts

22.1 The Licensee may broadcast live any programme or event provided that such broadcasts are in compliance with the Licence conditions, the Act and any regulations made there under.

22.2 The licensee shall not conduct any live broadcasts without the aid of a Delay Machine.

22.3 The Authority shall restrict live broadcasts if it is in the public interest to do so.

22.4 The Authority shall restrict the Licensee from live broadcasts if the Licensee broadcasts hate speech whether live or recorded.

23. Entertainment

The Licensee shall provide entertainment programmes that meet the needs of its target audiences.

24. Public Announcements and Service

24.1 Notwithstanding the Government standing procedures, the Licensee shall, when requested in writing by the Inspector-General of Police, or the Minister responsible for Disaster Preparedness or Office of the President and Cabinet, without charge, broadcast any reasonable and lawful information of immediate or impending grave danger or disaster.

24.2 The Licensee shall, when requested by the Authority, without charge broadcast the information in sub-clause 24.1 and such other information and particulars at such intervals as the Authority may require.

25. Records of Broadcast Programmes

25.1 The Licensee shall keep a record of all broadcast programmes, in a form determined by the Authority from time to time and notified to the Licensee, and in an unedited version.

25.2 The records contemplated in sub-clause 25.1 shall be kept and maintained for a period of not less than forty-five (45) days.

25.3 The Authority reserves the right to request the Licensee to produce any such record or records for any lawful purpose. Provided that this right shall not extend to disclosure of journalistic sources.

26. Editorial and Programme Policy

The Licensee shall develop an Editorial Policy in line with this Licence, the Communications Act and the Laws of Malawi and shall submit it to the Authority within 6 months from the Effective Date.

27. Election Coverage

27.1 During any proclaimed election period, the Licensee shall neither be obliged nor be obligated to cover political

parties, election candidates or political party electoral issues;

27.2 Notwithstanding the foregoing, if the Licensee opts to cover electoral issues, it shall ensure that all political parties, election candidates and electoral issues are treated equitably.

27.3 In the event that the Licensee opts to proceed as envisaged in clause 27.2 above, it shall ensure that it abides by Schedule 2 hereto.

28. Public Complaints

28.1 The Licensee shall, within six (6 months) of the Effective Date or such extended period as the Authority may allow, submit to the Authority for approval its public complaints handling procedures.

28.2 The Licensee shall designate a person or persons of sufficient seniority and competence to deal with any complaints concerning the Licensee's public sound or television broadcasts from any source whatsoever.

28.3 The Licensee shall ensure that the Authority is informed in writing of the name or names of such person or persons within the period stipulated in sub-clause 28.1.

28.4 The Licensee shall, at least once a day during Peak Hours, broadcast information to the public on how to lodge complaints about its programming. Such broadcasts shall include a notice that members of the public have a right to complain directly to the Authority.

28.5 The Licensee shall comply with the Authority's complaint handling and adjudication procedures.

28.6 The Licensee shall, within sixty (60) days after the end of the each Licence Year submit to the Authority, a written report on all complaints received and how they were addressed by the Licensee.

29. Contracts With Other Broadcasters

29.1 Subject to Clause section 21.1 hereof and any applicable laws and regulations, the Licensee may enter into contracts with any foreign broadcasters in relation to the provision of programme material or the re-broadcast of foreign-sourced programme material. Provided that any such contracts shall be subject to prior consultation with the Authority.

29.2 The Licensee shall not enter into any contracts with any person or entity, involving the change to the assignment or allocation of broadcasting frequencies.

30. Local Empowerment

30.1 The Licensee shall ensure that at least 50% of its executive management are Malawian nationals and that it shall not employ more than five percent (5%) of foreign nationals for the rest of its staff.

30.2 The Licensee shall, during the term of licence, take measures to ensure participation in its management structure by local indigenous Malawians.

31. Spectrum Obligations

31.1 The Licensee shall not use any frequency without prior assignment by the Authority.

31.2 To this end, the Licensee shall apply for radio licences for individual base stations within its network in the manner and form as specified by the Authority and the Authority shall respond within 14 days from the application date.

31.3 The Licensee shall only use an assigned frequency after the grant of a valid radio Licence covering that frequency and in accordance with the terms of the radio Licence.

31.4 The Authority may assign or re-farm frequencies assigned to the Licensee as required to meet the growth in demand for the Service in accordance with the Act, applicable regulations and the National Frequency Band Plan.

31.5 The Authority reserves the right to make any re-arrangement in the assignment within the band for maintaining the continuity of spectrum allocated or assigned if required in the future and the Licensee shall ensure that its equipment shall have provision to readjust according to such re-arrangement.

31.6 The Authority will make the rearrangement stipulated under clause 31.5 for any of the following reasons:

(a) to create a level – playing field for all operators;

(b) to achieve overall objectives of the Authority under the Act and any other relevant Regulations made thereunder;
or

(c) to comply with international best practices.

31.7 The Licensee shall ensure that transmission is restricted as per ITU Radio Regulations to avoid harmful interference within its assigned frequency band.

32. Regulatory Sanctions

Notwithstanding any criminal sanctions under the Act, the Authority reserves the right to impose regulatory sanctions for breaches of licence conditions including:

- (a) issuing of warnings;
- (b) directing the licensee to take appropriate remedial steps by issuing a compliance order;
- (c) directing the licensee to desist from non-compliance by issuing a cease and desist order;
- (d) imposing a fine proportional to the effects of the non-compliance;
- (e) revocation of the licence; or
- (f) other penalties deemed necessary by the Authority.

33. Revocation of Licence

33.1 The Authority may revoke the Licence on any of the following grounds:

- (a) if the Licensee is in substantial or continuing breach of any of the terms and conditions of this licence including:
 - (i) failure to achieve the Technical or Service Standards;
 - (ii) failure to provide performance guarantee;
 - (iii) hiding or providing false information regarding the information necessary to the Authority;
 - (iv) failure to comply with lawful orders issued by the Authority pursuant to powers under this Licence;
 - (v) conducting in unfair commercial trade practices;
 - (vi) failure to pay outstanding License fees for over a period of twelve (12) months from the Effective Date or anniversary of the Effective Date; or
 - (vii) any other substantial breach of the licence.
- (b) if the Licensee has been declared insolvent; or
- (b) if the Licensee agrees in writing to cancel the Licence.

33.2 Before taking any action to impose a punishment on the Licensee under the Licence, the Authority shall follow the procedure set out below:

- (a) the Authority shall notify the Licensee of the alleged breach in writing;
- (b) the Authority shall allow the Licensee not less than seven (7) days from the date of notification in accordance with sub clause (a) above to remedy the breach or to show cause why it should not be punished; provided, however, that the Licensee may request additional time, not exceeding thirty (30) days, to remedy the breach and such request shall not be unreasonably denied by the Authority;
- (c) having taken into account the licensee's representations, the nature, gravity and consequences of the breach, the Authority may take any action that it considers appropriate including revoking the licence.

34. Licence Amendment

34.1 The Authority may modify or amend any term or condition of the License including these General Terms and Conditions if it is:

- (a) in the public interest to do so;
- (b) necessary to take into account developments in the industry; or
- (c) for any other reason deemed necessary by the Authority.

34.2 Before amending any provision of the Licence, the Authority shall –

- (a) give the Licensee not less than seven (7) days' notice and publish a notice in the Gazette stating the amendment that it proposes to make and the reasons for it, and shall give any Licensee or any person with an interest an opportunity to make representations concerning the proposed amendment; and
- (b) give due consideration to any representations made by the Licensee or any person.

34.3 The Licensee may submit a response to the proposed amendment within thirty (30) days of the notice.

34.4 If the Licensee does not respond within the thirty (30) day period under clause 34.3 the amendment shall take effect

on the thirtieth (30th) day after the date of notice.

34.5 If the Authority receives a response from the Licensee, it shall consider the response and notify the Licensee within thirty (30) days of the reply of its decision to either:

- (a) rescind the amendment;
- (b) modify the amendment; or
- (c) proceed with the proposed amendment in which case the amendment shall take effect on the fifteenth (15th) day after the date of the Authority's second notice.

34.6 Notwithstanding clause 34.1, the Licensee may apply for an amendment of its licence.

34.7 Where the Licensee applies for amendment of its Licence, the Licensee shall ensure that its application for amendment is accompanied by payment of a non-refundable amendment fee as the Authority may determine from time to time.

34.8 The Licensee shall comply with all new terms and conditions issued by the Authority.

35. **Impact of Revocation of Licence**

35.1 The revocation of the Licence for any reason shall not prejudice any other legal rights or remedies of the Authority conferred by the Act or any other law for the time being in force or by this licence.

35.2 The revocation of the Licence shall not relieve the Licensee from any obligations accrued and due under any law or this licence.

36. **Exercise of Powers**

In exercising any powers granted to the Authority in terms of this licence, the Authority shall:

- (a) act reasonably having regard to all surrounding circumstances;
- (b) prior to exercising any power, afford the Licensee reasonable opportunity to make representations to the Authority in respect of all relevant issues; and
- (c) at the request of the Licensee, furnish written reasons for any decision made.

37. **Force Majeure**

37.1 Any failure by the Licensee to comply with any obligation, term or condition of the Licence shall be exempted to the extent that it is caused by an event beyond the control of the Licensee, including extreme weather conditions, fire, war or civil strife.

37.2 The Licensee shall use reasonable endeavors to minimize the impact on its operations of any event of this nature and to remedy, if possible, the failure.

37.3 The Licensee shall keep the Authority informed of any problems which may be encountered, their consequences on its operations and the steps it is taking to address them.

38. **Intellectual Property Rights (IPR)**

The licensee shall not violate any Intellectual Property Rights of any person, and shall be held responsible for any violation of these rights under the relevant laws in Malawi.

39. **Corporate Social Responsibility (CSR)**

The licensee shall endeavor to carry out corporate social responsibility as part of its obligations under the Licence.

40. **Liability**

The licensee shall indemnify the Authority against any losses, claims, charges or expenses, actions, damages or demands which may be made against the Authority by third parties as a result of or in relation to the activities of the Licensee, its service providers, servants, or agents in connection with the provision of content services.

41. **Performance Assessment**

The Authority shall in the second (2nd) and fourth (4th) years of this Licence review the performance of the Licensee against the terms and conditions of the Licence

42. **Renewal**

42.1 This Licence may be renewed for such number of years as may be determined by the Authority at the expiry of its term provided the Licensee is in compliance in all material respects with its licence provisions.

42.2 In deciding whether to renew the licence the Authority shall take into account the following;

- (a) the satisfactory performance by the Licensee of its obligations under the Licence
- (b) consumers' satisfaction with the performance of the Licensee during the term of the licence
- (c) any other factor deemed necessary by the Authority

42.3 The Licensee shall apply for renewal in writing not later than twelve (12) calendar months before the expiration of the term of its Licence.

42.4 On renewal, the Authority may amend the provisions of this Licence as necessary to take into account any changes in the industry or address any challenges experienced by the Authority and the Licensee.

42.5 The Authority shall renew the licence subject to payment of applicable renewal fees and any outstanding fees.

43. **Dispute Resolution**

43.1 Any dispute arising out of or in relation to the Licence, shall if not settled amicably on the written request of either party be referred to arbitration in accordance with the Arbitration Act and the seat of arbitration shall be Blantyre, Malawi.

43.2 This clause shall not preclude the parties from seeking provisional remedies in aid of arbitration from a court of competent jurisdiction.

44. **Miscellaneous**

44.1 The Licensee shall comply with all terms and conditions of this Licence, applicable laws and Regulations issued by the Authority from time to time.

44.2 The Authority or any Government department shall not be liable for any loss, damage, claim, charge or expense which may be incurred as a result of or in relation to the activities of the Licensee, its employees, agents, or authorized representatives.

44.3 Unless otherwise agreed by the parties, all correspondences from the Authority shall be in writing and shall be sent to the Licensee's principal place of business.

44.4 Any correspondence issued by the Authority marked as private and confidential, shall remain private and confidential and the Licensee shall not disclose the same without prior consent of the Authority.

44.5 Nothing in the provisions of this Licence shall be deemed to have been waived by any act of or acquiescence on the part of the Authority, unless the same is issued in writing by the Authority.

44.6 A waiver of any provision of the licence shall not be construed as a waiver of any other provision or the same provision on another occasion.

43. **Applicable law**

The Licence and its performance shall be subject to any other applicable Laws of land.

Dated the _____ day of _____ 2021

STANLEY C. KHAILA
Chairperson

HENRY SILIKA
Acting Director General

Schedule 1 - Equipment Standards
INDOOR INSPECTION

Clause 14.2

i. ITEM	STANDARD REQUIREMENTS
1. EQUIPMENT TECHNICAL INFORMATION	Provision of Installation and Service manuals at the site Should be in English, legible and comprehensible Should contain Details of the equipment
2. ROOM SPACE	Passages and working space Rack clearance from ceiling and walls: 0.5m
3. CABLING	Cable labeling Tray and trunk fixtures DDF layout, labelling ,and neatness Use of correct color coding for power cables Cable entrance Provision
4. MAINTENANCE TRACK RECORD	Log book to be provided on site. It should contain: Date Activity Name and signature of officer Comments
5. ROOM ILLUMINATION	Ability to see during maintenance: Standard room (3m by 3m by 4m) should have a 40 watt 4ft fluorescent lamp
6. POWER SOURCE	Mains specification to be provided: Voltage (AC/DC) Circuit breakers to labeled Minimum gen set power requirements to be specified
7. EQUIPMENT IDENTIFICATION	Operator Name Location Direction of link Frequency Make of equipment Power ratings
8. ROOM CONDITIONS	Cleanliness Painting Leakage due to rain Room should have thermometer. Temperature should not exceed 20 degrees C(68 degrees F) Room security: Locks etc
9. SAFETY EQUIPMENT	Fire extinguishers Bucket of sand Detectors (Smoke , Temperature Sensors, Humidity, Infrared) First aid kit
10. MONITORING/SUPERVISORY TOOLS	Voltage Current Fault alarm Temperature
11. RECEIVER/TRANSMITTER/REPEATER PARAMETERS	Output power

Schedule 2**Clause 27.3****BROADCASTING CODE OF CONDUCT ON ELECTION COVERAGE**

Licensee :

Station Name :

1. Interpretation

Every person interpreting or applying this schedule shall do so in a manner that is consistent with and, gives effect to and takes into account the provisions of the Constitution, the electoral laws, the Communications Act and the provisions of this schedule.

2. Definitions

In this schedule, provision has been made for a separate list of definitions that may be constantly referred to during election coverage. Any word or expression to which a meaning has been assigned for in the Constitution, Act and Electoral Laws shall bear such meaning unless the context indicates otherwise.

“**The Authority**” means the Malawi Communications Regulatory Authority established under section 3 of the Communications Act, 1998.

“**The Commission**” means the Malawi Electoral Commission established by section 75 of the Constitution.

“**Election Period**” means the period running from the nomination date of candidates to 48 hours before polling date. This definition shall apply mutatis mutandis to “Campaign Period”

“**Elections**” means any general election, by-election, local government election and referendum.

“**Electoral Commission Act**” means the Electoral Commission Act, 1998.

“**Electoral Laws**” means the laws governing the conduct of elections in Malawi that is, the Parliamentary and Presidential Elections Act and the Local Government Elections Act.

“**Party**” means a political party registered in terms of the Political Parties (Registration and Regulation) Act and, by extension, any independent candidate duly nominated and registered for any elections.

“**Party Election Broadcast**” means a direct address or message broadcast free of charge on a broadcaster under an arrangement, if any, with either the Commission or the Authority which is intended or calculated to advance the interests of a political party. Provided that the Licensee shall neither be obliged nor be obligated to enter into such arrangement(s).

“**Political advertisement**” means an advertisement broadcast on a broadcasting station that is intended or calculated to advance the interests of any political party, for which advertisement a broadcaster has received or is to receive, directly or indirectly, any money or other consideration.

“**Polling day**” means any day appointed either by the State President or the Commission or any other lawful authority, as applicable, in terms of sections 89(1)(i) and 196(1)(a) of the Constitution, sections 36(1)(c) and 48 (1) (b) of the Parliamentary and Presidential Elections Act and Section 28 of the Local Government Elections Act for the holding of a poll.

3. General provisions in respect of political advertisement or a party election broadcasts.

3.1 Any party that wishes to have a political advertisement or a party election broadcast transmitted by a broadcaster shall submit that political advertisement or party broadcast to, pre-recorded and presented thereto 48 hours before transmission-

(a) in a form and manner that complies with a broadcaster’s technical, editorial and programme standards as approved by the Authority; and

(b) in completed form, ready for broadcast.

3.2 Every political advertisement or party election broadcast submitted by a party to a broadcaster for transmission shall be prepared by or at the instance or request of, that party.

3.3 A broadcaster shall be entitled to reject and refuse to transmit any political advertisement or party election broadcast if it does not comply with its technical standards or editorial and programme policies, the Constitution, the Electoral Laws, the Act or this schedule.

3.4 A broadcaster shall not in any way alter any political advertisement or party election broadcast, whether before or after transmission.

3.5 A broadcaster upon rejection or refusal of any political advertisement or party election broadcast submitted to it by a party for transmission shall, within 48 hours of such rejection or refusal, as the case may be, furnish the party with written reasons for such rejection or refusal, whichever applies, and that party shall be entitled to alter or edit the political advertisement or party election broadcast and re-submit it to a broadcaster at least 48 hours before the intended time for its transmission.

3.6 Any party whose party election broadcast has been rejected or refused by the broadcaster TV shall have the right to refer the matter to the Authority.

- 3.7 A party that submits a political advertisement or party election broadcast to the broadcaster for transmission shall ensure that the political advertisement or party election broadcast does not:
- (a) contravene the provisions of the Constitution, the Electoral Laws, the Communications Act and any other applicable laws in addition to this Schedule;
 - (b) contain any material that is calculated, or that, in the ordinary course of things, is likely to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act.
- 3.8 Neither a party that submits a political advertisement or a party election broadcast to a broadcaster for transmission, nor any member or official of any such party, shall have any claim against the broadcaster arising from the transmission by it of that political advertisement or party election broadcast.
- 3.9 A broadcaster shall ensure that every party that submits a political advertisement or a party election broadcast to it for transmission shall have indemnified a broadcaster in respect of any claim that a third party may bring against it arising from the transmission of that political advertisement or party election broadcast.
- 3.10 At the end of the campaign period, the broadcaster shall provide detailed information about the electoral process up to the close of the poll and to offer a comprehensive election results at the earliest possible opportunity.

4. Specific provisions in respect of Party Election Broadcasts

4.1 A broadcaster shall:

- (a) make available, on daily basis throughout the election broadcast period time-slots of two (2) minutes each for the transmission of election broadcasts and shall do so in accordance with the sequence and timing prescribed by the Commission or the Authority in terms of clause 6 of this schedule. Provided that the Commission or the Authority shall be entitled to prescribe an increased number of daily time-slots for the transmission of election broadcasts;
- (b) ensure that all party election broadcasts transmitted by it are clearly identified as party election broadcasts.
- (c) ensure that all party election broadcasts transmitted by it are identified or announced in a similar manner both at their introduction and at their conclusion.

4.2 Party election broadcasts transmitted by a broadcaster shall be allocated equitable time duration not exceeding two minutes each.

4.3 A broadcaster shall not transmit a party election broadcast immediately before or after another party election broadcast or immediately before or after a political advertisement.

4.4 No party shall be obliged to use the air time allocated to it in terms of this Schedule for the transmission of party election broadcasts provided that:

- (a) any air-time allocated to it but not used by the party shall be forfeited;
- (b) if any party does not wish to use any air time allocated to it, such air time shall not be allocated to another party but shall be used by a bro for the purpose of transmitting conventional programming or material.

5. Live Broadcasts

5.1 A broadcaster may provide live broadcasts of those events where the incumbent President is acting purely in his or her capacity as Head of State and any other candidate, presidential or otherwise inclusive of the incumbent state president, as applicable, on terms mutually agreeable between the said candidate and a broadcaster.

5.2 Broadcasts of the incumbent president pursuant to clause 5.1 hereinbefore require no balancing by the media. Provided that where presidential and other candidates' broadcasts carry campaign message(s), a broadcaster shall take steps to balance these messages with appropriate coverage of the campaigns of other candidates.

5.3 Balanced coverage shall also apply to any broadcast by a Minister (or government official) speaking in an official capacity that contains a clear campaign message on behalf of his or her political party.

5.4 In the event of live broadcast unofficial results, the station shall identify them as such at the beginning and the end of the report and also inform the public that the official and final results shall be declared by the Commission.

5.5 The Station shall not start broadcasting unofficial results until the last polling station in the election has closed. In the event that polling spills over to the next day, the station shall have to wait until that centre closes.

6. Allocation of air-time in respect of party election broadcasts.

6.1 Air-time in respect of party election broadcasts, if any, shall be allocated by either the Commission or the Authority to the various parties contesting the Parliamentary and Presidential elections, Local Government Elections referenda and any other elections.

- 6.2 Party election broadcasts shall be recorded at professional studios and a broadcaster shall reserve the right to assess the technical, editorial and programme quality of such recorded material. A broadcaster shall not broadcast any material that fail to meet its required technical, editorial and programme standards.
- 6.3 Complete party election broadcasts ready for transmission shall be handed over to a broadcaster on completion. A broadcaster shall retain the final transmission copies thereof for evidence in case of any subsequent complaint.
- 6.4 Upon completion of nominations of electoral candidates, the Commission and the Authority in collaboration with a broadcaster shall determine the sequence in which party election broadcasts are to be transmitted throughout the entire election broadcast period.
- 7. Equitable treatment of political parties by the broadcasting licensee during election period.**
- 7.1 During the official campaign period, broadcaster shall afford reasonable opportunity for the discussion of conflicting views and shall treat all political parties equitably and fairly.
- 7.2 In the event of any criticism against a political party being levelled in a particular programme without such party being afforded an opportunity to respond thereto in such programme or without the view of such political party being reflected therein, a broadcaster shall be obliged to afford such political party a reasonable opportunity to respond thereto. Provided that if such criticism is broadcast within 48 hours to the polling day, the said response shall also be broadcast within the same 48 hours to the polling day.
- 7.3 A broadcaster shall transmit news or current affairs programming on elections in an impartial and objective manner.
- 8. Complaints**
- 8.1 A Broadcasting Monitoring and Complaints Committee is hereby established and mandated to receive and investigate complaints about the Licensee from the public and any interested stakeholder(s) during elections.
- 8.2 The Broadcasting Monitoring and Complaints Committee shall be composed of the Director General of the Authority, the Chairperson of the Media, Civic and Voter Education Committee from the Commission and the Chairperson of the Malawi Law Society.
- 8.3 The Broadcasting Monitoring and Complaints Committee shall determine its rules and procedures.