

# Schedule of Fees for the Telecommunications Sector

## Chapter I. Preliminary

### Section 1. Authority

- (1) This Schedule of Fees is promulgated by the Authority pursuant to the powers granted by Section 336 of Title 21 of the Code of the Federated States of Micronesia.

### Section 2. Title

- (1) These rules shall be cited as the “Schedule of Fees for the Telecommunications Sector, 2019.”

### Section 3. Definitions

- (1) Any word, phrase or expression used in these rules shall, unless the context requires otherwise or it is expressly defined herein, have the same meaning as it has in Title 21 of the Code of the Federated States of Micronesia.
- (2) Headings and titles used in these rules are for reference only and shall not affect their interpretation or construction.
- (3) References to a word or phrase in the singular encompass references to words or phrases in the plural, and vice versa.
- (4) The terms listed below shall have the following meanings:
  - (a) “Authority” means Office of the Telecommunication Regulation Authority of the Federated States of Micronesia, or its successors;
  - (b) “Class License” means an Operating License granted in accordance with Chapter IV the Telecommunications Operating License Rules for the Federated States of Micronesia, 2019;
  - (c) “Class Licensee” means a Person who holds a Class License;
  - (d) “Code” means the Title 21 of the Code of the Federated States of Micronesia, as amended by Public Law No. 18-52;
  - (e) “Fiscal Year” means the 12-month period ending September 30 in accordance with accounting and audit schedules of the Office of the National Public Auditor of the Federated States of Micronesia;
  - (f) “FSM” means the Federated States of Micronesia;
  - (g) “FSMTC” means the Telecommunications Corporation of the Federated States of Micronesia, a public corporation established under the Code;
  - (h) “FSMTCC” means the FSM Telecommunications Cable Corporation, an Open Access Entity established under the Code;
  - (i) “Gross Revenue” means the operating revenues accrued during a Fiscal Year from the provision of Communications Services by a Licensee and from Interconnection and Access. Gross Revenue in accordance with the Code does not include:

- (i) operating grants and contributions which a Licensee may receive from the Government of the FSM, or another institution;
- (ii) revenues from the provision of services not subject to licensing under the Code; or
- (iii) revenues from the sale, lease or distribution of Customer Equipment.
- (j) “Individual License” means an Operating License granted in accordance with Chapter III with the Telecommunications Operating License Rules for the Federated States of Micronesia, 2019;
- (k) “Individual Licensee” means a Person who holds an Individual License;
- (l) “Licensee” means a holder of an Individual License or a Class License;
- (m) “Operating License” means either an Individual License or a Class License;
- (n) “Person” includes a public authority and any association of persons, whether incorporated or not;
- (o) “Frequency License” means a license authorizing the use of specific spectrum blocks or particular frequencies within the radio frequency spectrum for the provision of communications services in FSM as established in the relevant rules issued by the Authority under Section 333 of the Code;
- (p) “Frequency Licensee” means a Person who holds a Frequency License;
- (q) “Station License” means a license authorizing the deployment of a specific transmitting station in FSM as established in the relevant rules issued by the Authority under Section 333 of the Code;
- (r) “Station Licensee” means a Person who holds a Station License.
- (s) “USD” means Dollars of the United States of America

#### **Section 4. General principles for setting fees by the Authority**

- (1) The fees set forth in these rules have been determined in accordance with the general principles established in Section 336 (2) of the Code.

### **Chapter II. Fees Applicable to Individual Licenses and Class Licenses**

#### **Section 5. License application fees**

- (1) A Person requesting:
  - (a) the grant of an Individual License, or
  - (b) the registration as a Class License,shall pay the application fee specified in Schedule 1 prior to filing the license application or registration.
- (2) The Authority shall not process an application for the grant of an Individual License or for the registration of a Class License if the applicant fails to demonstrate in the manner prescribed by the Authority that the relevant application fee has been paid.
- (3) The application fee is not refundable.

### **Section 6. License renewal fees**

- (1) A Person requesting the renewal of:
  - (a) an Individual License, or
  - (b) a Class License,shall pay the renewal fee specified in Schedule 1 prior to filing of the renewal application.
- (2) The Authority shall not process an application for renewal of an Individual License or a Class License if the Licensee fails to demonstrate in the manner prescribed by the Authority that the relevant application fee has been paid.
- (3) The renewal fee is not refundable.

### **Section 7. Annual fee payable by Individual Licensees**

- (1) Individual Licensees shall pay to the Authority:
  - (a) an annual license fee as specified in Schedule 1;
  - (b) based on a percentage of the Licensee's Gross Revenues for the previous Fiscal Year.
- (2) Individual Licensees shall pay the annual fee in the manner prescribed in Chapter IV.

### **Section 8. Annual fee payable by Class Licensees**

- (1) Class Licensees shall pay an annual license fee to the Authority in the form of a fixed sum as specified in Schedule 1.
- (2) Class Licensees shall pay the annual fee in the manner prescribed in Chapter IV.

### **Section 9. Power to waive fees**

- (1) The Authority may waive application and renewal fees for Individual Licenses and Class Licenses for applicants that intend to deploy a Community Network.

## **Chapter III. Fees applicable to Frequency Licenses and Station Licenses**

### **Section 10. Application fee for Station Licenses**

- (1) A Person applying for a Station License shall pay the application fee for the specific type of Station License as specified in Schedule 1.
- (2) The Authority shall not process an application for a Station License if the applicant fails to demonstrate in the manner prescribed by the Authority that the relevant application fee has been paid.
- (3) The application fee is not refundable.

### **Section 11. Application fee for Frequency License**

- (1) A Person applying for a Frequency License shall pay the application fee as specified in Schedule 1.

- (2) The Authority shall not process an application for a Frequency License if the applicant fails to demonstrate, in the manner prescribed by the Authority, that the relevant application fee has been paid.
- (3) The application fee is not refundable.
- (4) A Person applying for a Frequency License being awarded in a competitive tender process shall pay:
  - (a) the application fee specified by the Authority for that competitive tender, if any;
  - (b) in the manner prescribed by the Authority in the relevant tender documents.

#### **Section 12. Renewal fee for Station Licenses and Frequency Licenses**

- (1) Renewal of Station Licenses and Frequency Licenses shall accrue a renewal fee as specified in Schedule 1.
- (2) The Authority may refuse to process a renewal application for a Station License or a Frequency License if the relevant renewal fee has not been paid.

#### **Section 13. Annual fee for Frequency Licenses**

- (1) The holder of a Frequency License shall pay annual fees as specified in Schedule 1 for each year of the Frequency License term.
- (2) Frequency Licensees shall pay the annual fee
  - (a) for the first year of the license term in one installment within 10 days upon grant of the license;
  - (b) for every subsequent year of the license term, in one installment on the fee payment date set forth in the Frequency License.
- (3) Should a Frequency Licensee not pay the annual fee owed to the Authority in full within fifteen (15) calendar days from the day specified in subsection (2), the Authority shall within five (5) working days direct the Frequency Licensee to:
  - (a) pay any outstanding amount of the annual fee owed to the Authority; and
  - (b) pay the applicable late payment fee calculated in accordance with Section 18.

#### **Section 14. Power to waive fees**

- (1) The Authority may waive application and renewal fees for Frequency Licenses and Station Licenses for applicants that intend to use such licenses to deploy a Community Network.

### **Chapter IV. Payment Provisions for Individual Licensees and Class Licensees**

#### **Section 15. Reporting obligations for Individual Licensees and Class Licensees**

- (1) Licensees shall submit to the Authority quarterly reports specifying the Gross Revenues accrued by the Licensee in the quarter being reported as follows:
  - (a) the first quarter report for the period from October 1 to December 31, shall be submitted by January 31;
  - (b) the second quarter report for the period from January 1 to March 31, shall be submitted by April 30;

- (c) the third quarter report for the period from April 1 to June 30, shall be submitted by July 31; and
  - (d) the fourth quarter report for the period from July 1 to September 30, shall be submitted by October 31.
- (2) Licensees shall submit to the Authority an annual report specifying the Gross Revenues accrued by the Licensees in the previous Fiscal Year by November 30 of every year.
  - (3) Licensees may file an amended quarterly report to address clerical errors or other errors or omissions within thirty (30) days of the filing date referred to in subsection (1).
  - (4) Notwithstanding the reporting requirements set forth in subsections (1) and (2), Licensee shall submit audited financial statements to the Authority for every Fiscal Year no later than six (6) months after the end of the Fiscal Year, provided the Licensee earned over USD 1,000,000 in Gross Revenues during that Fiscal Year.
  - (5) Licensees shall implement transparent accounting methods to ensure they are able to accurately report Gross Revenues in accordance with the Code and these rules.

#### **Section 16. Payment of annual fees by Individual Licensees and Class Licensees**

- (1) Licensees shall pay the annual fee in two installments as follows:
  - (a) an initial installment payable by October 15 of every year based on:
    - (iv) the combined Gross Revenues reported by the Licensee for the first quarter and second quarter of the preceding Fiscal Year; and
    - (v) the applicable fee set forth in Schedule 1.
  - (b) a supplementary installment payable by December 15 corresponding to the outstanding amount of annual fees owed to the Authority based on:
    - (i) the total Gross Revenues reported by the Licensee for the preceding Fiscal Year; and
    - (ii) the applicable fee set forth in Schedule 1.
  - (c) For avoidance of doubt, the supplementary installment shall be calculated by the Licensee by subtracting the amount paid in the initial installment from the total amount of the annual fee owed based on the Gross Revenues accrued by the Licensees in the entire preceding Fiscal Year.
- (2) Licensees shall pay the installments of the annual license fee owed to the Authority in the manner specified in Section 19.

#### **Section 17. Additional information**

- (1) The Authority may request by written order, and the Licensee shall provide, additional information that is reasonably necessary to verify the information reported in accordance with Section 15 (1) and (2), including, but not limited to:
  - (a) audited financial statements of Licensees with revenues below the threshold specified in Section 15 (4); or
  - (b) certifications of the truthfulness and correctness of Gross Revenue reported signed by a qualified auditor.

- (2) Licensees shall provide the additional information referred to in subsection (1) within the timeframe determined by the Authority in its order.
- (3) In the event of a material difference in the amount of Gross Revenues reported by the Licensee in accordance with Section 15 and the amount verified by the Authority pursuant to subsection (1), the Authority shall direct the Licensee to:
  - (a) submit an amended Gross Revenue report within a specified time;
  - (b) pay an additional fee installment corresponding to the difference between the annual fee effectively owed as verified by the Authority in accordance with subsection (1) and the amount of annual fee paid by the Licensee for that Fiscal Year; and
  - (c) pay the applicable late payment fee owed to the Authority in accordance with Section 18, if applicable.

#### **Section 18. Fee for late payments**

- (1) Licensees shall have a grace period of fifteen (15) calendar days from the day a fee is due to the Authority to make all required fee payments to the Authority in accordance with these rules.
- (2) Should a Licensee not pay the fee owed to the Authority in full within the grace period established in subsection (1), the Licensee shall promptly:
  - (a) pay any outstanding balance of the fee owed to the Authority; and
  - (b) pay a late payment fee according to the following formula:

$$\text{Late payment fee} = \text{Amount of fee owed} * \frac{\text{Number of days late}}{365 \text{ days}}$$

- (3) For purpose of the formula in subsection (2)(b), the “Number of days late” means the number of calendar days starting on the first day after the end of the grace period until the day the Licensee effectively pays the fee owed to the Authority in full.

#### **Section 19. Payment method**

- (1) Pursuant to Section 319 (2) of the Code, all fees and charges payable to the Authority shall be directed to a bank account nominated by the Authority.
- (2) The Authority shall make this information known to Licensees in advance of when payment is due.
- (3) Licensees shall pay fees using the prescribed forms made by the Authority from time to time.

#### **Section 20. The Authority may revise the Schedule of Fees**

- (1) In order to ensure compliance with Section 336 (3) of the Code, the Authority shall forecast the total projected annual license fees payable by all Licensees every Fiscal Year.
- (2) If the total annual license fees collected for one Fiscal Year exceeds the criteria set forth in Section 336 (3) of the Code by more than 10 percentage points, the Authority may revise the annual fees payable for the following Fiscal Year, considering the evolution of the market and the expected demand for licenses and other services offered by the Authority for a fee.
- (3) For the purpose of this section “annual license fees” include annual fees paid:

- (a) by Individual Licensees pursuant to Section 7;
- (b) by Class Licensees pursuant to Section 8; and
- (c) for Frequency Licenses pursuant to Section 13.

#### **Section 21. Monies collected in excess of the Authority's budget**

- (1) Any monies that the Authority collects from fees in excess of its approved annual budget and forecast funding needs shall be allocated in accordance with Section 319 (6) of the Code.

### **Chapter V. Transition Provisions**

#### **Section 21. Transition framework**

- (1) Within thirty (30) calendar days of the effective date of these rules, the Authority shall:
  - (a) make available prescribed forms for:
    - (i) filing the information established in Section 15 (1) and (2), and
    - (ii) making fee payments established in Section 19 (3); and
  - (b) designate an account payable for the deposit of Licensees' annual fees.
- (2) For avoidance of doubt, FSMTC and FSMTCC shall pay annual operating license fees for the Fiscal Year starting on October 1, 2018 and ending on September 30, 2019 (the 2018-19 Fiscal Year) as if they were Individual Licensees during that year, as follows:
  - (a) FSMTC and FSMTCC shall submit to the Authority by November 30, 2019 an annual report specifying the Gross Revenues accrued in the 2018-19 Fiscal Year.
  - (b) FSMTC shall pay the initial installment by October 15, 2019 calculated based on:
    - (i) the Gross Revenues reflected in its audited financial statement for the Fiscal Year starting October 1, 2017 and ending on September 30, 2018 (the 2017-18 Fiscal Year); and
    - (ii) one half of the annual fee set forth in Schedule 1 for Individual Licensees.
  - (c) FSMTC shall pay the supplementary installment by December 15, 2019 corresponding to the outstanding amount of annual fees owed to the Authority based on:
    - (i) the total Gross Revenues reported by the Licensee for the 2018-19 Fiscal Year in accordance with subsection (a); and
    - (ii) the applicable fee set forth in Schedule 1 for Individual Licensees.
  - (d) FSMTCC shall pay the initial installment by October 15, 2019 calculated based on:
    - (i) an estimate of Gross Revenues for the first quarter and second quarter of the 2018-19 Fiscal year that FSMTCC shall file with the Authority together with the fee payment; and
    - (ii) the applicable fee set forth in Schedule 1 for Individual Licensees.
  - (e) FSMTCC shall pay the supplementary installment by December 15, 2019 corresponding to the outstanding amount of annual fees owed to the Authority based on:
    - (i) the total Gross Revenues reported by the Licensee for the 2018-19 Fiscal Year in accordance with subsection (a); and

- (ii) the applicable fee set forth in Schedule 1 for Individual Licensees.
- (3) FSMTC and FSMTCC shall be exempt from application fees set forth in Schedule 1 for obtaining operating licenses pursuant to the transition process established in the Operating License Rules.

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## Schedule 1 – Fees

### Section 1. Fees expressed in USD

All fees established in this schedule are expressed in USD.

### Section 2. Application and renewal fees for Individual and Class Licenses

License Type	Application Fee	Renewal Fee
Individual License	125	100
Class License	125	100

### Section 3. Annual license fees for Individual and Class Licenses

License Type	Description	Annual Fee
Individual License	Gross revenues below USD 100,000	0
	Gross revenues equal to or higher than USD 100,000	1.25% of gross revenues
Class License	Gross revenues below USD 100,000	0
	Gross revenues between USD 100,000-300,000	2,500
	Gross revenues between USD 300,000.01-600,000	5,625
	Gross revenues between USD 600,000.01-1,000,000	10,000
	Gross revenues between USD 1,000,000.01-3,000,000	25,000
	Gross revenues between USD 3,000,000.01-5,000,000	50,000
	Gross revenues between USD 5,000,000.01-7,500,000	78,125
	Gross revenues between USD 7,500,000.01-10,000,000	109,375
	Gross revenues higher than USD 10,000,000	151,875

#### Section 4. Schedule 2 – Fees applicable to Station Licenses

License Type	Application Fee	Renewal Fee
Aeronautical Station license (aircraft)	20	15
Amateur license	20	15
HF-MF Fixed and mobile stations	20	15
Ship Station License	20	15
Satellite Earth Station License	65	50
Other Radiocommunication Services	20	As determined by the Authority in the Frequency License

#### Section 5. Schedule 3 – Fees applicable to Frequency Licenses

License Type	Description	Application Fee	Annual Fee	Renewal Fee
Cellular Mobile	Frequencies below 1 GHz (per 2x5 MHz)	85 or as determined in the tender documents	15,980	As determined by the Authority at the time of renewal
	Frequencies above 1 GHz (per 2x5 MHz)	85 or as determined in the tender documents	6,390	As determined by the Authority at the time of renewal
Fixed link License (point-to-point)	Bandwidth of less than 7 MHz	60	200	45
	Bandwidth between 7 MHz – 14 MHz	60	600	45
	Bandwidth of more than 14 MHz	60	800	45
Land Mobile License	12.5 kHz channel	20	60	15
	25 kHz channel	20	120	15
Broadcast Sound License	Broadcast Sound license- AM	20	375	15
	Broadcast Sound license- FM	20	325	15
Special Temporary	As determined by the Authority in the Frequency	85	N/A	85

Authority	License			
Other Radiocommunication Services	As determined by the Authority in the Frequency License	20	As determined by the Authority in the Frequency License	As determined by the Authority in the Frequency License

Annual fees for Cellular Mobile License set forth in the table above assume the assignment of a license with national coverage. The Authority may reduce such fees in proportion to the population covered in case the Cellular Mobile License is granted with sub-national coverage.