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Proclamation No. 134 /2003

**THE
ERITREA TELECOMMUNICATION
SERVICES CORPORATION
PROCLAMATION**

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Proclamation No. 134 /2003

The Eritrea Telecommunication Services Corporation Proclamation



Part One-Preliminary

Article 1. Short Title

This Proclamation may be cited as “The Eritrea Telecommunication Services Corporation Proclamation No. 134/2003”.

Article 2. Interpretation

In this Proclamation, unless the context otherwise requires:

- a. “EriTel” means the Eritrea Telecommunication Services Corporation;

- b. “General Manager” means the Chief Executive Officer of EriTel appointed under Article 7 of this Proclamation;

- c. “Member” means a member of the Board of Directors of the Organization appointed under article 6 of this Proclamation;

- d. “Person” means a natural or legal person;

- e. Mobile Communication Infrastructure** means an infrastructure for mobile communications consisting of a network switching subsystem, base trans-receiver subsystem, interconnections, necessary auxiliaries, power supply, towers and shelters;
- f. Mobile Virtual Network Operator (MVNO)** means a mobile communication operator in Eritrea which does not own any physical communications infrastructure but gives mobile communication services by using the mobile communication infrastructure of EriTel;
- g.** A word importing the masculine gender shall include the feminine as well.

Part Two-EriTel

Article 3. Establishment

- (1) The Eritrea Telecommunication Services Corporation (EriTel) (hereinafter “The Corporation”) is hereby established to carry out the powers, duties and functions assigned to it under this Proclamation. The Corporation shall be a body corporate with perpetual succession and common seal and power to sue and be sued in its corporate name, purchase, hold, and dispose of moveable or immovable property and enter into contracts.

- (2) The Eritrea Telecommunication Services Corporation (EriTel) is hereby established to incorporate the operations and activities of Telecommunication Services of Eritrea (TSE).
- (3) MVNO's may hereby be established to give services to mobile communication users in agreement with EriTel.

Article 4. Objectives and Functions of the Corporation

- (1) The ultimate mission of the Corporation being to manage and develop telecommunication services in Eritrea, the Corporation shall, subject to the relevant laws:
 - (a) manage and maintain telecommunication infrastructure of the State of Eritrea and ensure that said State communication infrastructure satisfies the requisite capacity and technical features for the provision of a sustainable and reliable infrastructure for telecommunication services; and
 - (b) make available the use of the infrastructure to domestic or international Mobile Virtual Network Operators (MVNO) under clearly defined agreements with the Corporation.
- (2) For and in the effective implementation and realization of its objectives, the Corporation is authorized and entrusted to;

- (a) formulate and set the necessary standards and procedures for MVNOs to enter into agreement with EriTel;
- (b) exert all practicable efforts to ensure that mobile communication services shall reach all parts of the State of Eritrea;
- (c) negotiate and enter into agreements with carriers of other countries or international operators on issues related to roaming privileges, gateways or interfaces;
- (d) ensure compliance with and adherence to international telecommunication standards and such applicable treaties and/or agreements so recognized by the State of Eritrea;
- (e) engage in and perform any other legitimate activities related to the Corporation's mandate and objective as stated in Article 4 of this Proclamation;
- (f) subject to Article 9(2)(d) of Proclamation No. 102/1998 (the Communications Proclamation), formulate and determine the fee-charges per call of users of its telephone communications infrastructure and the ratio of the revenue that would be due to itself and the MVNOs, for both incoming and out going in- country and international calls.

Part Three-Organs

Article 5. Organs of the Corporation

The Corporation shall have the following organs:

- (a) the Board of Directors
- (b) the General Manager (CEO), and
- (c) the Staff

Article 6. The Board of Directors:-

- (1) the Board of Directors (hereinafter “the Board”) shall have the ultimate responsibility for the management and administration of the Corporation;
- (2) the Board shall comprise of a Chairman and four other persons appointed by the President of the State of Eritrea for a three-year term;
- (3) the General Manager (CEO) of EriTel shall be a non-voting member of the Board.

Article 7. The General Manager

- (1) The Corporation shall be headed by the General Manager who shall be appointed by the President of the State of Eritrea.



- (2) the General Manager shall have the overall responsibility for the day-to-day activities of the Corporation and shall be accountable to the Board of Directors.

Article 8. The Board Directors' Authority

The Board of Directors shall have full authority and ultimate responsibility to ensure that the Corporation operates, implements, accomplishes and realizes in real terms its national purposes and business objectives, inclusive of responsive performance as well as commensurate business returns.

Without limiting the generality of the foregoing, the Board of Directors shall be responsible to;

- (a) formulate short and long term development programs and schedules for and in the realistic and result oriented implementation of the objectives of the Corporation;
- (b) negotiate and secure development funds and/or loans and financial facilities from within or outside the State of Eritrea for the realization of the purposes and business objectives of the Corporation;
- (c) ensure that the General Manager, taking the financial requirements of the Corporation into account, submits for the Board's approval operational budgets and reports as well as project budget for each fiscal year;
- (d) conduct a regular quarterly review and evaluation of the activities and performances of the Corporation

and take appropriate steps thereon;

- (e) deliberate upon and decide on matters brought before it by the General Manager.

Article 9. Meetings of the Board

- (1) The Board shall meet regularly and as it deems necessary.
- (2) The Chairman of the Board shall fix the time and place of the meetings of the Board.
- (3) The quorum for a meeting of the Board shall be the majority of the members.
- (4) At a meeting of the Board each member present, including the chairperson, shall have a vote. Any question on which a vote is required in order to establish the Board's view on the matter shall be determined by a majority of votes of those present and voting on the question. In the case of a tie, the chairperson of the meeting shall have a casting vote.
- (5) The Board may invite any person with an expert knowledge on technical and professional matters in its meeting, before taking a vote or a decision, provided that such person shall not have any voting rights.
- (6) The Board shall issue its own working rules and procedures.

Article 10. Responsibilities and Duties of the General Manager

The General Manager shall have the following responsibilities and duties to:

- (a) with the general directives of the Board, negotiate and execute on behalf of the Corporation any contract or instrument related there to;
- (b) represent the Organization to all effects and purposes, before courts of justice, government departments, municipal authorities, domestic and/or foreign business organizations, agencies or entities and governments, financial institutions, banks or any other person and/or body for and in the interest and activities of the Corporation;
- (c) open an account or accounts with a bank or banks in Nakfa or in any foreign currency and to operate same and to draw, endorse and sign in the name of the Corporation all cheque drafts, payment orders, transfers, assignments, and any other instruments whatever relating to the Corporation's activities;
- (d) with the general directives of the Board, sign and execute any transaction for and on behalf of and in the interest of the Corporation;
- (e) employ, promote and dismiss the staff for the effective and efficient operation of the Corporation;
- (f) carry out the decisions or directives of the Board and execute and follow up the same;

- (g) keep or cause to be kept, accounts records, books and up-to-date inventories of the Corporation in accordance with the generally accepted accounting principles and the usual business practice applicable to the industry;
- (h) prepare and submit to the Board of Directors detailed quarterly reports on the activities of the Corporation as well as a comprehensive annual report relevant to each fiscal year on the activities of the Corporation;
- (i) ensure and cooperate that the External Auditors conduct their audit reports on time, inclusive of the Balance Sheet, Profit & Loss Account and Asset Inventories;
- (j) subject to the approval of the Board, borrow money from any bank or financial institution for and on behalf of the Corporation;
- (k) Subject to the approval of the Board, plan and implement the technical improvement and service expansion of the Corporation;
- (l) Subject to the approval of the Board, designate any person at the management level to act on his behalf in case of his absence or illness.

Part Four-Finance

Article 11. Grants to the Organization

The Government may grant the Corporation such amounts as the government may sanction to enable the Corporation discharge its obligations.

Article 12. Revenue

The Corporation shall have revenue from:

- (1) the services it renders
- (2) the sale of goods, or its property, or its investments;
- (3) any budgetary allocation by the government; and
- (4) any other income that it may generate

Article 13. Accounts

- (1) The Corporation shall cause proper books of accounts to be kept of its income and expenditure, assets and liabilities and all other transactions of the Corporation.
- (2) The Corporation shall, within 4 months after the end of the financial year, submit for audit financial statements and accounts to an accredited auditor designated by the Board of Directors who shall conduct the audit according to generally accepted accounting principles.

Article 14. Fiscal Year

The Fiscal Year of the Corporation shall be the same as that of the Government.

Article 15. External Auditors

- (1) Independent External Auditors shall be appointed and the compensation for the services they render to the Corporation determined by the Board.
- (2) The External Auditors shall audit the financial books and records as well as the business performance of the Corporation, verify the correctness and accuracy of the Balance Sheet and Profit and Loss Accounts, Inventory of Assets, records and certify their evaluations and submit their opinion on the financial situation of the Corporation to the Board of Directors along with their recommendations if any.

**Part Five-Mobile Virtual
Network Operators**

Article 16. Mobile Virtual Network Operators

- (1) EriTel shall make its services available to all bodies interested to function as MVNO with fairness and in a manner that encourages healthy competition.

- (2) MVNO's shall establish themselves pursuant to the provisions of the Commercial code of Eritrea.
- (3) Any MVNO or prospective MVNO that is dissatisfied with decisions of EriTel in connection with services given by EriTel, can file complaint with the concerned regulatory body.

Part Six-Effective Date

Article 17. Entry into Force

This Proclamation shall enter into force as of the date of its publication in the Gazette of Eritrean Laws.



Done at Asmara,
this 16th day of October, 2003
Government of Eritrea