

# Australian Communications Authority

## Form of Authority

### 800 MHz Band Spectrum Licence Allocation

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#### NOTES ON COMPLETION

This Form of Authority (the Authority) has been approved pursuant to section 2.4 of the *Radiocommunications (Spectrum Licence Allocation Open Outcry Auction – 800 MHz Band) Determination 2000*. Persons completing this Authority should read the Determination and, if necessary, seek appropriate advice. The Authority confers certain powers and obligations on the representatives which Applicants and Applicant Representatives should understand clearly before completion. This Authority may not be altered.

This Authority must be completed where an individual is to represent an Applicant at the auction. A separate Authority must be completed for each Applicant Representative representing an Applicant. Applicants who are individuals need not complete an Authority if they are to represent themselves at auction.

To complete this Authority all sections must be completed unless they are optional. Optional sections are the Applicant Registration Number and the Telephone and Facsimile contacts of the Applicant Representative.

The Applicant(s) referred to in this Authority must be the same as on the related Applicant Registration Form. Where there are joint Applicants each party to the application must duly sign or execute this Authority. The addresses of all Applicants will be taken to be the same as provided in the Applicant Registration Form. If there is insufficient space please attach necessary details.

#### AUTHORITIES SHOULD BE SUBMITTED WITH THE APPLICATION FORM.

**If another individual is to represent the applicant at the auction another Form of Authority must be given to the ACA no later than two hours before the auction starts.**

There must be a separate Authority for each individual authorised to act for the Applicant.

This Authority must contain original signatures (or other form of execution) of the Applicant and Applicant Representative.

For joint Applicant Registrations, all persons who signed the Applicant Registration Form as Applicant must sign or execute this Authority.

THIS AUTHORITY is made this

day of

by

*Insert Name and ACN or ARBN if applicable (Applicant)*

Applicant Registration Number *(if known)*

#### Introduction

- A. The Australian Communications Authority has made the *Radiocommunications (Spectrum Licence Allocation Open Outcry Auction - 800 MHz Band) Determination 2000* (the Determination) under section 60 of the *Radiocommunications Act 1992*.

- B. The Applicant wishes to apply for one or more licences that are to be issued by the Australian Communications Authority under the Determination.
- C. The Applicant wishes to appoint the person described below to act on the Applicant's behalf in relation to the allocation of licences under the Determination.

## Part A

### 1. AUTHORISATION

1.1 The Applicant authorises

*(Full Name)*

of

*(Address)*

(‘the bidder’)

who may be contacted by Telephone at

*(if applicable)*

and Facsimile at

*(if applicable)*

to do on the Applicant's behalf, all acts, and execute all documents that are necessary for the applicant to be issued with a licence under the Determination, including :

- (a) to bid for a licence at an auction held in accordance with the Determination; and
- (b) to pay the deposit and the balance of the bid price.

1.2 The terms set out on the back of this Authority are part of this Authority.

THE APPLICANT HAS EXECUTED THIS AUTHORITY on the day and year written above.

*(Print name of Applicant)*

*(Signature of Applicant)*

in the presence of

*(Print name of Witness)*

*(Signature of Witness)*

**OR**, if the Applicant is a company:  
SIGNED SEALED AND DELIVERED  
for and on behalf of

ACN or ARBN

by authority of the Directors

*(Print name of Director)*

*(Print name of Director/Secretary)*

*(Signature of Director)*

*(Signature of Director/Secretary)*

If insufficient space, please attach details on a separate sheet of paper.

**OR**, in any other case (eg incorporated association or statutory authority) please execute in the appropriate form (attach if necessary).

## **2. ACKNOWLEDGEMENT**

- 2.1 The Applicant has authority to appoint the bidder.
- 2.2 The Applicant must ensure that the bidder is made aware of the duties and obligations that apply to the bidder under the Determination.
- 2.3 The Applicant is responsible for ensuring that the bidder attends at the place where the auction will be held during the auction. The Commonwealth, its officers, servants and agents accepts no responsibility for the failure of an Applicant or an Applicant Representative to so attend during the auction or any failure of an Applicant or an Applicant Representative to comply with the Determination.

## **3. DURATION**

This Authority remains in force until the auction has been completed, or until the ACA receives from the Applicant a notice of revocation executed by the Applicant in the same manner and with the same formality as this Authority.

## **4. NO SUB-DELEGATION**

The Applicant Representative is not authorised under this Authority to appoint any substitutes, delegates or other representatives to act on the Applicant's behalf under this Authority.

## **5. AMENDMENTS**

This Authority cannot be amended.

## **6. SEVERABILITY**

If any provision of this Authority is invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement without regard to the invalid provision, are and continue to be valid and enforceable in accordance with their terms.

## **7. INDEMNITY**

- 7.1 The Applicant agrees to indemnify the ACA from and against any:
- (a) liability sustained or incurred by the ACA;
  - (b) loss of or damage to property of the ACA; or
  - (c) loss or expense sustained or incurred by the ACA in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the ACA;
- arising from:
- (d) any act or omission by the Applicant, its officers, employees, agents, subcontractors or associates in connection with the Applicant's participation in an allocation process conducted under the Determination; or
  - (e) any breach by the Applicant of its obligations or warranties under this Deed, or the Determination, or both;
- irrespective of whether there was fault on the part of the person whose conduct gave rise to that liability, loss or damage, or loss or expense.
- 7.2 The Applicant's liability to indemnify the ACA under clause 7.1 will be reduced proportionately to the extent that any negligent act or omission of the ACA contributed to the relevant liability, loss or damage, or loss or expense.
- 7.3 The right of the ACA to be indemnified under this clause 7 is in addition to, and not exclusive of, any other right, power or remedy of the ACA which arises under statute, common law, equity or otherwise.
- 7.4 The Applicant releases the ACA from and against all demands, claims, actions or proceedings arising from the acts or omissions of any person in relation to the allocation procedures set out in the Determination.
- 7.5 The rights and obligations referred to in this clause 7 will survive the expiration or termination of this Deed.

## **8. RATIFICATION**

The Applicant undertakes to ratify all acts that the Applicant Representative purports to do in accordance with the authority given by the Applicant under this Authority.

## **9. DEFINITIONS AND INTERPRETATION**

- 9.1 In this Form of Authority, unless the contrary intention appears:
- “Act” means the *Radiocommunications Act 1992*.
- “Applicant” means the person identified at the commencement of this Authority as the Applicant.
- “Authority” means this Form of Authority.
- “balance of the bid price” has the same meaning as in the Determination.
- “Commonwealth” means the Commonwealth of Australia including the ACA.
- “Determination” means the *Radiocommunications (Spectrum Licence Allocation Open Outcry Auction - 800 MHz Band) Determination 2000*.
- “Licence” has the same meaning as in the Determination
- “ACA” means the Australian Communications Authority.
- 9.2 Words importing a gender include any other gender.
- 9.3 Words in the singular number include the plural and words in the plural number include the singular.