

Australian Communications Authority

Bidder's Acknowledgment

800 MHz Band Spectrum Licence Allocation

This Bidder's Acknowledgment has been approved under section 2.4 of the *Radiocommunications (Spectrum Licence Allocation Open Outcry Auction – 800 MHz Band) Determination 2000* (the Determination).

This Acknowledgment may not be altered.

THIS BIDDER'S ACKNOWLEDGMENT is made this

day of

2001

by

(Insert Names)

(the Bidder)

of

(Insert Address)

Authorised by

(Insert name of registered applicant)

being a registered applicant ('the Applicant') under the Determination for a licence or licences

Introduction

- A. The Australian Communications Authority ('ACA') 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 (Cth)*.
- B. The Applicant has applied for a licence under the Determination.
- C. The Applicant has authorised the Bidder to bid on its behalf and the Bidder has agreed and seeks registration.
- D. Each bid made by the Bidder is on behalf of the Applicant and is subject to the Determination and the terms and conditions in this Bidder's Acknowledgment.

IT IS AGREED

1. REGISTERED BIDDERS

The Bidder warrants that he or she has been issued with a Bidder Identification Form and has been duly appointed by the Applicant under a completed, legible and duly submitted Form of Authority 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.

2. DEPOSIT

If the registered applicant for whom the bidder is bidding is the successful applicant for a lot, the bidder agrees to:

- (a) meet with the ACA; and
- (b) identify himself or herself; and
- (c) give the ACA the 10 per cent of bid price deposit or a signed Deed of Undertaking to pay the deposit immediately after a successful applicant has been identified for all lots;

as directed by the ACA in accordance with section 4.5 of the Determination.

3. LIABILITY FOR DAMAGES

If the bidder fails to pay the deposit in accordance with section 4.5 of the Determination, the bidder is liable for any loss or damage suffered by the Commonwealth. The bidder's liability in no way affects any liability of the registered applicant.

4. EXCLUSION FROM BIDDING

If the Registered Applicant or the Bidder representing the Registered Applicant, fails to comply with section 4.5 of the Determination and the lot is re-offered, then the Applicant and the Registered Bidder will, subject to the Determination, be excluded from bidding again for the lot.

5. GOVERNING LAW

- 5.1 The terms and conditions in the Bidder's Acknowledgment are to be construed and take effect in accordance with the law in force in the Australian Capital Territory, and any dispute relating to the construction, meaning or effect of the Acknowledgment or the liabilities of the Registered Bidder hereunder is governed by those laws.
- 5.2 The Registered Bidder submits to the jurisdiction of the courts of the Australian Capital Territory and the Federal Court of Australia.
- 5.3 The submission to the jurisdiction of the courts of the Australian Capital Territory and the Federal Court of Australia is exclusive in so far as the High Court of Australia has the jurisdiction to hear any matter involving the Commonwealth.

6. FURTHER ASSURANCE

The Registered Bidder must sign and execute all deeds, schedules, documents and things and do all acts as are necessary to carry out and give effect to the terms of this Bidder's Acknowledgment.

7. SEVERABILITY

If any provision of this Bidder's Acknowledgment is invalid and not enforceable in accordance with its terms, all other provisions that are capable of separate enforcement without regard to the invalid provision are, and continue to be, valid and enforceable in accordance with their terms.

8. AMENDMENTS

No variation, modification or waiver of any provision of this Bidder's Acknowledgment can be made nor have any force or effect unless approved by the ACA under section 2.4 of the Determination.

9. DEFINITIONS AND INTERPRETATION

- 9.1 In this Bidder's Acknowledgment, unless the contrary intention appears:

"Act" means the *Radiocommunications Act 1992 (Cth)*.

"Bidder" means the person(s) identified at the commencement of this Bidder's Acknowledgment as the Bidder.

"Bidder's Acknowledgment" means this Bidder's Acknowledgment.

"balance of bid price" has the same meaning as in the Determination.

"Commonwealth" means the Commonwealth of Australia including the ACA.

"Deposit" means the deposit calculated in accordance with subsection 4.5(2)(b) of the Determination.

"Determination" means the *Radiocommunications (Spectrum Licence Allocation Open Outcry Auction-800 MHz Band) Determination 2000*.

"Form of Authority" has the same meaning as in the Determination.

"licence" has the same meaning as in the Determination.

"Registered Bidder" 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.
- 9.4 Where two or more persons have made an application the liability of each person under the joint application is joint and several.

SIGNED BY THE BIDDER ACTING FOR THE APPLICANT on the day and year written above.

by

(Print Name)

(Signature)

in the presence of

(Print Name)

(Signature of witness)