

# TELECOMMUNICATION TOKELAU CORPORATION RULES 1996

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## PREAMBLE

Rules to establish the Telecommunication Tokelau Corporation to take over the telecommunication functions, assets, and liabilities of the Tokelau Administration

## PART 1 PRELIMINARY PROVISIONS

### 1 Name

These are the Telecommunication Tokelau Corporation Rules 1996.

### 2 Interpretation

In these Rules, “telecommunication” means transmission, emission or reception through the sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception.

## PART 2 ESTABLISHMENT, CONSTITUTION, AND FUNCTIONS

### 3 Establishment

- (1) There is established for carrying out the purposes of these Rules a corporation to be known as the Telecommunication Tokelau Corporation (TELETOK).
- (2) The Corporation shall be a body corporate having perpetual succession and a common seal.

- (3) The main office of the Board of the Corporation shall be in Tokelau, at such place as the Board shall designate.

#### **4 Board of Directors**

- (1) The general direction and management of the affairs of the Corporation shall vest in the Board, which may exercise all powers and do all acts which may be exercised or done by the Corporation.
- (2) The Council for the Ongoing Government is the Board for the Corporation.

#### **5 Meetings of the Board**

- (1) The meetings of the Board shall be held at such times and places as may be provided for by rules made by the Board or until rules are made for that purpose as and when convened by the Chairman.
- (2) The majority of the Directors in office shall constitute a quorum at the meetings of the Board.
- (3) The minimum number of meetings per annum shall be one per quarter.
- (4) No act or proceeding of the Board shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Board.

#### **6 Staff**

- (1) The Board shall appoint a General Manager on such terms and conditions as the Board may determine.
- (2) The General Manager shall be responsible to the Board for the proper administration and management of the functions and affairs of the Corporation in accordance with the policy laid down by the Board.
- (3) The Corporation may, from time to time, appoint and employ on such terms and conditions as the Corporation may determine such officers and employees as may be necessary for the effective performance of its functions.

#### **7 Protection from personal liability**

No suit or other legal proceedings shall lie against any member, officer or employee of the Corporation or other person acting under the direction of the Corporation for anything which is in good faith done or intended to be done in the execution or purported execution of these Rules.

**8 Functions of the Corporation**

- (1) It shall be the function and duty of the Corporation —
  - (i) to be the sole provider, operator and maintainer of telecommunication services in the interests of the people of Tokelau;
  - (ii) to promote the development of telecommunication in accordance with, as far as practicable, recognised international standards practice and public demand;
  - (iii) to further the advancement of technology relating to telecommunication.
- (2) In discharging the duties imposed on it by paragraph (1), the Corporation shall have regard to —
  - (i) efficiency and economy;
  - (ii) satisfying as far as practicable reasonable demands for telecommunication services;
  - (iii) the desirability of improving and developing its operating system;
  - (iv) the promotion of measures for the safety of life through telecommunication;
  - (v) the provision of telecommunication services at reasonable prices consistent with efficient service and the necessity for maintaining independent financial viability;
  - (vi) the promotion of research and development in the field of telecommunications.
- (3) Nothing in this rule shall be construed as —
  - (i) imposing on the Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court; or
  - (ii) precluding the Corporation from interrupting, suspending or restricting any telecommunication services provided by the Corporation.

**9 Powers of the Corporation**

- (1) Subject to these Rules, the Corporation may carry on such activities as appear to the Corporation advantageous, necessary or convenient for it to carry on for or in connection with the discharge of its functions under these Rules.
- (2) The Corporation shall not borrow funds or acquire securities, stocks or shares in an incorporated company or other body corporate.
- (3) Without limiting paragraph (1) the Corporation may enter into agreements with any person (whether under revenue sharing arrangements or otherwise) for carrying on by it the activities which the Corporation may carry on, or for carrying on jointly with such person any of those activities.
- (4) The Corporation shall have all the powers of a natural person of full age and capacity unless expressly provided in these Rules (eg borrowing funds).

**10 Exemption from liability**

The Corporation shall not be liable in respect of any injury, loss or damage suffered by any person by reason of —

- (i) any failure to provide or delay in providing any telecommunication services or any equipment associated with telecommunication services;
- (ii) any failure, interruption, suspension or restriction of any telecommunication service or delay of, or fault in, any communication by means of telecommunications;
- (iii) error in or omission of any message or information transmitted through telecommunications.

**11 Annual report**

The General Manager shall, within three months after the end of each financial year, submit an annual report on the activities of the Corporation during that year, including the financial statements of that year to the Board.

**PART 3 TRANSFER OF ASSETS, LIABILITIES, AND EMPLOYEES**

**12 Transfer of assets and liabilities**

[Spent]

**13 Transfer of employees**

[Spent]

**14 Conditions of service**

[Spent]

**PART 4 FINANCIAL PROVISIONS**

**15 General duty regarding financial matters**

- (1) The Corporation shall perform its functions under these Rules so as to secure that the total revenue of the Corporation is sufficient to meet its total outgoings properly chargeable to revenue account, including depreciation and interest on capital, taking one financial year with another.
- (2) The balance of the revenue of the Corporation shall be applied to the creation of a general reserve and such other reserves as the Corporation may think fit.
- (3) Any funds of the Corporation may be invested from time to time in securities on interest bearing deposits with the Tokelau Administration.
- (4) The Corporation shall supply all required information to the Department of Finance to prepare an appropriate financial report of the Corporation.

**16 Financial year**

The financial year of the Corporation shall be in alignment with the Tokelau Government financial year dates, that begin 1 July to 30 June of the following year.

**17 Accounts and audit**

- (1) The Corporation shall keep proper accounts and records of its transactions and affairs.
- (2) The accounts of the Corporation shall be audited by an auditor appointed annually by the Board from among those qualified as auditors in New Zealand.
- (3) The General Manager shall, within three months after the close of the financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them in accordance with the auditing standards for public companies in New Zealand.

- (4) The auditor or any person authorised by him is entitled at any reasonable time to full and free access to all accounting and other records relating directly or indirectly to the financial transactions of the Corporation.
- (5) As soon as the accounts of the Corporation and the financial statements have been audited in accordance with these Rules, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be submitted to the General Fono.
- (6) The General Manager shall prepare annual estimates of revenues and expenditures for presentation to the Board each year on or before the commencement of the last quarter of the current financial year. The Board shall, following review and approval of such estimates, present these to the General Fono.
- (7) [Spent]

## **PART 5 MISCELLANEOUS**

### **18 Protection of telecommunication transmissions and installations**

Any person who, intending —

- (i) to prevent or obstruct the transmission or delivery of any message; or
- (ii) to commit mischief,

damages, removes or tampers with any installation or plant or any part thereof belonging to an operator, shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding 3 penalty units or to imprisonment for a term not exceeding three months.

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