

**1. AGREEMENT**

Subscriber subscribes to and the Provider undertakes to provide the following service ("the Service") at the prices set out in the Proposal accepted by Subscriber:

1.1 The Provider will provide and direct fixed line audio communication from and to communication destinations from Subscriber's premises on an exclusive basis;

1.2 The Provider will provide Subscriber with monthly, itemised usage reports;

1.3 Subscriber consents to the Provider vetting its creditworthiness. Should the credit of Subscriber not meet the Provider's criteria, the Provider may at its sole discretion terminate the Agreement.

**2. DURATION**

2.1 This Agreement will commence on the date of the actual connection ("the Connection Date") and will endure, as per the agreed Proposal.

2.2 **The Provider warrants that the Subscriber will realise a cost saving using the service versus the equivalent standard TELKOM airtime cost. If no savings for two consecutive months is realised, either party may terminate this agreement by giving 1 month's notice within 30 days** and the Provider will calculate this saving per 1.2 above.

2.3 Any wilful interference or hindrance of the Service by Subscriber, tampering, hindrance including but not be limited to the addition of competing services, failure of Subscriber equipment to function in support of the Service or at all, incompatibility or failure of its own equipment, non-use or limited use of the service, refusal of entry to the Provider authorised personnel to its equipment, or suspension or cancellation of debit orders without prior agreement with the Provider and any of these actions will constitute a major breach.

2.4 Where circumstances require it due to poor reception or other factors, the Provider will supply and charge for amplifying equipment and/or antennae to improve the service.

**3. SUPPORT COSTS**

The Service excludes the cost of maintenance, service and support to keep the Service operational for the duration of the agreement which is charged at the Provider's Standard Rates. Call-outs to attend issues that relate to non-Provider equipment will be charged at the prevailing rates, available on request.

**4. PAYMENT OF CHARGES**

4.1 Subscriber shall make all payments in terms of this Agreement without set off or deduction or withholding of any nature, free of bank or other charges at the Provider's address or at such other place as the Provider or its cessionary may direct in writing:

4.1.1 In advance: The monthly Rental Cost for the continuous connection of the Service which includes connectivity and rental for customer premises equipment ("CPE");

4.1.2 One month's estimated connectivity and usage cost which may be adjusted;

4.1.3 In arrears: The Call Cost payable for each communication call registered and recorded as having been made with the Service and as a unit of time;

4.1.4 All payments must be made by debit order or other pre-arrangement within three working days after the date of the invoice issued by the Provider in respect thereof. A subscriber electing not to pay by debit order is subject to an administration fee of R25 per site. The Provider reserves the right to require prepayment on the Service when the Customer has defaulted on payment or when Subscriber risk profile warrants this.

**5. NO WITHOLDING**

Subscriber is not entitled to withhold any payment for any reason whatsoever.

**6. CHANGES IN TARIFFS**

Should any charges payable for Services by the Provider's Service Providers or Vendors change, the Provider may adjust the charges payable by Subscriber giving reasonable notice in terms hereof accordingly. The terms and prices in this Agreement remain confidential and may not be divulged. The international US\$ licence costs are charged in local Rand equivalent.

**7. INSURANCE**

7.1 Subscriber shall insure the goods for their replacement cost with a registered insurer or through a broker of Subscriber's own choice for as and advise the insurer of our ownership and our rights in and to the goods. Subscriber agrees that Subscriber will notify the Provider, in writing within fourteen days, if any of the goods are lost, stolen or damaged. Subscriber confirms that Subscriber have been given prior written notice of Subscriber's right of free choice in terms of Section 43(1) of the Short Term Insurance Act 53 of 1998, and that Subscriber have exercised that freedom of choice and

Subscriber were not coerced or induced as to the manner in which Subscriber exercised Subscriber's choice.

7.2 If any of the goods are lost or stolen, and not recovered within a period of 21 days after such loss or theft, or are damaged beyond repair, then Subscriber agree that the Agreement will terminate in respect of such goods unless, the Provider decides to replace such goods with other goods of a similar nature and condition, and thereafter the Agreement shall continue to apply equally to the replacement goods which Subscriber will accept accordingly. Any dispute in this regard shall be referred to any sworn valuator selected by the Provider who shall act as an expert and whose decision shall be final and binding on Subscriber and the Provider.

**8. BREACH**

8.1 If Subscriber breaches any of the conditions or terms of the Agreement, or fail to pay any amounts due to the Provider, or commits any act of insolvency or compromise with any of Subscriber's creditors, or makes a false statements in connection with the Agreement or the Provider's ownership of the goods, or allows any judgment that has been granted against Subscriber to remain unsatisfied for more than seven days, or becomes subject to a final or provisional order of liquidation or surrender, or if Subscriber is an individual and its estate is provisionally sequestrated, then Subscriber agrees that the Provider have the right (without notice to Subscriber and without affecting any of our other rights) to:

8.2 claim immediate payment of all amounts which would have been payable in terms of the Agreement until expiry of the rental period stated in the Schedule, whether such amounts are then due for payment or not. Subscriber agrees that the Provider may take possession of the goods and only return them to Subscriber on receipt of full payment of all amounts owing by Subscriber. Subscriber will not be able to withhold payment or make any deductions from any amount owing as a result of Subscriber's loss of possession of the goods; or

8.3 immediately terminate the Agreement, take possession of the goods, retain all amounts already paid by Subscriber and claim all outstanding rentals, all legal costs as between attorney and his own client and, as agreed pre-estimated liquidated damages, the aggregate value of the rentals cost which would have been payable had the Agreement continued until expiry of the duration of the Agreement.

**9. INTEREST**

The Provider shall be entitled to charge interest on overdue amounts at Prime plus 3% per annum calculated from due date to date of receipt of payment.

**10. CERTIFICATE**

A written certificate issued and signed by any Director of the Provider shall constitute on the ace of it proof of the amount and extent of any indebtedness of Subscriber to the Provider for purposes of Summary Judgement and/or Provisional Judgement proceedings. It is hereby agreed that, in the event of such certificate being issued, Subscriber will carry the burden of proving, on a balance of probabilities, that such amount is not due and payable.

**11. COSTS**

Should Subscriber be in default, it will be liable to pay all expenses actually incurred by the Provider either on behalf of Subscriber or as a result of Subscriber's non-compliance with any provision of the Agreement including collection charges and legal costs calculated on an attorney-own client scale.

**12. JURISDICTION**

Subscriber agrees that the Provider will be entitled to proceed against Subscriber in any Magistrate's Court in terms of Section 29 of the Magistrate's Court Act or any High Court having jurisdiction subsequent to the competent jurisdiction of such Court, to which the Subscriber hereby consents.

**13. OWNERSHIP**

Ownership of the goods shall vest in the Provider for the duration of the Agreement or the last outstanding payment, whichever occurs last after which the equipment shall either be subject to a new agreement or be reclaimed by the Provider. In the absence of a new Agreement or removal, the Provider shall invoice a monthly Usage cost equal to the last Rental cost.

**14. SITE PREPARATIONS AND PROGRAMMING**

Subscriber undertakes to issue an order for and pay all charges for programming, enhancements, additional equipment and set-up of its own CPE and site to utilise the Service and for costs of any delays arising from actions or inactions of its CPE vendor or its staff in doing all necessary and requested actions to prepare and keep up the CPE and site for operation with the Service. The Provider may, on behalf of Subscriber, authorise and contract for such CPE and other vendors for the continuation of service.

**15. DELIVERY AND ACCEPTANCE**

Signature by Subscriber of the installation certificate shall be deemed to be an acknowledgement that Subscriber has

accepted, inspected and approved the goods and that same are in every way satisfactory to Subscriber.

**16. CHOICES**

The connectivity choice and quantity of connections, equipment types and models shall be solely determined by the Provider based on the analysis of Subscriber's needs and changed with written consent, from time to time.

**17. DAMAGES**

The Provider shall not be liable to Subscriber for any damages of whatsoever nature, arising from any matter related to this Agreement whether indirect, consequential, loss of revenue or profit or savings other than wilful damage.

**18. WAIVER**

Subscriber agrees that no indulgence whatsoever by the Provider will affect the terms of this agreement or any of the rights of the Provider and such indulgence shall not constitute a waiver by the Provider in respect of any of its rights herein. Under no circumstances will the Provider be stopped from exercising any of its rights in terms of this Agreement.

**19. VARIATION**

The parties agree that this Agreement (a) represents the entire Agreement between Subscriber and the Provider and that no alterations or additions to this Agreement shall be effective or binding unless agreed to by both parties, reduced to writing and signed by Subscriber and a duly authorised representative of the Provider; (b) is applicable to all existing debts between the parties; (c) is final and binding and is not subject to any suspensive or dissolutive conditions; and that (e) any conflicting conditions stipulated by Subscriber are expressly excluded; (d) these terms supersede all previous conditions without prejudice to any securities or guarantees held by the Provider.

**20. TERMINATION**

Should Subscriber terminate the Agreement for any reason or should the Provider terminate this Agreement due to Subscriber's non-payment or breach, Subscriber will immediately pay to the Provider all outstanding rentals plus the Net Present Value at Prime of the rentals which would have been payable had the Agreement continued until the expiry of the Agreement less any proceeds received by the Provider from any insurance claims.

**21. CESSION**

The Provider shall be entitled to cede, assign and transfer all or some of its rights in terms of this Agreement with prior notification.

**22. NOTIFICATION TO LANDLORD**

Subscriber will notify its landlord that the goods will be kept at the address stated on this agreement and will notify the Provider in writing the name and address of any other premises to which the goods are moved and of the name and address of the owner of such premises. Subscriber shall also notify the Provider immediately of any changes that may occur from time to time in the leasehold or ownership of the premises upon which the goods may from time to time be installed or kept. Subscriber is obliged to obtain the required permission for the installation of goods on the premises referred to.

**23. TEMPORARY SUSPENSION**

The Provider may suspend the provision to Subscriber of the Services in whole at any time without notice to Subscriber under the following conditions:

23.1 If it is necessary to facilitate any upgrades, maintenance or remedial works in respect of the Service or the Equipment although all reasonable efforts to keep such event to a minimum will be used; or

23.2 If Subscriber does not comply with, or is in breach of any of the terms of this Agreement including non-payment;

23.3 Subscriber shall remain liable for all charges payable during the period of the suspension as well as a R500 reconnection fee per site for a suspension;

23.4 If the Services are suspended for any reason whatsoever, Subscriber will remain liable for all charges accrued up to the date of such suspension and for Connectivity charge during such suspension.

**24. RICA ACT 2002**

Subscriber will provide and sign all documentation required in terms of this and other applicable Acts.

**25. CLOSED USER GROUP FAIR USAGE POLICY**

The Provider may consent to the use of Closed User Group service between branches of the same entity provided that SIM's at each entity site is set-up for and subscribed to the CUG service; that the CUG is only applicable to calls between these SIMs; that a Fair Use Policy will apply which may be altered at any time; that the Fair Use Policy is initially 120 minutes of CUG per SIM per month without carry-over to subsequent months and that minutes used over the CUG limit will be billed at the Subscriber's contract rates.