national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

MASTER TRANSVERSAL AGREEMENT

FOR

THE SUPPLY AND DELIVERY OF MOBILE COMMUNICATION SERVICES

ENTERED INTO

BY AND BETWEEN

THE DEPARTMENT OF NATIONAL TREASURY

(Hereinafter referred to as "the Customer")

Duly represented herein by **Mr Molefe Fani**

In his capacity as **Acting Chief Procurement Officer** of the Department of National Treasury

Duly authorised thereto to sign this Agreement

AND

Company Name: CELL C LIMITED

Company Registration Number 1999/007722/06

(Hereinafter referred to as "Service Provider")

Duly represented herein by

Douglas Craigie Stevenson

in his/her capacity as Chief Executive Officer

Duly authorised thereto to sign this Agreement

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Contents

LIST OF ANNEXURES 3

LIST OF ABBREVIATIONS 3

RECORDAL 4

1. DEFINITIONS AND INTERPRETATION 5

2. AGREEMENT OBJECTIVES 13

3. STRUCTURE 13

4. CONTRACT DURATION 14

5. PARTICIPATION DOCUMENTS 15

6. RESPONSIBILITY OF THE CUSTOMER 18

7. RESPONSIBILITY OF THE SERVICE PROVIDER 19

8. RESPONSIBILITY OF THE PARTICIPANT 20

9. FEES AND PAYMENTS 23

10. CONTRACT PRICE ADJUSTMENTS 24

11. DELAYS, UNSATISFACTORY PERFORMANCE OR FORCE MAJEURE 24

12. AMENDMENT 26

13. BREACH 26

14. TERMINATION 27

15. WARRANTY 28

16. CONFIDENTIALITY 29

17. INTELLECTUAL PROPERTY RIGHTS 30

18. INDEMNITIES 31

19. LIMITATION OF LIABILITY 33

20. DISPUTE RESOLUTION 33

21. CONFLICT OF INTEREST, SANCTIONS AND ANTI-BRIBERY 34

22. DATA PROTECTION 36

23. GENERAL TERMS AND CONDITIONS 40

24. NOTICES AND DOMICILIUM 41

IE SE DJ

LIST OF ANNEXURES

A	Participation Agreement Template
B	Service Levels
C	Completed and Signed Conditions of Bid and Transversal Contract
D	Contract Circular
E	Reporting Requirements Template

LIST OF ABBREVIATIONS

LTE	Long Term Evolution
MTA	Master Transversal Agreement
POPIA	Protection of Personal Information Act, Act No. 4 of 2013
RFP	Request for Proposal
RICA	Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002
RSA	Republic of South Africa
SIM	Subscriber Identity Module
SITA	State Information Technology Agency
SL	Service Level
SMS	Short Messaging Service
VAT	Value Added Tax

RECORDAL

(A) The Customer issued a Request for Proposal (RFP) after identifying the need to procure Mobile Communication Services for Government of the Republic of South Africa (RSA) under the bid number RT15-2021.

(B) The Service Provider responded to the RFP and has accordingly been appointed by the Customer to provide Mobile Communication Services to all Participants.

(C) The Service Provider and the Customer enter into this Agreement to give effect to such appointment, and to enable Participants to procure from the Service Provider in accordance with the terms and conditions set out in this Agreement.

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1. DEFINITIONS AND INTERPRETATION

The headings of the clauses in this Master Transversal Agreement (MTA) ("Agreement") are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. Unless a contrary intention clearly appears.

1.1 words introducing –

1.1.1 any one gender includes the other gender,

1.1.2 the singular includes the plural and vice versa, and

1.1.3 natural persons include created entities (incorporated or unincorporated) and the State and vice versa.

1.2 the following terms shall have the meanings assigned to them hereunder and similar expressions shall have corresponding meanings, namely –

LTE / 3G / 2G	means a mobile communications standard that allows Mobile Devices to access the internet wirelessly.
Access Charge	means the regular charge for the use of a Service or Product as specified in the proposal and/or Service Schedule.
Activation	means each SIM connected to the Service Provider's Network.
Agreement	means this Master Transversal Agreement and all its Annexures.
Annexures	means a supplement document attached to this Agreement.
Applicable Law	means law, regulation, instruction notes, binding code of practice, rule or requirement of any relevant government or governmental agency, professional or regulatory authority, each as relevant to the Service Provider in the provision of the Services and/or (ii) Participant/Service Provider in the receipt/provision of the Services or the carrying out of its business.
Artificially Inflated Traffic	means a flow of calls for any Service which the Service Provider believes is: (i) disproportionate to the flow or volume of calls which the Service Provider expects from good faith commercial practice and usage of the Network; or (ii)

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	disproportionate to Participant's previous call profiles (in any given month) with the Service Provider; or (iii) uses automated means to make calls using the Network (save where this is expressly approved by the Service Provider in writing)
Authorized User	means any director, officer, employee, or sub-contractor of the Participant that receives a username and password to gain access to one or more of the Services.
Authority	means those governments, agencies, professional, and regulatory authorities that supervise, regulate, investigate, or enforce Applicable Law.
Business Days	means days on which business is generally conducted in the Territory between the hours of 08:00 and 16:30 excluding Saturdays, Sundays, and official public holidays;
Charges	mean the call charges, product charges, access charges and any other charges or fees agreed under this Agreement.
Commencement Date	means 01 April 2021, notwithstanding the signature date of this Agreement hereof.
Confidential Information	means any commercial, financial, technical, legal, marketing, or other data, know-how, trade secrets or any other information of whatever nature relating to a Party or any of its Affiliates or their respective businesses which has been disclosed (whether in writing, orally or by another means and whether directly or indirectly) by or on behalf of that Party to the other Party whether before or after the date of the Agreement or issuance of an Agreement (as applicable).
Connection Date	means the date on which the SIM is connected to the Service Provider's Network (service action date).
Content	means digitally stored and transmitted material, including text, pictures, images, audio, video, games, graphics, software, or services incorporating any of these items.
Contract Circular	means the award notice attached to this Agreement outlining all awarded products, services, Service Providers, implementation guide as issued under RT15-2021.
Controller	means the Party that is defined by Applicable Privacy Law as being legally responsible for ensuring that Personal Data

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	and/or Traffic Data are processed in accordance with the obligations of that Applicable Privacy Law.
Customized Services	means any bespoke, customized and/or specialist services related to Mobile Communication Services in category 2 which the Service Provider is licensed to provide, as may be more fully defined in a Proposal issued to a Participant.
Customer	means the Department of National Treasury as established in terms of section 5 of the Public Finance Management Act,1999 (Act 1. of 1999) (PFMA)
Customer Data	means all data either provided by the Customer or generated through the provision of the Service as well as all information relating to the Customer in terms of its categorisation within a group or type based on various demographic, psychographic and/or geographic characteristic.
Customised Mobile Packages	means any bespoke or tailored Mobile Communication Services in category 1A and 1B as informed by the mobile needs of a Participant as may be more fully defined in a Proposal issued to a Participant.
Customised Services	means any bespoke, customised and/or specialist services related to Mobile Communication Services which the Service Provider is licensed to provide, as may be more fully defined in a Proposal issued to a Participant.
Data	means Personal Data and Traffic Data.
Fair Usage Policy	means a policy utilised to ensure mobile users use mobile data fairly.
Force Majeure	means any cause preventing any Party from performing any or all its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the control of the Party including without limitation of the generality of the afore going act of God, fire, explosion, earthquake, or other adverse weather conditions, war, revolution, or other civil strife, riot, strikes, epidemic or pandemic, changes to law and regulations, vandalism, load shedding or any circumstances of like or different nature beyond the reasonable control of the Party so failing.

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Intellectual Property Rights	means: rights in, and in relation to, any patents, registered designs, design rights, trademarks, trade and business names (including all goodwill associated with any trademarks or trade and business names), copyright, moral rights, databases, domain names, topography rights and utility models, and including the benefit of all registrations of, applications to register and the right to apply for registration of any of the foregoing items and all rights in the nature of any of the foregoing items, each for their full term (including any extensions or renewals thereof) and wherever in the world enforceable; rights in unfair competition rights and to sue for passing off; and trade secrets, confidentiality and other proprietary rights, including rights to know how and other technical information.
Licence	means the electronic communications network services and/or the electronic communications services licence granted by the National Regulatory Authority in terms of Electronic Communications Act, No. 36 of 2005, to the Service Provider to operate the Network or any replacement or variation thereof.
Minimum Subscription Term	means a period of 6 (six) to 48 (forty-eight) months being the minimum period of connection to the Network and/or Services for a SIM under a Subscription.
Mobile Communication Services	means inter alia (a) mobile voice, SMS, and data service, (b) mobile solutions including the required access mediums to the relevant Service Provider's network, (c) Mobile Devices, and (d) accessories.
Mobile Device	means an electronic device that has the capability to allow a mobile user to directly interact with the internet. The Mobile Device could natively host a SIM card and it includes a cellular phone, tablet, dongle or modem, router and others excluding laptops and desktops for this Agreement.
Month	means a calendar month.
National Regulatory Authority	means the national regulatory authority for electronic communications or telecommunications services in South

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	Africa being, for the time being, the Independent Communications Authority of South Africa vested with the power and authority in terms of the Independent Communications Authority Act of South Africa, No. 13 of 2000.
Network	means the mobile communications network of the Service Provider.
Network Services	means the services which enable the Participant to connect to the Service Provider's Network, use and access the services and facilities provided by, on or over the Network using Global System for Mobile Communications General Packet Radio Services Long Term Evolution / 3G / 2G (which are network operating standards) or other future technology.
Number	means Subscriber Number or Mobile Station Integrated Services Digital Network number used or to be used by the Participant or its authorised mobile user for the purpose of obtaining the Service Provider's Network Services.
Operator or Processor	means the person that Processes data on behalf of the Responsible Party.
Participant's Data	means all data either provided by the Participant or generated through the provision of the Service as well as all information relating to the Participant in terms of its categorization within a group or type based on various demographic, psychographic and/or geographic characteristic.
Participation Agreement	means a written Agreement between the Service Provider and a Participant who has obtained consent from the Customer to participate on the Master Transversal Agreement.
Participant	means any State institution participating in this Agreement and having concluded a Participation Agreement with the Service Provider(s).
Parties	means the Department of National Treasury and the Service Provider collectively, and Party means either one of them as the context requires. It also means the Participant and the Service Provider as the context requires.
Personal Information	means personal information as defined in POPIA and/or any information that relates to an identified or identifiable individual or juristic person.

POPIA	means the Protection of Personal Information Act, 2013 (Act no 4 of 2013)
Privacy Authority	means the Authority that enforces the Applicable Privacy Law in the relevant jurisdiction.
Process, Processing or Processed	means obtaining, recording, or holding information or data or carrying out any operation or set of operations on it.
Processor (or Operator)	means the party that is defined by Applicable Privacy Law as carrying out Processing for a Responsible Party.
Product	means all products (inclusive of Mobile Devices / Equipment in the context of RT15-2021) that are provided by the Service Provider in terms of this Agreement as listed in the Contract Circular.
Proposal	means a proposal issued by the Service Provider to a Participant in response to that Participant's request for Products and/or Services and signed by both the Service Provider and the relevant Participant.
Purchase Order	means the purchase order agreed to by the Service Provider and the Participant to be used for ordering Products and/or the Services.
Responsible Party or (Controller)	means the person that determines the purposes and means of Processing the data.
RICA	Regulation of Interception of Communications and Provision of Communication-related information Act, 2002 (Act 70 of 2002) as amended from time to time, or any act that may repeal or replace it including all regulations and government notices published in terms thereof.
RT15-2021	means the Transversal Contract for the supply and delivery of Mobile Communication Services to the State as issued by the Customer.
Service	means the Mobile Communication Services to be provided by the Service Provider in terms of this Agreement.
Service Levels	means the quantitative and qualitative measurement of the Services as set out in Annexure B hereto.
Service Provider	means an appointed Service Provider of Mobile Communication Services on this Agreement: ~~***insert the Service Provider's full name and registration number***~~ Cell C Limited (Registration Number: 1999/007722/06)

Service Schedule	means a document specifying the Service specific terms and conditions relating to a particular Service(s) signed by both Parties and annexed to the relevant Participation Agreement.
Subscriber Identity Module (SIM)	SIM is an electronic memory device for storing mobile user specific data to allow controlled and secure use of the Mobile Device on the Service Provider's Network.
Software	means any software which is (i) embedded in and provided by the Service Provider at the same time as an item with Product/s or (ii) provided by the Service Provider and downloaded to any Product/s both as updated from time to time.
Sub-Operator or Sub Processor	means a sub-contractor that carries out Processing activities in the provision of the Services or fulfils certain obligations of the Service Provider under this Agreement.
Subscription	means each SIM connected to the Service Provider's network.
Subsidy Recovery Charge	means any early termination charges payable by the Participant as specified in the proposal/settlement document.
Telco Charges	means charges for a unit of airtime, unit of SMS or data volume as set out in the proposal of Service Provider as per the Contract Circular.
Territory	means South Africa.
Uncapped data without applying a fair usage policy	means data consumption that has no limitations either on both quantity and speed. Data used will thus not be throttled or constrained but will be managed by the Service Provider.
User	means an individual end user of the Product/s and/or Services provided to the Participant who shall be a permanent or temporary employee or sub-contractor of the Participant.
Value Added Services	means a feature that is added to the core telecommunications services of providing voice, data and SMS connectivity to the Network to assist the user experience of these services.

1.3 any reference in this Agreement to "date of signature" hereof shall be read as meaning a reference to the date of the last signature of this Agreement,

1.4 any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time,

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1.5 when any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday, or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday,

1.6 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail,

1.7 expressions defined in this Agreement shall bear the same meanings in Annexures to this Agreement which do not themselves contain their own definitions,

1.8 where any term is defined within the context of any clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause,

1.9 the expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly if they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this,

1.10 the rule of construction that the Agreement shall be interpreted against the party responsible for the drafting or preparation of the agreement, shall not apply,

1.11 references to a Party include references to its successors, permitted assigns and transferees of its rights and/or obligations (immediate or otherwise) of that Party,

1.12 any reference in this Agreement to a Party shall, if such party is liquidated or sequestrated, be applicable also to and binding upon that Party's liquidator or trustee, as the case may be,

1.13 reference to a statute or its provision includes such statute or provision as might be amended from time to time, and any statute or provision which amends, extends,

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consolidates, or replaces the same, and shall also include any orders, regulations, instruments, or other subordinate legislation made under the relevant statute, and

1.14 unless the context otherwise indicates, the Parties shall interpret any provision of this Agreement objectively.

2. AGREEMENT OBJECTIVES

The objective of this Agreement is to give effect to the Service Provider's appointment by the Customer to provide the Mobile Communication Services to Participants who opt to participate as provided for in this Agreement. It is further to enable the Participants to order Products and/or Services from the Service Provider in accordance with the terms and conditions set out in this Agreement.

3. STRUCTURE

In the event of any conflict between the provisions of this Agreement and any document referenced in this clause 3 ~~Error! Reference source not found.~~ below, the following shall be the order of precedence (highest level of precedence first):

3.1 Regarding Products and Services related matters-:

3.1.1 Purchase Order,

3.1.2 Proposal signed by Service Provider and the Participant,

3.1.3 Service Schedule,

3.1.4 Participation Agreement,

3.1.5 Master Transversal Agreement and

3.1.6 Bid Documents.

3.2 Regarding all other matters-:

3.2.1 Master Transversal Agreement,

3.2.2 Participation Agreement,

3.2.3 Bid documents,

3.2.4 Service Schedule,

3.2.5 Proposal signed by Service Provider and the Participant, and

3.2.6 Purchase Order.

4. CONTRACT DURATION

4.1 This Agreement

4.1.1 Notwithstanding the date of signature of the Agreement, this Agreement shall commence on **01 April 2021** and shall endure for a period of 60 (sixty) months terminating on **31 March 2026** unless terminated on an earlier date in accordance with the provisions of this Agreement.

4.1.2 This Agreement may be extended for a further period as determined by the Parties by mutual agreement. Such an extension shall be in writing and signed off by the Parties as per the provisions of this Agreement.

4.1.3 The effect of terminating this Agreement will be to terminate the ability of Participants to enter into subsequent Participation Agreements. The termination of this Agreement will not, by itself, result in the termination of any Participation Agreement(s) previously entered into prior to the termination and the terms of this Agreement will continue in effect for purposes of such Participation Agreement(s) until expiry of the relevant Subscriptions from the previously entered into Participation Agreements prior to the termination of this Agreement.

4.2 Participation Agreement

4.2.1 **Participation Agreement duration:** Notwithstanding the date of signature, a Participation Agreement shall have its own commencement date from the Connection Date of the first Subscription in terms of that Participation Agreement and shall endure for a period not exceeding 31 March 2026 which is the expiry of this Agreement, unless this Agreement is extended for a further period or terminated on an earlier date in accordance with the provision of this Agreement, in the latter event, the Participation Agreement shall automatically lapse.

4.2.2 **Subscription duration:** Each Subscription shall commence on the Connection Date and remain in force for the Minimum Subscription Term, whereafter the Subscriptions cannot continue a month-to-month basis if the Agreement has expired as the Subscriptions will be irregular expenditure on the Participant's side. Prior to expiry of this Agreement either party may terminate the Subscriptions that are expiring with

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this Agreement on a 30 days' written notice during the last year of the transversal contract.

4.2.3 However, if a specific Subscription goes beyond the duration of the Participation Agreement or this Agreement, although concluded in terms of the provisions of this Agreement, this Agreement and the Participation Agreement shall be deemed to still be valid and in force for the sole purpose of the aforesaid Subscription only. For the avoidance of doubt, each Subscription shall have its own commencement date and shall endure for the contracted/agreed duration, notwithstanding the expiration of this Agreement or any Participation Agreement.

4.2.4 A Participation Agreement may be concluded at any time during the existence of this Agreement. However, save in terms of the provisions of clause 4.2.3 above, no Participation Agreement may be in force nor effective for any period beyond the expiry or termination of this Agreement nor shall any Participation Agreement be concluded after the expiry or termination of this Agreement. The Service Provider undertakes to conclude a Participation Agreement with each Participant within thirty (30) days upon of receipt of first Purchase Order from that Participant in terms of this Agreement.

4.2.5 A Participation Agreement that is not concluded in terms of the provisions of this Agreement shall be deemed to not have been concluded in terms of this Agreement and shall therefore not form part of this Agreement.

4.2.6 Nothing in this Agreement or any Participation Agreement shall prevent the Participants from entering into a separate Participation Agreement with another Service Provider(s) as appointed by the Customer under RT15-2021, nor shall anything prevent any Service Provider from concluding a Participation Agreement with other Participants.

5. PARTICIPATION DOCUMENTS

5.1 The following shall be the documents to be signed and attached to each Participation Agreement in relation to procurement of Mobile Communication Services.

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5.1.1 Proposal

5.1.1.1 The Service Provider shall outline in a written proposal the Mobile Communication Service proposed upon assessment of the Participant's mobile environment.

5.1.1.2 Each Proposal shall be accepted and signed off by the Participant and the Service Provider and shall be attached as an addendum to the relevant Participation Agreement.

5.1.1.3 The Service Provider acknowledges that the outlined Mobile Communication Services shall be supplied and rendered to the relevant Participant during the applicable Subscription period. The Service Provider shall provide all Services with all reasonable skill and care but does not guarantee to provide continuous or uninterrupted access to the Services and shall ensure that such interruptions are not because of the Service Provider's gross negligence.

5.1.1.4 The Service Provider acknowledges that the outlined Mobile Communication Services shall be supplied and rendered to the relevant Participant during the applicable Subscription period.

5.1.1.5 Any amendment(s) to the signed Proposal must be agreed upon, reduced to writing and signed by the Service Provider and the relevant Participant.

5.1.1.6 The Participant is under no obligation to accept any amended Proposal for Mobile Communication Services which is different from the originally proposed Proposal or in excess or of a lesser quality than that which was originally proposed.

5.1.1.7 All Subscriptions for category 1A and category 1B must not exceed a maximum limit value of R500 including Value Added Tax (VAT) per mobile user per month, or any other value as may be agreed between the Parties from time to time.

5.1.2 Purchase Order

5.1.2.1 The Participant shall issue an official and accurate Purchase Order at the instance of each request for services and shall attach to it the signed Proposal concluded under the applicable Participation Agreement.

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5.1.2.2 The value of the Subscription per mobile user per month in a Purchase Order for category 1A and category 1B may not exceed a maximum value of R500 (including VAT) subject to clause 5.1.1.7 above.

5.1.2.3 All Purchase Orders shall be in the Participant's official form and format, approved according to the Participant's delegation of authority based on the value of the Products and/or Services procured.

5.1.2.4 There will be no supply and delivery of Products and/or Services by the Service Provider without an official Purchase Order from the applicable Participant in line with the Proposal submitted by the Service Provider and signed by both parties.

5.1.3 Service Schedule (applicable to Category 2 Value Added Services)

5.1.3.1 Each Service Schedule shall contain the specific terms and conditions applicable to the applicable Service, which shall in no way amend the provisions of this Agreement. Each Service Schedule shall be deemed to be integral part of this Agreement on the terms and conditions set out in the Service Schedule.

5.1.3.2 The termination of any specific Service or Service Schedule shall not be deemed to constitute a termination of any other Service Schedule or this Agreement, all of which shall continue to be of full force and effect.

5.1.3.3 If a Service terminates prior to the expiry of the Subscription term, the Participant will be liable for early termination fees.

5.1.3.4 Each Service Schedule shall, where applicable, provide:

5.1.3.4.1 a description of the service to be rendered,

5.1.3.4.2 minimum service schedule period,

5.1.3.4.3 the pricing and payment terms applicable to the service,

5.1.3.4.4 required service levels,

5.1.3.4.5 undertakings, terms, and conditions not contained in this Agreement which pertain to the Service; and which shall be subject to the Participant's acceptance; and

5.1.3.4.6 any other information required as provided for in this Agreement.

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5.1.4 Service Levels

5.1.4.1 The Service Provider shall make all commercially reasonable efforts to attempt to meet any Service Levels as agreed upon in this Agreement and/or any Participation Agreement and specifically as set forth in Annexure B.

5.1.4.2 In the event of multiple Service Level failures (being a maximum of 3 (three) per calendar month in terms of a particular Participation Agreement, or a maximum of 6 (six) across multiple Participation Agreements) per calendar month which have been proven to have been caused solely due to gross negligence on the part of the Service Provider, the Participant's remedy shall be as follows:

5.1.4.2.1 the Customer and each affected Participant ("the Affected Parties") shall provide a detailed written report to the Service Provider setting out details of the alleged Service Level failure,

5.1.4.2.2 the Service Provider shall, upon written request by the affected Participant conduct a root cause analysis to identify the cause of such alleged Service Level failures,

5.1.4.2.3 the nominated representative of the Service Provider and nominated representative of the affected Participant shall meet and discuss the alleged Service Level failure incidents and agree to any reasonable remedial action which may be taken to rectify any proven Service Level failures attributable to the gross negligence on the part of the Service Provider; and

5.1.4.2.4 the aforesaid shall constitute the affected Participant's sole and exclusive remedy against the Service Provider for any Service Level failure, save as where expressly provided otherwise.

6. RESPONSIBILITY OF THE CUSTOMER

6.1 The Customer shall set the participation guidelines in terms of this Agreement which will be updated as and when a need arises and shall be contained in the Contract Circular and its Annexures.

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6.2 The Customer shall monitor Service Provider's performance in conjunction with Participants.

6.3 Contract management requires that contract managers manage the contract performance of both parties to the Participation Agreement.

7. RESPONSIBILITY OF THE SERVICE PROVIDER

7.1 The Service Provider shall provide to the Participants the Products and/or Services in the manner set out in this Agreement and its Annexures.

7.2 The Service Provider shall use all reasonable commercial efforts to obtain access for the Participant to compatible telecommunications networks when any Participant's mobile user is roaming outside of the Territory, subject to the applicable terms and conditions. The Service Provider shall not be responsible for the performance of such networks, and the Participant acknowledges that the quality, coverage, features, functions, and services of such networks may be different to the Service Provider's Network.

7.3 The Service Provider shall ensure that all mobile Products offered by it under this Agreement are only the latest approved models at the time of delivery. All spare parts supplied must be new. No second hand or refurbished parts shall be supplied by the Service Provider or accepted by any Participant.

7.4 The Service Provider shall ensure that the spare parts of the mobile Products are available for the specified lifespan of the mobile Products and/or Services as indicated in the applicable signed Proposal.

7.5 All the awarded specific brands and models to a Service Provider are required to be supplied throughout the duration of this Agreement.

7.6 In the event any mobile Product is discontinued, the Service Provider shall notify the Customer of such an occurrence. The replacement model shall be at the same awarded price as well as quality and standard. The Service Provider shall ensure that it notifies the Customer of such replacement prior to implementation.

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7.7 The Service Provider shall be responsible for the maintenance and after-sales support of the delivered mobile Products and/or Services for the duration of this Agreement.

7.8 The Service Provider shall ensure any model replacement adheres to all certification processes defined by the State Information Technology Agency before any such replacement model is allowed.

7.9 The Service Provider undertakes to make available such resource(s) as required to supply the Products and/or Services in terms of the provisions of this Agreement and as indicated in the Proposal(s).

7.10 **DELIVERY ADHERENCE**

7.10.1 Delivery of Product(s) and Service(s) must be made in accordance with the instructions appearing on the official Proposal(s) and Purchase Order(s) as issued by the Service Provider and applicable Participant, respectively.

7.10.2 All deliveries or dispatches must be accompanied by a delivery note stating the official delivery details as they appeared on the Purchase Order(s).

8. RESPONSIBILITY OF THE PARTICIPANT

8.1 Each Participant shall co-operate and assist the Service Provider in performing its obligations in terms of this Agreement to any extent reasonably necessary.

8.2 Each Participant shall monitor and review the Service Provider's performance in terms of this Agreement as well as the applicable Proposal and/or Service Schedule.

8.3 Participant that wishes to refresh any Mobile Device which has not completed any minimum Subscription period are discouraged to do so to avoid incurring fruitless and wasteful expenditure, then such Participant shall complete the minimum Subscription period and refresh Mobile Devices upon expiry of the original minimum Subscription period.

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8.4 The Participants will only use the Products and/or Services as provided by the Service Provider in terms of this Agreement in accordance with (i) applicable law; (ii) the terms of this Agreement; (iii) any documentation provided by the Service Provider to the Participants in relation to any Software which restricts the use of the Software to certain feature sets or other restrictions which may apply from time to time; and (iv) any other reasonable instructions or conditions notified to the Participants by the Service Provider (including any given as a result of instructions imposed by the National Regulatory Authority). Without limiting the generality of the afore going, the Participants shall specifically ensure that they comply with all requirements of RICA and shall verify and record all the information that the Participants is obliged to record and store in terms of RICA. The Participants shall ensure that Users also comply with the obligations set out in this clause 8.4.

8.5 The Participants shall not use, and shall take reasonable steps to ensure that its Users shall not use the Products and/or Services:

8.5.1 for the transmission of illegal or offensive material,

8.5.2 for the transmission of material that contains software viruses or any other disabling or damaging programs,

8.5.3 in any way which impairs or damages the Network or the provision of the Services or

8.5.4 fraudulently or illegally or in violation of this Agreement.

8.6 The Participants shall not resell, distribute, provide or sub-licence the Products and/or Services to any third party except that the Participant may provide the Products and/or Services to a User without further charge. For the avoidance of doubt, the provision of the Products and/or Services to Users shall not be deemed to be reselling.

8.7 The Participant shall provide such assistance and support as reasonably requested by the Service Provider leading up to and during sign-off.

8.8 The Service Provider shall provide the Participant seven (7) Business Days (or such longer period as may be agreed in any associated Service Schedule) to review a deliverable required to be signed-off. The Participant shall commence the review immediately upon receipt of the deliverable.

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8.9 If no response is received by the Service Provider on the seventh (7th) Business Day, the Service Provider undertakes to address written notice to the Participant requesting response to the deliverable referred to in clause 8.8 within three (3) Business Days. If no response is received within ten (10) Business Days from the date of receipt of written notice, the deliverable shall be deemed to be accepted by the Participant.

8.10 Should the Participant accept the deliverable it shall provide sign-off within five (5) Business Days thereafter.

8.11 Should the Participant reject the deliverable it shall do so in writing within five (5) Business Days thereafter giving detailed reasons for the rejection and specifying the additional information which, once incorporated, shall be sufficient to cause the Participant and/or to provide sign-off ("Rejected Deliverable"). Within fourteen (14) Business Days thereafter, the Service Provider shall amend the Rejected Deliverable in accordance with the Participant's additional information and resubmit it to the Participant for review in accordance with clause 8.10. The clause 8.1110 shall continue to apply until such time as the Rejected Deliverable is signed-off.

8.12 The Service Provider's failure to meet any delivery date because of a deliverable not being signed-off, shall amend the delivery dates of other deliverables accordingly, provided that the Service Provider shall use reasonable endeavours to catch up on delays so caused.

8.13 The sign-off or deemed sign-off of any deliverable, shall be a factual determination that the deliverable to which it relates, meets the terms of the relevant Product or Service Schedule, including the technical specifications and scope of Services.

8.14 The Participant's Staff shall co-operate with the Service Provider's Representatives for the provision of the Products and/or Services, as reasonably required.

8.15 The ownership in and to the Products installed by the Service Provider on the Participant's premises for providing the Electronic Communication Services shall vest in the Service Provider unless the Participant has bought and paid for the Products from the Service Provider as set out in the relevant Service Schedule.

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8.16 The risk of loss or damage to the Product/s installed by the Service Provider on the Participant's premises shall vest in the Participant. The Participant shall be liable for any loss or damage to the Product/s installed on the Participant's premises unless same is caused by or attributable to the Service Provider.

8.17 The Participant hereby acknowledges that there are no circumstances arising out of or in connection with this Agreement, Participation Agreement or Service Schedule whereby it obtains any contractual right to require that the title in the Product/s be transferred to it at any time unless the Participant has bought and paid for the Product/s from the Service Provider as set out in the relevant Service Schedule.

9. FEES AND PAYMENTS

9.1 Each Participant shall pay the Service Provider for all Products and/or Services requested in line with a Purchase Order(s) and the Charges as per the provisions of this Agreement. The Service Provider acknowledges that the cost of the Products and/or Services are as per this Agreement, the Contract Circular, and its Annexures, is inclusive of all applicable taxes and no Participant shall be liable for any further amount.

9.2 All payments shall be based on an invoice issued by the Service Provider and approved by the relevant Participant in line with the relevant Purchase Order(s). Any amount not paid by the Participant on due date to the Service Provider or in respect of disputed amount/s and such dispute is resolved in favour of the Service Provider, such amount shall bear interest at the Prime Rate compounded monthly.

9.3 However, if an invoice is undisputed, the Participant shall pay the undisputed amount in terms of the Purchase Order or specific Service Schedule. Participants shall pay all undisputed invoices within 30 (thirty) days of the relevant Participant's receipt of such invoice.

9.4 Notwithstanding the aforesaid, in the event any Participant wishes to dispute an invoice, such Participant shall be obliged to do so within 21 (twenty-one) days of receipt of the said invoice, including details of why the disputed amount is incorrect and/or is being disputed and, if possible, how much the Participant considers to be the correct amount, failing which such Participant shall be deemed to have accepted

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the amount owing in respect of such invoice and the contents thereof shall be deemed to be correct.

9.5 All disputed invoices shall be dealt with in terms of the Dispute Resolution clause of this Agreement.

10. CONTRACT PRICE ADJUSTMENTS

The prices in terms of this Agreement shall be fixed for the duration of this Agreement except for any Products where the rate of exchange is applicable.

11. DELAYS, UNSATISFACTORY PERFORMANCE OR FORCE MAJEURE

11.1 The Service Provider shall, always, ensure that it supplies the Products and/or Services within the scope of Products and/or Services set out in this Agreement and shall ensure that the Products and/or Services supplied and rendered are within the timelines agreed to between the Parties as set out in the relevant Proposal or Service Schedule and Purchase Order(s).

11.2 In the event of any delay and/or failure to perform the Services in accordance with this Agreement and/or where any Participant deems it necessary to obtain the Services not readily available from the Service Provider, such Participant reserves the right to procure such Mobile Communication Services from another Service Provider in terms of this Agreement. Such Participant must however be able to demonstrate and prove that it has allowed the Service Provider the time to deliver the Services in line with the delivery timelines as provided for in the relevant Proposal and Service Levels before selecting another Service Provider.

11.3 If at any time during the provision of the Services the Service Provider, its agents or subcontractor(s), encounter conditions impeding specific and/or timely delivery of provision of the Services, the Service Provider shall promptly notify the relevant Participant in writing of that fact, the likely duration and/or its cause(s). As soon as practicable after receipt of the Service Provider's notice, the relevant Participant shall evaluate the situation and may, at its discretion, extend the Service Provider's delivery timelines for provision of the Services, in which case the extension shall be ratified by the Parties by amendment of the relevant Proposal, Service Schedule and

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Purchase Order in writing and such amendment shall be attached to the relevant Participation Agreement.

11.4 Notwithstanding the aforesaid, where the reason for the delay is due to any act or omission on the part of the relevant Participant or anyone under its control, the Service Provider's non-performance shall be excused, and the Service Provider's performance shall be extended on a reasonable basis in proportion to the prejudice caused by the delay and the Service Provider may charge for any additional costs incurred to provide the Services.

11.5 Any delivery of Mobile Communication Services rendered by the Service Provider that differs materially from the scope of services set out in this Agreement, shall not be regarded as a delivery and/or service in terms of this Agreement and the relevant Participant, having so indicated to the Service Provider in writing, shall not be liable for any consideration in relation to such delivery and/or service.

11.6 Delay or failure to comply with, or breach of any of the terms and conditions of this Agreement, if occasioned by force majeure, will not be deemed to be a breach of this Agreement, nor will it subject either Party to any liability to the other. The Party plagued by force majeure shall inform the other Party in writing and the Party concerned shall continue to perform its obligations under the Agreement as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the force majeure.

11.7 Should either Party be prevented from carrying out its contractual obligations as a result of a force majeure event lasting for a continuous period of 30 (thirty) calendar days, or such other period as may be agreed to between the Parties in writing, either Party shall be entitled, after due consultation with the other Party in an effort to come to a mutually acceptable arrangement, to terminate either the affected part of the Products and/or Services or the entire relevant Purchase Order (where it is not feasible to maintain the Purchase Order), on written notice to the other Party, without incurring liability. Notwithstanding the above, the relevant Participant and / or the Customer shall reserve the right to terminate the relevant Participation Agreement, or (in the case of the Customer) this Agreement should the force majeure persist beyond 30 (thirty) days, or any other period so agreed.

IE SE DJ

12. AMENDMENT

12.1 The Parties may at any time during the subsistence of this Agreement amend any provision herein, including any Annexure attached hereto or referred to as published with the Contract Circular. However, no such amendment shall be of any force and effect unless agreed and reduced into writing by the Parties.

12.2 This Agreement constitutes the whole Agreement between the Parties relating to the subject matter hereof. To the extent permissible by law neither Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the Agreement and/or whether it was negligent or not. Therefore, this Agreement supersedes all and any agreements between the Parties on the subject matter.

12.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any Agreement, or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against either Party in respect of its rights under this Agreement, nor shall it operate to preclude such Party thereafter from exercising its rights strictly in accordance with this Agreement.

13. BREACH

13.1 Either Party shall be in breach of this Agreement if it fails to comply with any of its obligations in terms of this Agreement and, having been given 30 (thirty) calendar day's written notice to remedy such non-compliance, fails to remedy such non-compliance.

13.2 Subject to clause 13.1 above, the Service Provider shall be in breach of this Agreement if it—

13.2.1 fails to comply with the prescribed License requirements, and/or if it fails to comply with any applicable legislation in relation to the Products and/or Services; or

13.2.2 becomes bankrupt or otherwise insolvent, if this will not affect any right of action or remedy which has accrued or will accrue thereafter to the Customer; or

13.2.3 compromises or makes an assignment for the benefit of, or attempts to compromise or make such assignment with, its creditors.

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13.3 Either Party shall, in any instance of material breach which is not remedied, be entitled, in addition and without prejudice to any other right it may have in law pursuant to this Agreement, to either enforce specific performance or terminate the Agreement.

13.4 If a Participant commits a material breach of this Agreement, the Service Provider shall be entitled to suspend the Products and/or Services from using the Network:

13.4.1 Such suspension will be without notice if this is required by law or there is a breach of clauses 8.4, 8.5 and 8.6 and each of these shall be deemed to be a material breach, and

13.4.2 Furthermore, the Service Provider may without notice to the Participant suspend or restrict the use of any of the Services (other than emergency services) by the Participant if:

13.4.2.1 The Service Provider believes that any number, SIM, Product or Services are being used in an unauthorised, illegal, or fraudulent way; or

13.4.2.2 where the Service Provider identifies what it reasonably determines to be Artificially Inflated Traffic.

13.4.3 In all other circumstances, prior to such suspension the Service Provider will first provide 15 (fifteen) days written notice to the Participant.

14. TERMINATION

14.1 This Agreement will terminate under the following circumstances:

14.1.1 At expiry of the Agreement in terms of clause 4.1.1 above; or

14.1.2 Subject to clause 14.2 below, where either Party fails to perform on its obligation(s) and/or commits a material breach of this Agreement upon written notice by the aggrieved Party.

14.2 In the instance where a Party in breach fails to remedy a breach as contemplated in clause 13.1 above, the innocent Party may terminate the Agreement by giving 30 (thirty) calendar days' written notice of termination of this Agreement and may claim damages suffered because of the breach and/or specific performance without prejudicing any of its rights in law.

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14.3 The Parties hereby agree that this Agreement shall be terminated with immediate effect by written notice if the Customer provides evidence of an event that serving of the notice period may be detrimental to its security in any manner as an institution.

14.4 Each Participants shall settle all undisputed outstanding invoices of the Service Provider within 30 (thirty) working days of the date of termination of Agreement.

14.5 Where the Service Provider fails to perform on its material obligation(s) and/or breaches a material term of any Participation Agreement, accepted Proposal or Service Schedule, the relevant Participant shall provide the Service Provider with 30 (thirty) days written notice to remedy the breach, failing which the relevant Participant reserves the right to terminate the accepted Proposal and/or Service Schedule on a 60 (sixty) days' written notice to the Service Provider.

14.6 Termination shall be without prejudice to any right or remedy available to either Party, including claiming damages suffered because of the breach and/or specific performance.

14.7 Where the Participant terminates a Subscription or the Customer terminates this Agreement prior to its expiry date, the Participant shall be responsible for early termination costs for all Subscriptions running as at the time of termination of the Participation Agreement save for where the termination of this Agreement or a Participation Agreement is as a result of breach of contract by the Service Provider.

15. WARRANTY

15.1 The Service Provider warrants that it has the resources, ability, skill, and experience appropriate to supply the Products and/or Services and to perform all functions related to the Products and/or Services.

15.2 The Service Provider undertakes to provide the Products and/or Services to the quality, standards and technical specifications agreed to by the Parties, under the terms and conditions set out in this Agreement.

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15.3 The Service Provider warrants that it shall comply with all laws, by-laws, and regulations, and to obtain whatever permits, authorizations and licenses that are necessary to fulfill its obligations in terms of this Agreement for the entire duration of this Agreement.

15.4 The Service Provider warrants that it shall exercise all reasonable commercial efforts to ensure the security of each Participant's mobile user's communications using the Products and/or Services and no breach of security shall be committed as a result of the gross negligence of the Service Provider. However, where the breach of security is outside the control of the Service Provider, the Service Provider does not warrant or guarantee that communications will be completely secure.

16. CONFIDENTIALITY

16.1 Each Party undertakes to the other Party, for the duration of this Agreement and after termination thereof –

16.1.1 to keep confidential all information, whether written (including information contained in electronic format) or oral, concerning the business affairs of the other Party that it obtains or receives from the other Party or any third party, ("the Confidential Information"); this does not preclude the Service Provider from furnishing information to potential financial institutions to whom the Agreement may be ceded or from accessing and processing credit data.

16.1.2 not to, without the other Party's prior written consent, which consent shall not be unreasonably withheld, disclose the Confidential Information in whole or in part to any person, save its employees, agents, contractors and/or consultants involved in the implementation of this Agreement and who have a need to know; and

16.1.3 to use the Confidential Information solely in connection with the implementation of this Agreement and not for its own benefit or that of any third party.

16.2 The provisions of clause 16.1.1 shall not apply to all or any Confidential Information which is–

16.2.1 already known to the recipient without an obligation of confidence; or

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16.2.2 publicly available without breach of this Agreement; or

16.2.3 required to be disclosed in response to a valid order of court or other governmental agency or if disclosure thereof is otherwise required by law.

16.3 The Service Provider undertakes to ensure that all its officials supplying Products and/or Services in terms of this Agreement shall adhere to the Protection of Personal Information Act, 2013 only to the extent that the Service Provider processes Personal Information while providing the Products and/or Services. The Customer shall, and undertakes to ensure that each Participant shall, in utilising the Products and/or Services in terms of this Agreement and the relevant Participation Agreement, comply with its obligations under POPIA, including as responsible party (as such term is defined in POPIA).

17. INTELLECTUAL PROPERTY RIGHTS

17.1 All rights, titles, and interests in, and all intellectual property relating ("Intellectual Property Rights") to Products and Services owned by or provided by the Parties, their vendors or suppliers, and the Software used to implement such products, shall be and shall always remain the property of such Parties, their vendors or suppliers, and nothing in this Agreement grants or purports to grant or shall be interpreted to imply the granting of any right, title or interest of whatever nature to a Party in the Intellectual Property Rights of the other Party otherwise than as provided for in this Agreement.

17.2 The Parties record that for the duration of this Agreement, the Service Provider may make improvements to the way in which the relevant Products and/or Services are delivered using new tools and processes which may either (i) reduce the cost of providing the Products and/or Services or (ii) improve the efficiency and delivery of the Products and/or Services ("Innovation Methods"). The Intellectual Property Rights in such Innovation methods shall vest with the Service Provider.

17.3 The Customer and/or the Participant receives no right, title, or interest in such Innovation methods whatsoever. All Innovation methods referred to herein which has cost implications shall be approved in writing by the Customer prior to implementation by the Service Provider. For avoidance of doubt nothing in this clause or the Agreement in general imposes an obligation on the Service Provider to provide these Innovation methods.

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17.4 The intellectual property rights in every work or any part thereof exclusively created for the Participant by the Service Provider or any person performing work on behalf of the Service Provider in the execution of this Agreement shall vest in the Participant subject to the work being bespoke and the Participants paying for such works or part thereof may only be reproduced or disclosed to another person with the written consent of the Participant.

17.5 The Participant shall be entitled to use, free of charge, for its own purposes, all intellectual property products of the Service Provider that have been incorporated in the systems of the Participant for the duration of this Agreement.

18. INDEMNITIES

18.1 The Service Provider hereby indemnifies, holds harmless and agrees to defend Customer/Participants and its officers, employees, agents and successors against all claims or losses arising from or in connection with, any of the following-

18.1.1 Third party claims attributable to any breach of the provisions of this Agreement by the Service Provider,

18.1.2 Third party claims attributable to theft, fraud, or other unlawful activity or any negligent, willful, or fraudulent conduct by the Service Provider or the Service Provider's personnel and claims attributable to errors and/or omissions committed by same,

18.1.3 Third party claims arising from or related to the death or bodily injury of any agent, employee, customer, business invitee, business visitor or other person on the Service Provider's premises caused by the delictual conduct of the Service Provider or the Service Provider's Personnel, or

18.1.4 Claims arising from damage to property owned or leased by Participant or belonging to a third party caused by the negligent, willful, or fraudulent acts or omissions of the Service Provider or the Service Provider's personnel.

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18.1.5 The Customer/Participants hereby indemnifies, holds harmless and agrees to defend the Service Provider and its officers, employees, agents and successors against all claims or losses arising from or in connection with, any of the following-

18.1.5.1 Third party claims attributable to any breach of the provisions of this Agreement by the Customer/Participants,

18.1.5.2 Third party claims attributable to theft, fraud, or other unlawful activity or any negligent, willful, or fraudulent conduct by the Customer/Participants or the Customer's/Participants' personnel and claims attributable to errors and/or omissions committed by same,

18.1.5.3 Third party claims arising from or related to the death or bodily injury of any agent, employee, customer, business invitee, business visitor or other person on the Customer's/Participants' premises caused by the delictual conduct of the Customer/Participants or the Customer's/Participants' personnel, or

18.1.5.4 Claims arising from damage to property owned or leased by the Service Provider or belonging to a third party caused by the negligent, willful, or fraudulent acts or omissions of the Customer/Participants or the Customer's/Participants' personnel.

18.2 Neither the Service Provider, nor Participant, shall be liable under this Agreement for any consequential, indirect, special, punitive or incidental damages, whether foreseeable or unforeseeable, (including, but not limited to, claims for loss of data, goodwill, profits, use of money or use of the software programs, interruption in use or availability of data or the software programs, stoppage of other work or impairment of other assets), arising out of breach or failure of express or implied warranty, breach of contract, misrepresentation, negligence, strict liability in delict or otherwise, whether based on this Agreement, any commitment performed or undertaken under or in connection with this Agreement, or otherwise. The Service Provider shall not be liable for any consequential losses arising because of technical or other failure in the Services. The Service Provider does not warrant that the Service shall be fault free or free of interruptions.

18.3 The Participants' liability to pay the Charges and the Subsidy Recovery Charge is expressly excluded from the limitation of liability in clause 19.3.

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19. LIMITATION OF LIABILITY

19.1 Notwithstanding anything to the contrary contained anywhere in this Agreement, neither Party (or any Participant) shall be liable, whether in contract, delict or otherwise, for any special, indirect, consequential, or incidental damages, arising from or in connection with this Agreement or any Participation Agreement.

19.2 The total liability of the relevant Participant and the Service Provider respectively in respect of a claim arising in terms of this Agreement, Participation Agreement and/or a Service Schedule (whether arising from negligence, breach of contract or otherwise howsoever) (in this clause, "Default") is limited to the aggregate of the fees/charges paid (or payable if not fully paid) by the affected relevant Participant to the Service Provider in the twelve (12) months preceding such claim hereunder. For purposes of clarity Parties (including the Participant) shall not bear any liability under this Agreement save to the extent that this Agreement has been incorporated into the terms of the applicable Participation Agreement for which the breach occurred.

19.3 Notwithstanding any provision of this Agreement, in no event shall the Service Provider, the Participants be liable to the other for indirect or consequential loss or damage, loss of profits, business, revenue, goodwill or anticipated savings suffered by a party during the term of this Agreement, a Participation Agreement and/or a Service Schedule.

19.4 Nothing in this clause 19 will be taken as in any way reducing or affecting a general duty to mitigate loss suffered by a Party and/or the relevant Participants.

20. DISPUTE RESOLUTION

20.1 If a dispute between the Parties arises out of or is related to this Agreement, the Parties shall meet and negotiate in good faith to attempt to resolve the dispute. If, after twenty (20) Business Days from the date upon which the dispute was declared by a Party by written notice, the dispute is not resolved the matter shall be determined in accordance with the provisions set out below.

20.2 Save in respect of those provisions of this Agreement which provide for their own remedies which would be incompatible with arbitration, or in the event of either Party

IE SE DJ

instituting urgent action against the other in any court of competent jurisdiction, any dispute arising from or in connection with this Agreement shall be finally resolved by arbitration in accordance with the Rules of the Arbitration Foundation of Southern Africa or its successor, by an arbitrator or arbitrators appointed by the Arbitration Foundation.

20.3 The Clause 19 shall be severable from the rest of the provisions of this Agreement so that it shall operate and continue to operate notwithstanding any actual or alleged voidness, voidability, unenforceability, termination, cancellation, expiry, or accepted repudiation, of this Agreement.

20.4 Neither Party shall be entitled to withhold performance of any of their obligations in terms of this Agreement pending the settlement of, or decision in, any dispute arising between the Parties.

20.5 The Customer shall facilitate the processing of cases of non-compliance and corrective action.

21. CONFLICT OF INTEREST, SANCTIONS AND ANTI-BRIBERY

21.1 The Service Provider must not have or undertake duties or interests that create or might reasonably be anticipated to create an actual or perceived conflict with its duties and interests in executing this Agreement. The Service Provider must have systems in place to identify potential conflicts and to bring them to the attention of Customer/Participants.

21.2 The Service Provider warrants that there are no contracts, restrictions or other matters which would interfere with its ability to discharge its obligations under this Agreement. If, while executing its duties and responsibilities under this Agreement, the Service Provider becomes aware of any potential or actual conflict between its interests and those of Customer/Participants, the Service Provider shall immediately inform Customer/Participants of such conflict or potential conflict. Where Customer/Participants forms the view that such a conflict does or could exist, it may direct the Service Provider to take reasonable action(s) to resolve that conflict, and the Service Provider shall comply with such reasonable instructions.

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21.3 The Service Provider shall comply with all applicable laws, regulations and sanctions relating to anti-bribery and anti-corruption and shall not give or receive any bribes, including in relation to any foreign public official.

21.4 Sanctions and Trade/Export Control:

21.4.1 Each Party shall, in the context of the Services: comply with all economic, trade and financial sanctions laws, regulations, embargoes or restrictive measures administered ("Sanctions"), as well as all trade control laws and regulations ("Trade Control Laws") enacted or enforced by the governments of the United Kingdom, European Union, United States of America and any other relevant country,

21.4.2 not knowingly do anything which may cause the other Party or members of its Affiliate to breach Sanctions,

21.4.3 provide such assistance, documentation, and information to the other party as that Party may reasonably request, including but not limited to, end customer information, destination and intended use of goods or services,

21.4.4 notify the other Party in writing as soon as it becomes aware of an actual or potential investigation/breach in relation to the Applicable Laws (and, Sanctions and Export controls restrictive measures) or any material change in the status of any of the parties to this agreement in respect of:

21.4.5 Sanctions status e.g. the inclusion on a Sanctions list in any applicable jurisdiction (as stated in 21.4.1 above),

21.4.6 License or authorization status e.g. a loss of license/authorization in respect of Sanctions or Trade Controls,

21.4.7 have the right to terminate this agreement if any of the provisions of this clause are breached; and

21.4.8 have the right to seek indemnities from the Party which has breached the relevant provisions for any direct losses incurred.

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22. DATA PROTECTION

Data Protection - When Service Terms identify the Service Provider as the Responsible Party or Data Controller.

22.1 The Service Provider may process User Personal Information or Personal Data for the following purposes: (a) account relationship management; (b) sending bills; (c) order fulfilment / delivery; and (d) customer service (e) provision of products and services.

22.2 As an electronic communications services provider, Service Provider may Process Traffic Data for the following purposes: (a) delivering User communications; (b) calculating Charges for each User; (c) identifying and protecting against threats to the Network or Services; and (d) internal use for development and improvement of Network or Services.

22.3 The Service Provider may disclose User Personal Data and Traffic Data: (a) to the Service Provider and Service Provider's other companies or suppliers and/or (b) if required by Applicable Law, court order, Information Regulator or Privacy Authority, or any Authority.

22.4 The Service Provider's privacy notice containing details of how the Service Provider processes personal information can be found on each Service Provider's website.

Data Protection – When Service Terms identify Service Provider as the Operator or Data Processor.

22.5 Service Provider may only Process User Personal Data for: (a) provision and monitoring of the Service; or (b) any other purpose agreed between the Parties in writing. Additional instructions from Participant require prior written agreement and may be subject to Charges.

22.6 Service Provider may use User Personal Data to create statistical data and information about service usage and devices that does not identify a User.

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22.7 Service Provider may engage Sub-Operators. An indicative list of current Sub-Operators or Sub- Processors can be obtained from Service Provider as agreed with the Customer from time to time.

22.8 Service Provider enters into binding agreements with its Sub-Operator that imposes upon the Sub-Operator substantially the same legal obligations for Processing activities at these terms. If a Sub-Operator fails to fulfil its data protection obligations under the agreement, Service Provider remains liable to Customer and Participant for the performance of that Sub-Operator's obligations.

22.9 Service Provider may retain the User Personal Data for as long is permitted by law or as required to deliver the Products and/or Service and will (at Participant's option) return User Personal Data in its possession upon termination of the Agreement or delete such User Personal Data within a reasonable time after the termination of the Agreement, unless Applicable Law requires Service Provider to retain it.

22.10 Service Provider limits access to User Personal Data to those persons necessary to meet Service Provider's obligations in relation to the Service and takes reasonable steps to ensure that they: (a) are under a statutory or contractual obligation of confidentiality; (b) are trained in Service Provider's policies relating to handling User Personal Data; and (c) do not process User Personal Data except as instructed by Participant unless required to do so by Applicable Law.

22.11 As required by Applicable Privacy Law, Service Provider shall: (a) provide appropriate technical and organisational measures for a level of security appropriate to the risks that are presented by Processing; (b) comply with the security requirements contained in the Service Provider information security policies based on International Organization for Standardization / International Electrotechnical Commission standards; (c) provide Participant with such information, assistance and co-operation as Participant may reasonably require to establish compliance with the security measures contained in Applicable Privacy Law; (d) notify Participant without undue delay of any unauthorised access to User Personal Data that the Service Provider becomes aware of and that results in loss, unauthorised disclosure, or alteration to the User Personal Data; (e) provide reasonable assistance to Participant in relation to any personal data breach notification that Participant is required to make under Applicable Privacy Law; and (f) provide Participant reasonable assistance, prior to any Processing: (A) with carrying out a privacy impact assessment of the Products

IE SE DJ

and/or Services; and (B) with a consultation of the relevant Privacy Authority regarding Processing activities related to the Services. Further information on data security measures can be found on Service Provider's website.

22.12 Where Customer has a right of audit and inspection under Applicable Privacy Law, Customer agrees to exercise its right as follows:

22.12.1 No more than once each calendar year, Customer may request to review Service Provider's security organisation and the good practice and industry standards contained in Service Provider's information security policies. Any audit may only relate to data protection compliance of the Products and/or Services and the provision of documentary evidence of compliance. If the Transfer Contract Clauses apply, nothing in this clause amends or varies those standard clauses nor affects any data subject or Privacy Authority's rights under those clauses.

22.12.2 In connection with an audit, Service Provider shall inform Customer if, in its opinion, any Participant instruction infringes Applicable Privacy Law; however, this requirement does not affect Participant's responsibility for ensuring its instructions comply with Applicable Privacy Law.

22.12.3 Participant is responsible for reviewing the information Service Provider makes available and making an independent determination if the Products and/or Services meet Participant's requirements and legal obligations.

22.13 Service Provider may Process or transfer User Personal Data in countries outside South Africa provided that : the third party who is the recipient of the information is subject to a law, binding corporate rules or binding agreement which provide an adequate level of protection that (i) effectively upholds principles for reasonable processing of the information that are substantially similar to the conditions for lawful processing of personal information relating to a data subject as detailed in POPIA or any relevant local law (ii) includes provisions, that are substantially similar to this section, relating to the further transfer of personal information from the recipient to third parties who are in a foreign country; (b) the Participant consents to the transfer; (c) the transfer is necessary for the performance of a contract between the Participant and the responsible party, or for the implementation of pre-contractual measures taken in response to the data subject's request; (d) the transfer is necessary for the conclusion of performance of a contract concluded in the interest of the Participant

IE SE DJ

between the responsible party and a third party; or (e) the transfer is for the benefit of the Participant, and (i) it is not reasonably practicable to obtain the consent of the Participant to that transfer, and (ii) if it were reasonably practicable to obtain such consent, the Participant would be likely to give it.

22.14 Service Provider: (a) may receive legally binding demands from a law enforcement Authority for the disclosure of, or other assistance in respect of, User Personal Data, or be required by Applicable Law to disclose User Personal Data to persons other than Participant (a "Demand"); (b) is not in breach of any obligation to Participant in complying with a Demand to the extent legally bound; and (c) will notify Participant as soon as reasonably possible of a Demand unless otherwise prohibited.

22.15 When Participant is required under Applicable Privacy Law to respond to enquiries or communications (including subject access requests) from Users, and taking into account the nature of the Processing, the Service Provider will: (a) pass on to Participant without undue delay any such enquiries or communications received from Users relating to their User Personal Data or its Processing; and (b) have reasonable technical and organisational measures to assist Participant in fulfilment of those obligations under Applicable Privacy Law.

22.16 Neither Party is liable to the other Party (whether in contract, tort (including negligence), breach of statutory duty, indemnity, or otherwise) for: (a) any loss (whether direct or indirect) of profit, revenue, anticipated savings, or goodwill; (b) any loss to or corruption of data; (c) any fines prescribed by any Authorities; (d) any loss arising from business interruption or reputational damage; or (e) any indirect or consequential loss, regardless of whether any of these types of loss were contemplated by either of the Parties at the time of contracting for the relevant Products and/or Services. Notwithstanding the above exclusions, neither Party excludes or limits any liability: (i) that cannot be excluded or limited by Applicable Law; or (ii) for fines related to breach of Sanctions and Trade Laws.

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23. GENERAL TERMS AND CONDITIONS

23.1 Governing Law

This Agreement will be governed by, and construed in accordance with, the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such laws.

23.2 Severability

Any term of this Agreement held to be invalid or unenforceable, shall be severable from this Agreement and become *pro non scripto*.

23.3 Survival

Notwithstanding termination of this Agreement, any clause which, from the context, contemplates on-going rights and obligations of the Parties, shall survive such termination, and continue to be of full force and effect.

23.4 Indulgence

Any failure or delay by either Party in exercising any right or remedy will not constitute a waiver of such right or remedy.

23.5 Good Faith

Each Party to this Agreement agrees that it has negotiated and concluded this Agreement in good faith.

23.6 Jurisdiction

The only law governing the interpretation and application of this Agreement shall be the laws of Republic of South Africa. The Parties hereto hereby consent and submit to the non-exclusive jurisdiction of the High Court, Gauteng Division (Pretoria) of the Republic of South Africa in any dispute arising from or in connection with this Agreement.

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23.7 Cession and Assignment

Neither Party shall assign any of its obligations in whole or in part in terms of this Agreement. Neither Party shall cede any of its rights under this Agreement in whole or in part, except with the other Party's prior written consent which consent shall not unreasonably be withheld, conditioned, or delayed.

24. NOTICES AND DOMICILIUM

24.1 The Parties choose as their *domicilia citandi et executandi* for all notices, correspondence, and all purposes pursuant to this Agreement the following addresses:

(a) For the Customer

Physical address	Postal Address
Corner 240 Madiba and Thabo Sehume Streets Pretoria CBD 0001	Private Bag X 116 Pretoria 0001

(b) For the Service Provider

Physical address	Postal Address
Cnr Maxwell Drive & Pretoria Main Road Buccleuch Ext 10 2090	Private Bag X36 Benmore 2010

24.2 Either Party may change its *domicilium citandi et executandi* by means of a written notice to the other Party, provided that such *domicilium* shall be an address within the Republic of South Africa.

IE SE DJ

24.3 Any notice in terms of this Agreement shall either be:

24.3.1 Delivered by hand to the physical address indicated in clause 24.1 during normal business hours of the recipient; or

24.3.2 Sent by prepaid registered post to the postal address indicated in clause 24.1.

24.4 A notice in terms of this Agreement shall, unless the contrary is proven, be duly delivered:

24.4.1 On the date of delivery, if delivered by hand; or

24.4.2 Seven (7) business days after the date it was posted, if sent by prepaid registered post.

24.5 Notwithstanding anything to the contrary contained or implied in the Agreement, the written notice or communication received by either Party, through the Parties' designated representatives in terms of this Agreement, including by way of facsimile transmission or e-mail, shall be adequate written notice or communication to the Party concerned.

IE SE DJ

EXECUTION / SIGNATURES

IN WITNESS WHEREOF the Parties have executed this Agreement on the date of last signature herein under:

- **FOR THE CUSTOMER**

Pretoria

SIGNED AT _____ on this the _____ day of _____ 2022

Signature _____ Signed by:Molefe Isaac Fani
Signed at:2022-03-15 19:42:49 +02:00
Reason:I approve this document

Acting CPO

Name _____ Designation _____
(Duly authorised thereto)

Molefe Isaac Fani

Witness:

Kwanele Pascalii

1. _____ _____
Name & Surname Signature

Mothushi Moifo

2. _____ _____
Name & Surname Signature

- **FOR THE SERVICE PROVIDER**

SIGNED AT Buccleuch on this the 12 day of April 2022

Signed by:Douglas James Craigie Steven
Signed at:2022-04-22 17:39:37 +02:00
Reason:I approve this document

Signature _____

Name Douglas Craigie Stevenson Designation Chief Executive Officer
(Duly authorised thereto)

Witness:

Signed by:Simosihle Errol Mkhize
Signed at:2022-04-22 15:03:32 +02:00
Reason:I approve this document

3. Simo Mkhize _____
Name & Surname Signature

Signed by:Irshaad Esakjee
Signed at:2022-04-21 10:10:17 +02:00
Reason:I approve this document

4. Irshaad Esakjee _____
Name & Surname Signature

IE SE DJ