

SUPPLY OF NETWORK SERVICES

SUBSCRIPTION AGREEMENT.

Control24/Permaconn is a division of Commercial ICT, which is a division of HUDACO TRADING (PTY) LTD

Standard Terms and Conditions

1. DEFINITIONS

- 1.1. Unless the context otherwise indicates a contrary intention, the words herein below defined shall have the meanings assigned to them, and similar expressions shall bear corresponding meanings –
 - 1.1.1. **"this agreement"** – means this subscriber agreement, as amended from time to time, together with the schedule's annexed hereto; In this Agreement, unless inconsistent with context, words defined on the face hereof shall bear the meanings so assigned to them and the following words and expressions shall bear the meanings assigned to them below –
 - 1.1.2. **"Services"** – the Internet Services which are selected and agreed upon on the face hereof;
 - 1.1.3. **"Subscriber"** – the Company, Close Corporation, Firm, Partnership or Persons contracting to receive the Service from COMMERCIAL ICT A DIVISION OF HUDACO TRADING (PTY) LTD in terms of this Agreement;
 - 1.1.4. **"Agreement"** – these terms and conditions as read with the schedule on the face hereof;
 - 1.1.5. **"Connection Date"** – the date on which the contract begins;
 - 1.1.6. **"Duration of the Contract"** – the number of months the Service specified upon on the face hereof is contracted for.
 - 1.1.7. **"activation"** – means the enabling of a SIM to operate on the cellular network in terms of this agreement;
 - 1.1.8. **"activation date"** shall mean the date of the activation of the SIM on the network by the service provider
 - 1.1.9. **"business day"** – means any day of the week including Saturdays, Sundays and public holidays;
 - 1.1.10. **"charges"** – means the activation, connection charges, monthly subscription charges, usage charges and any other charges pertaining to the provision of the network services, SIM and any other services howsoever described, by Commercial ICT - Control24/Permaconn to the subscriber, as detailed in the price list from time to time;
 - 1.1.11. **"GSM"** – means Global System for Mobile Communications as defined in the European Technical Standards Institute structure of specifications;
 - 1.1.12. **"initial period"** – means a period of 24 consecutive months (as specified in this subscription agreement) commencing from the date of activation which date shall be set out in the Subscription agreement.
 - 1.1.13. **"MSISDN"** means the Mobile Station International User Directory Number (otherwise known as the mobile telephone number) programmed into each SIM card;
 - 1.1.14. **"network"** – means the public land mobile network established and operated by the network globally;
 - 1.1.15. **"network services"** – means the mobile telephony services provided by the network operator through or in connection with the network from time to time including data facilities, supply of security equipment, supply of SIMs and any additional services, all of which are made accessible to the Subscriber by Commercial ICT - Control24/Permaconn in terms of this agreement;
 - 1.1.16. **"network operator"** – means the MTN SA (Pty) Ltd network
 - 1.1.17. **"order"** – means an order placed by the Subscriber as per the order form in the schedule for the use of the services;
 - 1.1.18. **"package option"** – means any one of the Control24/Permaconn packages under which the network services are made accessible to the Subscriber, which packages are set out in the price list and vary according to the network services, hardware and software included and other variables determined by Commercial ICT / Control24/Permaconn or the network operator from time to time, but subject to the requirements, conditions and/or approvals of the relevant regulatory authority, where applicable;
 - 1.1.19. **"price list"** – means that schedule on which the charges levied by Control24/Permaconn are reflected, which price list may be amended by Commercial ICT from time to time and which is available on request from Commercial ICT / Control24/Permaconn;
 - 1.1.20. **"prime rate"** – means a rate of interest per annum which is equal to the Standard Bank of South Africa Limited's published minimum lending overdraft rate of interest per annum plus 3% (three percent), compounded monthly in arrears and charged by such bank on the unsecured overdrawn current accounts of its most favored corporate clients in the private sector from time to time. In the case of a dispute as to the rate so payable the rate shall be certified by any manager or assistant manager of the said bank, whose decision shall be final and binding on the parties;
 - 1.1.21. **"Global"** – means any country worldwide;
 - 1.1.22. **"the schedule"** – means the application section of this agreement to which these terms and conditions are attached;
 - 1.1.23. **"SIM / Equipment"** means a User Identity Module incorporating an MSISDN which, when activated by the network operator, provides a Subscriber using equipment with access to the network services;
 - 1.1.24. **"Subscriber"** means that party whose particulars appear on the schedule or his/her/its successors or authorized assignees;
- "Commercial ICT / Control24/Permaconn"** means Commercial ICT – Control24/Permaconn, a division of Hudaco Trading (Pty) Ltd, a registered trademark, registration number 1984/005432/07, a company duly registered and incorporated according to the laws of the Republic of South Africa;

2. INTRODUCTION AND RECORDAL

- 2.1. The Subscriber hereby subscribes for the package option and network services with Control24/Permaconn, subject to the terms and conditions set out in this agreement.
- 2.2. The conditions of this agreement shall apply with necessary changes to each and every schedule which the parties may enter into and the charges described in each such schedule shall be payable according to the conditions of this agreement as if the conditions of this agreement were incorporated in each and every such schedule.

3. PROVISION OF NETWORK SERVICES

- 3.1. Any equipment shall be ordered by the Subscriber from Control24/Permaconn. The terms of this agreement shall apply to each package and related services furnished and provided by Control24/Permaconn to the Subscriber.
- 3.2. The terms of this agreement shall apply to each package and related services furnished and provided by Control24/Permaconn to the Subscriber.

4. COMMENCEMENT, TERMINATION AND RENEWAL

- 4.1. This agreement shall commence on the activation date and, subject to the terms of his agreement, shall continue for the period specified in the application ("initial period") unless terminated –
 - 4.1.1. by the Subscriber during the course of the period following the initial period, by submitting to Control24/Permaconn a written notice of termination not less than 60(sixty) days prior to the expiration of the calendar month in which this agreement should be terminated, and/or monthly charge will be levied for the period after the withdrawal of such service concerned. Control24/Permaconn shall be entitled, in its sole discretion and without notice to the Subscriber, to vary, discontinue or substitute any such Service without reducing any of the monthly service charges or providing any refund, unless it determines in its sole discretion to do so.
 - 4.1.2. by Control24/Permaconn, forthwith on written notice to the Subscriber, in the event that the sub-license issued by the network operator in terms of which Control24/Permaconn is authorized and empowered to give the Subscriber access to the network services is terminated for whatsoever reason.
- 4.2. Upon activation this agreement shall become binding between Control24/Permaconn and the Subscriber. The Subscriber herewith expressly – dispenses with notification of
- 4.3. If any equipment is supplied to the Subscriber and activated at any time pursuant acceptance of the offer by Control24/Permaconn to the execution of a further agreement between Control24/Permaconn and the Subscriber, which execution occurred subsequent to the execution of this agreement, then such equipment shall be governed by the terms and conditions of such later agreement. The terms and conditions of this agreement shall, however, continue to apply to the equipment, network Services, etc. supplied under this agreement.

5. SUPPLY AND ACCEPTANCE OF SERVICES

- 5.1. The order placed by the Subscriber on Commercial ICT - Control24/Permaconn is subject to Commercial ICT - Control24/Permaconn's approval in its sole discretion. If Control24/Permaconn does not approve the order, it shall not be under any obligation to the Subscriber to give reasons for its decision.
- 5.2. Control24/Permaconn shall utilize its best endeavours to promptly comply with any supply and/or delivery requirements recorded in the subscription agreement, but shall not be liable to the Subscriber in the event that such supply and/or delivery is delayed or cancelled, for whatsoever reason.
- 5.3. The subscriber shall be responsible for obtaining all necessary approvals and authorities required for the purpose of any such supply and/or delivery of an order, and the Subscriber hereby indemnifies Control24/Permaconn against any claim or liability suffered by Control24/Permaconn by reasons of such approvals and authorities not having been obtained.
- 5.4. All risk in the equipment supplied and delivered by Control24/Permaconn to the Subscriber shall pass to the subscriber on delivery thereof to the Subscriber or a party nominated by the Subscriber to accept receipt of such equipment.
- 5.5. If equipment is lost, stolen or damaged, the Subscriber shall immediately notify Control24/Permaconn of this in writing and until Control24/Permaconn receives such notification, the Subscriber shall remain liable for all costs and charges pertaining to such service. Control24/Permaconn shall as soon as reasonably possible, issue support to the Subscriber, and may in its discretion, require the Subscriber to effect payment of a reasonable charge in respect of the cost of issuing such services. Due to loss, theft or damage and/or the issue of a replacement equipment and/or the allocation of a new equipment for any reason, shall in no way be deemed to constitute a termination of this agreement which shall continue to be of full force and effect.
- 5.6. Should the Subscriber, upon acceptance of the equipment, discover any fault or defect, the Subscriber shall within 7 days of acceptance, return the equipment to Control24/Permaconn in the same condition and packaging as the equipment was accepted along with the proof of Subscription agreement and proof of upfront payment and Control24/Permaconn shall replace the damaged/faulty equipment.
- 5.7. In addition to the Subscription agreement, the Subscriber shall complete the Control24/Permaconn Information form. The Subscriber shall also provide the necessary documents as required in terms of the Regulation of Interception of Communications and Provision of Communication-Related Information Act.
- 5.8. Upon acceptance of equipment by the Subscriber, the ownership shall remain with Control24/Permaconn and the Subscriber shall hold it on behalf of Control24/Permaconn for the duration of the initial period as set out under this agreement.
- 5.9. Subscriber shall have no claim against Control24/Permaconn nor shall the Subscriber be entitled to cancel this agreement.
- 5.10. The Subscriber hereby warrants and undertakes in favour of Control24/Permaconn that the Subscriber -
 - 5.10.1 shall at all times keep the equipment in their possession and under its control and shall take reasonable care in the use of security equipment;
 - 5.10.2 shall not sell, loan, let, pledge, transfer or otherwise encumber or alienate the equipment in any way or permit any lien to arise in respect if the equipment; without express permission from Commercial ICT;
 - 5.10.3 shall not cede, assign or delegate any of its rights or obligations in terms of this agreement;
 - 5.10.4 recognizes that no right, title or interest in the software or the service contained in each Equipment issued to the Subscriber, vests in the Subscriber;
 - 5.10.5 shall not, nor permit any third party to reverse engineer, decompile, modify or tamper with the software or the SIM contained, or pertaining to, any SIM; shall not
 - 5.10.6 without prior written consent from Control24/Permaconn, remove the SIMS from outside the boundaries of South Africa;
 - 5.10.7 shall not use the SIMS/services supplied in terms of this agreement for any other purpose other than that provided for in terms of this agreement.
 - 5.10.8 shall at reasonable times permit Control24/Permaconn or Control24/Permaconn's representative to inspect the SIMS from time to time.
 - 5.10.9 The Subscriber warrants that it is bound by these terms and in particular, but not without prejudice to the generality of the a foregoing, it accepts that Control24/Permaconn
- 5.11. shall have the right to enforce against them jointly and severally any liability of the Subscriber under these terms and conditions or to recover from them any sums to be paid by the Subscriber which upon proper demand have not been paid.
- 5.12. The Subscriber accepts that Commercial ICT, Control24/Permaconn and all its associates will not be held responsible for any use of its products used to commit terrorist activities or any unlawful activities within the boundaries of any or all of its associated countries

- where SIM cards are activated / reside / connected to the respective networks
- 6. SUPPLY OF NETWORK SERVICES**
- 6.1. The Subscriber hereby warrants and undertakes in favor of Control24/Permaconn that the Subscriber shall not use nor allow the services to be used for any improper, immoral or unlawful purpose, nor in any way which may cause injury or damage to persons or property or an impairment or interruption to the network services;
- 6.2. The availability of the DATA services, whether for free or in circumstances where a monthly charge is charged, is subject to the discretion of Control24/Permaconn and may be charged for or withdrawn at any time by Control24/Permaconn in its sole discretion. In the event that Control24/Permaconn withdraws any service for which a monthly charge is levied, no further monthly charge will be levied for the period after the withdrawal of such service concerned. Control24/Permaconn shall be entitled, in its sole discretion and without notice to the Subscriber, to vary, discontinue or substitute any such Service without reducing any of the monthly service charges or providing any refund, unless it determines in its sole discretion to do so.
- 7. CHARGES**
- 7.1. In consideration for the services, software and any other products and/or services supplied by Control24/Permaconn to the Subscriber, the Subscriber shall effect payment to Control24/Permaconn of the applicable charges, as detailed in the subscription agreement and the price list from time to time, and whether or not the equipment and/or network services have been, or are being utilized by the Subscriber.
- 7.2. Control24/Permaconn may, on written notice to the Subscriber, vary any charges, either in whole or in part, with effect from the date specified in such notice.
- 7.3. Unless otherwise agreed to by Control24/Permaconn in writing, the Subscriber shall effect payment to Control24/Permaconn –
- 7.3.1. for the activation and supply of SIMS, and initial subscription in full, on presentation of a tax invoice and against such delivery;
- 7.3.2. of Monthly Subscription charges, monthly in advance, and of all other charges, monthly in arrears, in either event in full;
- 7.3.3. Where payment is made by the Subscriber through a debit order, the Subscriber's bankers or other intermediaries shall act as the Subscriber's agents and the Subscriber shall have discharged its obligations only upon payment being received by Control24/Permaconn at Control24/Permaconn's Premises or by the bankers of Control24/Permaconn and such payment has been identified by Control24/Permaconn as the Subscriber's payment for the relevant Subscriber's Account.
- 7.4. Should the activation date occur prior to the 15th of the month, the subscriber shall be billed for and pay the subscription charge for the full month. If the activation date occurs after the 15th of the month, the subscriber shall only be billed half of the subscription charges.
- 7.4. Notwithstanding the provisions of Clause 7.3, Control24/Permaconn may at any time on reasonable written notice to the Subscriber vary its invoicing and payment procedures and requirements. Control24/Permaconn is the network;
- 7.6. Control24/Permaconn's product consists of SIMS and Data Subscriber is responsible for all SIM/Data costs on active SIMS within the subscriber fleet.
- 7.7. Subscriber is responsible for all SIM/Data costs on active SIMS within the subscriber fleet. Subscriber is responsible for setting and managing Data volumes & DATA CAPS on all SIMS within the subscribers fleet.
- 7.8. In the event that Control24/Permaconn requires payment for the services provided to the Subscriber to be made by debit order, the Subscriber will commit a breach of this agreement if the Subscriber –
- 7.8.1. cancels such debit order without the prior written consent of Control24/Permaconn;
- 7.8.2. changes his banking details upon which the debit order relies, without giving Control24/Permaconn prior notification of such change and providing Control24/Permaconn with the Subscriber's new banking details.
- 7.9. Monthly subscription and usage charges paid by means of debit order will be subject to the following provisions:
- 7.9.1. the Subscriber authorizing Control24/Permaconn to draw against its account as set out in the schedule (or any other bank or branch to which the subscriber may transfer its account) any variable amount pertaining to this agreement, on the date as set out on the particular tax invoice issued on a monthly basis;
- 7.9.2. all withdrawals from the Subscriber's bank account by Control24/Permaconn shall be treated as though they had been signed by the Subscriber personally;
- 7.9.3. the Subscriber understanding that it shall not be entitled to any refund of amounts, which was drawn whilst this authority was in force if such amounts are legally owing to Commercial ICT / Control24/Permaconn.
- 7.9.4. The debit order shall be run on the first working day, after the end of each month.
- 7.10. A monthly tax invoice shall be sent by Commercial ICT / Control24/Permaconn to the Subscriber at the email address supplied by the Subscriber in the schedule. If no email address is available, at the address supplied by the Subscriber in the schedule or in writing to Control24/Permaconn. It shall be the duty of the Subscriber to check the tax invoice in order to ensure that the contents thereof are correct. Unless a query is raised in respect of the contents of a tax invoice within 7 (seven days from the date thereof, the contents thereof shall be deemed to be correct.
- 7.11. The billing functionality provided with the system is only for record of use by the Subscriber.
- 7.12. In the event of the Subscriber failing to effect payment of any amount owing by him to Commercial ICT on due date, then without derogating from Commercial ICT's rights in terms of Clause 10, the Subscriber shall be liable to effect payment of interest to Commercial ICT / Control24/Permaconn on the amount so owing, at the prime rate from due date to date of payment.
- 8. SUSPENSION**
- 8.1. Control24/Permaconn may at any time, without notice to the Subscriber and in any manner whatsoever, suspend the Subscriber's access to the network services in the event that –
- 8.1.1. any modification, maintenance or remedial work is required to be undertaken pertaining in any manner whatsoever, to the services or the Network;
- 8.1.2. the Subscriber fails to perform any of his obligations, or breaches any terms of this agreement;
- 8.2. Control24/Permaconn reserves the right to require the Subscriber to effect payment of any
- 8.3. Unless otherwise agreed to by Control24/Permaconn in writing, in the event that the Subscriber's access to the Network is suspended, the Subscriber shall still be liable for the monthly charges during any such period of suspension.
- 9. LIMITATION OF LIABILITY**
- Without detracting from any of the other provisions of this agreement, Commercial ICT / Control24/Permaconn shall not be liable to the Subscriber for any loss or damage suffered by the Subscriber, and whether same is direct or consequential, in the event that –
- 9.1. Control24/Permaconn fails for any reason whatsoever to supply and/or deliver any services, either on the required date, or at all; and/or reason; and/or determined in accordance with such laws.
- 9.2. The network services are interrupted, suspended or terminated, for whatsoever
- 9.3. Control24/Permaconn fails to suspend the network services to the Subscriber in terms of an arrangement between Commercial ICT / Control24/Permaconn and the Subscriber; and/or
- 9.4. Such loss or damage was caused by any negligent act or omission on the part of Commercial ICT / Control24/Permaconn, its employees or its agents.
- 10. BREACH**
- In the event that the Subscriber breaches any term of this agreement, or any warranty given by him hereunder, or fails to fulfill any obligation resting upon him, including a failure to pay any amount owing to Commercial ICT / Control24/Permaconn on due date, then without prejudice to Control24/Permaconn's rights, Control24/Permaconn may forthwith and without notice to the Subscriber, either suspend this agreement in terms of clause 8 above, terminate this agreement, or call for specific performance of all the Subscriber's obligations and immediate payment of all sums of money owing by the Subscriber, whether or not then due, in either event without prejudice to Control24/Permaconn's right to seek such damages as it may have suffered by reason of such breach or failure. Notwithstanding the a foregoing, and pending Control24/Permaconn's election in terms of this clause, Control24/Permaconn shall not be obliged to perform any of its obligations under this agreement and the Subscriber shall remain liable for the payment of all amounts owing by the Subscriber in terms of this agreement, whether or not such amounts are then due.
- 10.1. If the Subscriber fails to pay any amount under this Agreement on due date; or
- 10.2. commits, suffers or permits a breach of any term of this Agreement; or
- 10.3. abuse or misuse the Service in any manner whatsoever; or uses the Service for any unlawful purpose; then and in any such event **COMMERCIAL ICT** shall be entitled, without prejudice to its other rights in law, to immediately suspend its obligations under this Agreement and/or terminate this Agreement without notice to the Subscriber. Upon termination of this Agreement in terms of this clause or for any other reason whatsoever all amounts payable by the Subscriber to **COMMERCIAL ICT** for the full balance of the contract term shall immediately become due and payable and **COMMERCIAL ICT** shall be entitled to recover all such amounts from the Subscriber forthwith.
- 11. DOMICILIUM CITANDI**
- 11.1. Each of the Parties choose domicilium citandi et executandi ("domicilium") for the purposes of the giving of any notice, the serving of any process and for any purposes arising from this agreement at their respective addresses set forth in this agreement.
- 11.2. Each of the Parties shall be entitled from time to time, by written notice to the other to vary its domicilium to any other address within the Republic of South Africa which is not a post office box or poste restante. Such address shall become the domicilium of that party within 30 (thirty) days of the other party receiving such notification.
- 11.3. Any notice given and any payment made by a Party to the other ("the addressee") which –
- 11.3.1. is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee at the time of delivery; provided that if the delivery is effected by or on behalf of the Subscriber at Commercial ICT / Control24/Permaconn's domicilium, the presumption shall only apply as regards Commercial ICT / Control24/Permaconn if proof of receipt is obtained by the party effecting such delivery and duly produced as may be required to prove such delivery;
- 11.3.2. is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicilium for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee on the seventh day after the date of posting.
- 11.4. Where, in terms of this agreement any communication is required to be in writing, the term "writing" shall include communications by telex and/or facsimile. Communication by telex and/or facsimile shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee forty eight (48) hours after the time of transmission.
- 12. GENERAL**
- 12.1. Unless otherwise stipulated, all prices and charges set out in this agreement and any price list are exclusive of Value Added Tax and any other applicable tax or duty, the liability for which shall vest with the Subscriber.
- 12.2. The rights and obligations of the Subscriber in terms of this agreement may not be ceded or delegated to any third party without Control24/Permaconn's prior written consent. The rights and obligations of Control24/Permaconn in terms of this agreement, may be ceded, assigned and/or delegated by it to any other party on written notice to the Subscriber.
- 12.3. Control24/Permaconn may change the terms and conditions of this agreement as a result of changes in taxes, laws, regulations, the terms and conditions of the license issued to the Service Providers, the terms and conditions of any agreement between the Service Providers and Control24/Permaconn or any circumstances or events similar to the aforesaid. Control24/Permaconn shall notify the Subscriber of any such changes in writing.
- 12.4. Subject to 14.3, no variation, alternation or consensual cancellation of the agreement or any of the terms thereof, shall be of any force or effect, unless in writing and signed by the parties hereto.
- 12.5. No waiver or abandonment by either party of any of his rights in terms of this agreement shall be binding on that party, unless such waiver or abandonment is in writing and signed by the waiving party.
- 12.6. This Agreement constitutes the sole record of the Agreement between the parties in regard to the subject matter thereof. Neither party shall be bound by any representation, or express or implied term, promise or the like not be recorded herein or reduced to writing and signed by the parties or their representatives. No addition or variation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties. No indulgence that **COMMERCIAL ICT** may grant to the Subscriber shall

- the plural.
- 12.7. This Agreement shall in all respects be governed by and construed in accordance with the law of the Republic of South Africa, and all disputes, actions and other matters in connection with this Agreement shall be this Agreement that shall continue to be of full force.
- 12.8. No indulgence, extension of time, relaxation or latitude which any party ("the grantor") may show, grant or allow to another ("grantee") shall constitute a novation or waiver by the grantor of any of the grantor's rights and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the grantee which may have arisen in the past or which might arise in the future.
- 12.9. This agreement constitutes the entire agreement between the parties in relation to the subject matter hereof, and no representation by either of the parties or their agent/s, whether made prior or subsequent to the signing of the agreement, shall be binding on either of the parties unless in writing and signed by both the parties hereto.
- 12.8. No indulgence, leniency or extension of time, which Control24/Permaconn may show to the Subscriber, shall in any way prejudice Control24/Permaconn or preclude Control24/Permaconn from exercising any of its rights in the future.
- 12.9. This agreement and all matters or disputes arising there from or incidental thereto shall be governed and construed in accordance with the laws of the Republic of South Africa.
- 12.10. The Subscriber, by his signature hereto and in terms of the provisions of Section 45 of the Magistrate's Court Act, No 32 of 1944, as amended, consents to the jurisdiction of the Magistrate's Court in relation to any actions or proceedings instituted against the Subscriber in terms of, or arising out of the provisions of this agreement, provided that Control24/Permaconn, in its sole and absolute discretion shall be entitled to institute any such actions or proceedings, in any vision of the High Court of South Africa possessed of the requisite jurisdiction.
- 12.11. A certificate under the hand of any manager of Control24/Permaconn certifying the sum of any amount owing by the Subscriber to Control24/Permaconn shall be prima facie proof of its contents and sufficient proof for the purposes of enabling Control24/Permaconn to obtain any judgment or order against the Subscriber.
- 12.12. Notwithstanding the manner in which the clauses in this agreement have been grouped together or linked, each of them constitutes a separate and independent clause, severable from each of the other clauses in regard to all aspects thereof. Accordingly should one or more of the clauses be declared unenforceable, the remaining clauses shall continue to be and remain of full force and effect. For the purposes of this agreement the terms "clause" shall mean and include all sub-clauses of this agreement.
- 12.13. The Subscriber hereby authorizes Control24/Permaconn to disclose the Subscriber's name, address, and personal details to any party, whenever it is reasonably necessary for Control24/Permaconn to properly perform its functions or protect its interests, or directory or repair services and information to Network users generally or such information has been requested by any competent regulatory or legislative body. No alteration, or variation which the Subscriber may be entitled to make to, inter alias, or services set out in the schedule shall be of any force or effect unless 30 days written notice of such alteration or variation is given to Commercial ICT / Control24/Permaconn.
- 12.15. In the event of Control24/Permaconn instituting legal proceedings against the Subscriber to recover amounts due to Control24/Permaconn or take any other legal steps arising out of this agreement, the Subscriber shall be liable for legal costs on the scale as between attorney and own client and/or any collection costs.
- 12.16. Control24/Permaconn shall be entitled to charge the Subscriber for any banking, and/or internal administration fees incurred by it in the event of the Subscriber defaulting in its payment or any other of its obligations as set out in this agreement.
- 12.17. Control24/Permaconn may, to the extent permitted by law, receive or disclose the Subscriber's personal information, documents, detailed billing records, credit profile information and/or any other credit information from or to —
- 12.17.1 any credit providers, credit bureau or credit reporting agencies;
- 12.17.2 any law enforcement agencies that require the information for the prevention of investigation of criminal activities; -
- 12.17.3 any of Control24/Permaconn's shareholders, related entities, suppliers, agents or professional advisors for reporting, accounting, product supply and services, marketing and/or auditing purposes;
- 13. SURETYSHIP**
- 13.1. The authorized signatory who represents or acts on behalf of the Subscriber, is bound to Control24/Permaconn as surety and co-principle debtor and guarantor with the Subscriber, for the due and punctual payment of monies owing by the Subscriber to Control24/Permaconn howsoever arising, which are at the present or may at any time in the future become due and owing. By his or her signature hereto, the authorized signatory renounces the benefits of exclusion and division and warrants that he or she has read the Subscription agreement including the Terms and Conditions and that he or she has agreed to be bound hereunder.
- 14. SEPARATE AGREEMENTS**
- Subject to a foregoing provision of this agreement, the services made accessible by Control24/Permaconn to the Subscriber on the one hand, and the use of the SIM(s) on the other hand under this agreement, shall constitute separate and divisible agreements, each one capable of standing on its own.
- 15. APPOINTMENT AND TERM**
- 15.1. The Subscriber hereby appoints **COMMERCIAL ICT**, which hereby agrees, to provide the Services to the Subscriber on the terms and conditions of this Agreement.
- 15.2. Subject to the provisions of this Agreement, this Agreement shall take effect from the Connection Date and continue for the Duration of the Contract ("the Initial Term").
- 15.3. This Agreement shall continue for successive period of 1 (one) year after the Initial Term at the agreed prevailing monthly subscription fee as set out in the attached "Annexures", unless either party serves written notice of termination on the other not less than 1 (one) month prior to the end of the Initial Term or such successive 1 (one) year period. Unless otherwise notified in writing, **COMMERCIAL ICT** will automatically renew the contract term for a period of 1 year at the end of the initial contract term.
- 15.4. All Related Services can be upgraded at any stage.
- 16. SERVICES**
- 16.1. **COMMERCIAL ICT** undertakes to provide to the Subscriber with the services listed on the face hereof; The Services are derived from on-line access to the collection of local area networks and wide area networks that all use the same protocol (namely TCP/IP) to form a seamless, packet-switched network known colloquially as the "INTERNET".
- 16.2. The Subscriber shall allow **COMMERCIAL ICT**, its servants, agents and sub-contractors access to the Subscriber's equipment / premises at all reasonable times in order to constitute a waiver of any rights. In this agreement the singular shall include to install, maintain, monitor, inspect, replace or remove the service
- 16.3. Should any provision of this Agreement be rendered unlawful then that unlawful provision only shall be invalid, without effecting or invalidating any of the remaining provisions of
- 16.4. **COMMERCIAL ICT** is entitled to cede this agreement The Subscriber warrants the accuracy of all information furnished by or on behalf of the Subscriber in terms of or pursuant to this Agreement. The Subscriber shall forthwith notify **COMMERCIAL ICT** in writing of any changes from time to time in the information set out in the schedule on the face hereof.
- 16.4. The parties hereby consent to the jurisdiction of any Magistrates Court which may exercise jurisdiction over any of the parties in terms of Section 28 of the Magistrates Courts' Act 32 of 1944 in respect of any dispute arising from or concerning this Agreement, provided that should the Service Provider elect to proceed in the Supreme Court it shall be entitled to do so in the Witwatersrand Local Division, to which jurisdiction the Subscriber hereby submits.
- 16.6. **COMMERCIAL ICT** its servants, agents and/or sub-contractors, undertakes to treat all subscribers' information as confidential.
- 16.7. All monthly charges are charged via a debit order authorization
- 16.8. The debit order arrangement is subject to a credit application being completed and approved by **COMMERCIAL ICT**.
- 17. WARRANTIES AND EXCLUSION OF LIABILITY**
- 17.1. **COMMERCIAL ICT** its servants, agents and/or sub-contractors shall be exempted from and not be liable to the Subscriber and/or any third party under any circumstances whatsoever for any indirect or consequential damages of any kind or any loss of profit or special damages of any kind, whether in the contemplation of the parties or not, which the Subscriber and/or any third party may suffer as a result of any act or omission of **COMMERCIAL ICT**, its servants, agents and sub-contractors and/or any breach of **COMMERCIAL ICT**'s obligations in terms of this Agreement., its servants, agents and sub-contractors shall not be liable to the Subscriber and/or any third party in any manner whatsoever for the failure of the internet Censorship Software provided and operated by; Notwithstanding any other provisions of this Agreement, **COMMERCIAL ICT**'s liability to the Subscriber and/or any third party for any damages or loss of whatsoever nature, including without limitation any damages or loss caused by the negligence of
- 17.2. **COMMERCIAL ICT** or that of its servants, agents and sub-contractors, shall In any event and under all circumstances be limited to an amount equal to the subscription fee payable by the Subscriber in the Initial Term.
- 17.3. **COMMERCIAL ICT** endeavours that the Services rendered will be provided and maintained during the contract period; Because of the need to conduct maintenance, repair and/or improvement work from time to time on the technical infrastructure by means of which the Service is provided, the provision of the Service may be suspended from time to time without notice by **COMMERCIAL ICT** and/or any third-party provider, its servants, agents and sub-contractors is exempted from all liability for any loss or damage (whether direct or consequential) and/or for any costs, claims or demands of any nature to the Subscriber and/or any third party arising from such suspension.
- 17.4. Should the provision of the Service be suspended by **COMMERCIAL ICT** for the purpose aforementioned in 4.2 and 4.3 for a period in excess of 24 (twenty four) consecutive hours, shall give the Subscriber a credit in an amount which represents a pro rata portion of the Subscriber's basic subscription fee for the month during which the said suspension occurred;
- 17.5. **COMMERCIAL ICT** its servants, agents and/or sub-contractors, does not undertake to reinstate the Service within a specific period, and will be exempted from any liability whatsoever, if the nature of the failure is caused by upstream service providers failure to deliver their service and if the failure is due to a reason out of the direct control of **COMMERCIAL ICT**.
- 17.6. "The Subscriber" will be responsible for all communication services and facilities, including without limitation telephone facilities and lines, required for the Services to be rendered by **COMMERCIAL ICT** shall not be responsible or liable in any manner whatsoever to the Subscriber and/or any third party for any failure of such service or facility, including without limitation the services offered by the datacentre / ISP. **COMMERCIAL ICT** will endeavour to aid the Subscriber if such an event happens.
- 17.7. **COMMERCIAL ICT** does not make any representations nor, unless expressly given in writing, give any warranty or guarantee of any nature whatsoever in respect of the Service or its suitability for any intended purpose, whether that purpose is notified to **COMMERCIAL ICT** or not. Without derogating from the generality of the foregoing, **COMMERCIAL ICT** does not warrant or guarantee that the information transmitted by the use of the Service will be preserved or sustained in its entirety, will be suitable for any intended purpose, will be free of inaccuracies or defects or bugs or viruses of any kind, and will not contravene the laws of a particular country.
- 17.8. The Subscriber hereby indemnifies **COMMERCIAL ICT** its servants, agents and/or sub-contractors, and holds **COMMERCIAL ICT** its servants, agents and/or sub-contractors, harmless against any claim by any third party arising directly or indirectly out of the Subscriber's access to or use of the Service or information obtained through the use of it, including without limitation any claim due to the use of the Services for unlawful purposes.
- 18. FORCE MAJEURE**
- 18.1. If **COMMERCIAL ICT** its servants, agents and/or sub-contractors, is prevented from or restricted directly or indirectly from carrying out all or any of its obligations under this Agreement due to any reason and/or cause beyond the control or by reason of force majeure, **COMMERCIAL ICT** shall be relieved of its obligations in terms of this Agreement during such period.
- 19. TERMINATION**
- 19.1. The Subscriber has the right to cancel this Agreement unilaterally by giving written notice to **COMMERCIAL ICT** not less than 3 (three) months in advance and shall only be liable for the amount equivalent to the contract balance fee which shall be calculated from the unilateral termination date to the expiration date as liquidated damages on the basis of the total installation fee which covers the whole Initial Term.
- 19.2. Provided there is no physical damage to the infrastructure, **COMMERCIAL ICT** shall be given 2 hours to respond with 4 hours to fix and remedy the service, otherwise if spares are not available. **COMMERCIAL ICT** shall be given (seven)days to replace the physical damaged infrastructure. Replacement spares / infrastructure to be provided by the Subscriber.
- 20. PAYMENT**

- 20.2 The customer shall pay the amount on the tax invoice via automatic debit order or EFT. Payment is due immediately for COD approved customers before the goods and services are delivered, credit approved customers, in which event payment is due within 30 days of date of the tax invoice.
- 20.3 Where the customer uses a postal service to effect payment to deliver or return goods such postal services shall be deemed to be the agent of the customer. Likewise, where the customer uses Internet banking, the bank shall be deemed to be the agent of the customer.
- 20.4 The customer has no right to withhold payment or make set offs or deductions from any payment due by it for any reason whatsoever. No extension of payment of any nature will be granted unless reduced to writing and signed by the customer and a duly authorised representative of Commercial ICT.
- 20.5 Commercial ICT shall have the right to suspend deliveries and to exercise its rights in terms of clause 4 if any amount due by the customer is unpaid. If any amount owed is not settled in full (a) on due date (b) on demand. Commercial ICT is entitled to, without prejudice to any of its rights;
- 20.5.1 immediately institute action against the customer and/or
- 20.5.2 cancel the sale and take possession of any goods delivered to the customer, including goods sold or disposed of by the customer which have not been paid for in full, and claim damages.
- 20.6 Should any amount not be paid by the customer on due date, the full outstanding amount in respect of all purchases by the customer shall become due and payable, and the customer shall be liable to pay interest in respect of amounts unpaid at the compound rate of a 5% (five per cent) above the prime overdraft rate of Standard Bank Limited on all overdue amounts from due date until date of payment, calculated and payable monthly in advance. A certificate from Standard Bank Limited, signed by any manager of such bank, whose authority and capacity it shall not be necessary to prove, shall be prima facie proof of the interest rate charged.
- 20.7 Commercial ICT shall not bear any risk associated with the loss of cheques sent via post by the customer. No unofficial emails or letters sent to customers will be acceptable for the notification of the change of Commercial ICT banking details, only official emails and communication from two persons within Commercial ICT confirming the change, thus being a director and accounts manager of Commercial ICT shall be deemed acceptable.
- 21. WITHDRAWAL OF CREDIT FACILITIES**
- 21.1 Commercial ICT decision to grant credit facilities to the customer and the nature and extent thereof is at the sole discretion of Commercial ICT.
- 21.2 Commercial ICT reserves the right to withdraw, increase or decrease any credit facilities at any time without prior notice.
- 22. PRICES AND QUOTATIONS**
- 22.1 The price of the goods sold or services rendered shall be the usual price as set out in the Commercial ICT price list at the time of the sale of the goods.
- 22.2 Commercial ICT has the right to change the prices of the goods from time to time without prior notice to the customer.
- 22.3 All quotes remain valid for 7 (seven) days from the date of the quote, or until the date of issue of a new price, whichever occurs first. The validity of any price quoted is subject to availability.
- 22.4 Any quote may be changed at any time in the event of any increase in the cost price of the goods, including currency fluctuations. Price increases will only be effected if the goods have not yet been dispatched to the customer.
- 23. ORDERS**
- 23.1 The customer hereby confirms that the goods and services on the tax invoice issued duly represent the goods and services ordered by the customer at the prices agreed to by the customer and where performance/delivery has already taken place that the services and goods were inspected and that the customer is satisfied that these conform in all respects to the quality and quantity ordered and are free from any defects.
- 23.2 Commercial ICT will accept all written and oral orders. All such orders and any variations to orders will be binding, subject to these standard terms and conditions and may not be varied or cancelled without prior written consent from Commercial ICT. Commercial ICT will not be responsible for any errors or misunderstandings occasioned by the customer's failure to make the order in writing.
- 23.3 Orders shall constitute irrevocable offers to purchase the goods in question at the usual prices of Commercial ICT as at the date when the customer places the order of the goods, subject to clause 22.4 above, and shall be capable of acceptance by Commercial ICT by the delivery of the goods, written acceptance or confirmation of the order.
- 23.4 The customer shall provide Commercial ICT with an order number when placing an order.
- 23.5 Any order marked for "Collections" and not collected within 3 days of placing the order will automatically be credited back into the system.
- 24. DELIVERY**
- 24.1 Any delivery note (copy or original) signed by the customer and/or its authorised representative and/or its nominated agent and held by Commercial ICT, shall be prima facie proof that delivery was made to the customer.
- 24.2 Commercial ICT shall be entitled to split the delivery of the goods ordered in the quantities and on the dates it decides with the prior consent of the customer, which consent shall not be unreasonably withheld.
- 24.3 In the event of the customer choosing to engage its own third party to transport the goods, the customer indemnifies Commercial ICT against any claims of any nature whatsoever that may arise from such an agreement.
- 24.4 Commercial ICT is entitled to engage a third party on its behalf to transport all goods purchased by the customer to the delivery address stipulated by the customer.
- 24.5 Should the customer wish to receive delivery of the goods by a more expensive method of transportation than that normally used by Commercial ICT, the customer shall make such request in writing and, in the event that Commercial ICT agrees to arrange such special delivery the additional charges shall be debited to the customer's account and shall be payable by the customer.
- 24.6 Commercial ICT does not guarantee that the goods will be dispatched or delivered on any particular date and time, and the customer shall have no claim against Commercial ICT in respect of any loss occasioned by any reasonable delay in dispatch or delivery of any goods ordered and/or services rendered, nor may the customer cancel any order by reason of such reasonable delay.
- 24.7 Short deliveries must not be accepted and all the goods must be given to the driver of the delivery vehicle for return to the company.
- 24.8 Goods received in a damaged condition must either be rejected or accepted and a note of the item and type of damage made on the front of the invoice. Were the goods are rejected, the entire delivery must be returned as per 6.7, above.
- 24.9 All goods taken on an evaluation, approval, demonstration basis or all goods taken on consignment by the customer are deemed sold to the customer within 14 (fourteen) working days of issue if not returned to Commercial ICT in a perfect condition in the original packaging and with all accessories and manuals intact. Commercial ICT reserves the right to charge delivery charges, as and when necessary (R120 delivery charge for any order under
- 20.1 Payment is due monthly via Debit order after invoice has been raised or R1 000).
- 25. OWNERSHIP AND RISK**
- 25.1 All risk in and to all goods sold by Commercial ICT to the customer shall pass to the customer on delivery thereof. Ownership in all goods sold and delivered shall remain vested in Commercial ICT until the full purchase price has been paid, and in the event of a breach of these terms and conditions by the customer, or if the customer is sequestered or placed under liquidation or judicial management or commits any act of insolvency or enters into any compromise with its creditors or fails to satisfy a judgement granted against it within 7 (seven) days of the date of judgement or changes the structure of its ownership, Commercial ICT shall be entitled to take possession of the goods without prejudice to any further rights vested in Commercial ICT, and is hereby irrevocably authorised to enter upon the customer's premises to take possession of such goods without a Court order.
- 25.2 Goods in the possession of the customer bearing Commercial ICT name, trademark, labels and/or serial no are deemed to be those for which payment has not yet been made, and should any breach of these terms occur, may be re-possessed by Commercial ICT in terms of paragraph 7.1 above. The customer shall fully insure the goods purchased from Commercial ICT against loss or damage until the customer has paid the full purchase price for such goods. Pending payment to Commercial ICT for goods purchased, all benefits in terms of the insurance policy relating to the insurance of such goods shall be ceded to Commercial ICT.
- 25.3 The customer shall inform the landlord of the premises at which the goods are kept that such goods are the sole and absolute property of Commercial ICT until such time as the customer has paid the full purchase price to Commercial ICT.
- 25.4 In the event of the customer being sequestered or placed under liquidation or judicial management or commits any act of insolvency or enters into any compromise with its creditors or fails to satisfy a judgement granted against it, Commercial ICT reserve the right to repossess the and regain ownership of the products that incorporate sim cards that are paid for and owned indefinitely by Commercial ICT. All sim cards belong to Commercial ICT indefinitely. Commercial ICT has the right to terminate sim cards due to the sim cards being utilized for any other purpose other than in the use of the products Commercial ICT sells and supports.
- 25.5 Commercial ICT will not be held liable for any losses due to its products not being utilized for what it was originally intended to be utilized. Commercial ICT will not be held liable for any losses due to loss of electronic communication or 3rd party network failures.
- 25.6 It is the customer's responsibility to manage and monitor on an ongoing basis all 2G-5G, GPRS and Ethernet communicators.
- 25.7 Commercial ICT shall not be held responsible and indemnifies itself from any cellular network shutdown/ sunset schedules set by network providers.
- 25.8 Commercial ICT shall not be held responsible and indemnifies itself from any acts of terrorism, misuse of the products, fire, theft, loss of life and damage to property.
- 25.9 Commercial ICT reserve the right in the event of insolvency or for breach of monthly payments to terminate or switch some or all of the customer's radios to another 3rd party control room should the customers clients wish to move to another company due to the customers failure to provide service, insolvency or being sequestered and not be able to pay its monthly sim fees to Commercial ICT. Commercial ICT reserves the right to continue to recover its past monthly sim card fees due from the original customer as all sim cards issued are supplied and Ricad'd to Commercial ICT on a contractual basis.
- 25.10 Commercial ICT reserves the right to retain ownership of the paid up radios due to outstanding monthly fees and or outstanding payments that are due to Commercial ICT by the customer.
- 26. BREACH OF CONTRACT**
- 26.1 In the event of a breach by the customer, should the customer fail to remedy such breach within 48 (forty eight) hours after receipt of notice to that effect from Commercial ICT, or should the customer repeatedly breach this agreement in such manner that the customer's conduct is inconsistent with the intention or ability of the customer to carry out the terms of the agreement, or if the customer is sequestered or placed under liquidation or enters into judicial management or any act of insolvency or enters into a compromise with its creditors or fails to satisfy a judgement granted against it within 7 (seven) days of the date of judgement or changes the structure of its ownership, Commercial ICT shall be entitled without prejudice to its rights in law or in terms of this agreement to take possession of the goods and is hereby irrevocably authorized to enter upon the customer's premises to take delivery of such goods without Court order.
- 26.2 No claim, from customer, under these terms and conditions will arise unless the customer has, within 7 (seven) days of the alleged breach or defect occurring, given Commercial ICT 30 (thirty) days written notice by pre-paid registered post to rectify any defect or breach of contract.
- 27. LEGAL PROCEEDINGS**
- 27.1 These terms and conditions shall be governed and construed under and in accordance with the laws of the Republic of South Africa
- 27.2 Commercial ICT shall, at its option and notwithstanding that the amount of its claim or the nature of the relief sought exceeds the jurisdiction of the Magistrate's Court be entitled to institute action out of such court.
- 27.3 A certificate issued and signed by any director or manager of Commercial ICT, whose authority need not be proved, in respect of any indebtedness of the customer to Commercial ICT or in respect of any other fact, including but without limiting the generality of the foregoing, the fact that such goods were sold and delivered, shall be prima facie proof of the customer's indebtedness to Commercial ICT and prima facie proof of delivery of the goods in terms of this contract.
- 27.4 Any print out of computer evidence tendered by Commercial ICT shall be admissible evidence and the customer shall not be entitled to object to the admissibility of such evidence purely on the grounds that such evidence is computer evidence.
- 27.5 The customer's address in Section A, of the credit application form shall be recognised as the customer's domicile for all purposes in terms of this contract whether in respect of the serving of any court process, notices that payment of any amount or communications of whatever nature.
- 27.6 In the event of the customer breaching any of its obligations and/or failing to timeously make payment of any amount to Commercial ICT, the customer agrees to pay, and shall be liable to pay, all legal costs incurred by Commercial ICT in enforcing its rights in terms of these terms and conditions on the attorney/own client scale including collection charges, tracing agent's fees, air fares and export fees.
- 27.7 Any document will be deemed duly received by the customer within:
- 27.7.1 3 (three) working days of pre-paid registered mail to any of the customer's business or postal addresses or the domicile address of the customer, or to the personal address of any director, member or owner of the customer; or;
- 27.7.2 24 (twenty four) hours of being faxed to any of the customer's fax number's

- 27.7.3 on being delivered by hand to the customer or any director, member of the customer, or
- 27.7.4 48 (forty eight) hours if sent by overnight courier; or
- 27.7.5 24 (twenty-four) hours of being emailed to the customer's email address on file.
- 27.8 The customer agrees that neither Commercial ICT nor any of its employees will be liable for any negligent or innocent misrepresentations made to the customer, nor shall the customer be entitled to reside from these terms and conditions on those grounds.
- 28. ARBITRATION**
- 28.1 Commercial ICT may refer any dispute arising from or in connection with this contract to arbitration which arbitration award shall be final and binding on the customer and Commercial ICT.
- 28.2 The arbitrator will be a person agreed upon by the parties or failing agreement, appointed by the Arbitration Foundation of Southern Africa, who shall then finally resolve the dispute or issue in accordance with the Rules of the Arbitration Foundation of SA.
- 28.3 The arbitration must be held at the place and in accordance with whatever procedures, the arbitrator considers appropriate.
- 29. NEGOTIABLE INSTRUMENTS**
- 29.1 Acceptance of a negotiable instrument from the customer shall not be deemed to be a waiver of Commercial ICT' rights under this contract. In relation to cheques furnished by the customer to Commercial ICT, the customer waives its right to insist on notice of dishonor or protest being given to it on the event that the cheque is dishonored.
- 30. RETURNED GOODS**
- 30.1 Whilst Commercial ICT is under no obligation to accept the return of goods, the customer may apply to Commercial ICT for permission to return goods and if written permission is given –
- 30.2 the customer may return any defective goods to the premises of Commercial ICT or its nominee at the customer's own cost.
- 30.2.1 any item delivered to Commercial ICT will form the object of a pledge in favour of Commercial ICT for present and past debts of the customer to Commercial ICT and Commercial ICT will be entitled to retain such pledge as a value determined as follows:
- 30.2.2 the difference between the selling price and the value of the goods at the time that the debt became due.
- 30.2.3 the value of any repossessed goods or retained pledge goods will be deemed to be the value placed on them by any sworn valuator after such repossession and such valuator will be prima facie proof of the value.
- 30.3 Commercial ICT will follow the policies on any returned and/or faulty goods as prescribed by the vendor responsible for the brand of goods. Details of prescribed vendor policies are obtainable from Commercial ICT.
- 31. WARRANTIES AND INDEMNITY**
- 31.1 Goods may be guaranteed under the manufacturer's product specific warranties only, and all other guarantees and warranties including common law guarantees and warranties in relation to goods and services are hereby specifically excluded by Commercial ICT.
- 31.2 All guarantees are immediately null and void should any equipment be tampered with or should the "seals" on the equipment or sim cards be broken by anyone other than Commercial ICT or its appointed nominee, or should the goods be operated outside the manufacturer's specifications.
- 31.3 To be valid, guarantee claims must be supported by the original tax invoice and the goods must be in their original packaging and must be accompanied by all accessories and manuals must be intact. All items must be returned in "as new" condition.
- 31.4 No warranties whether express or implied shall apply, other than those provided in this contract. Commercial ICT specifically disclaims the implied warranty of merchantability and fitness for a particular purpose. No representation or warranty, including but not limited to statements of capacity, suitability for use or performance made by employees of Commercial ICT shall be considered to be a warranty by Commercial ICT. Any such statements made shall not give rise to any liability or whatsoever nature on the part of Commercial ICT, its employees, subcontractors or subsidiaries. Commercial ICT will not be liable to the customer for any loss, damage or expense of any nature, whether direct, special, indirect or consequential, including but not limited to loss or profits arising out of Commercial ICT's performance or customers' use of the goods or services rendered.
- 31.5 The customer indemnifies and holds Commercial ICT (including its employees, subcontractors or subsidiaries) harmless against all claims of whatsoever nature that may be brought or threatened against Commercial ICT by any third party arising from or in connection with any defect, latent or otherwise in any goods supplied and/or services rendered by Commercial ICT.
- 31.6 The customer shall not duplicate copyrighted material. In the event of the customer duplicating copyrighted material, each attempt to do so will immediately render the full prevailing price in respect thereof payable to Commercial ICT.
- 32. REPAIRS**
- 32.1 Commercial ICT's liability in terms of a manufacturer's warranty is restricted to, in Commercial ICT or the manufacturer's discretion, the cost of repair or replacement of faulty goods or services or the granting of credit.
- 32.2 In the case of repairs undertaken by Commercial ICT repair quotes given are merely estimates and are not binding on Commercial ICT.
- 32.3 The customer hereby agrees that any item returned for a repair may be sold by Commercial ICT to defray the cost of such repair if the item remains uncollected for a period of 30 (thirty) days after the repairs have been completed.
- 33. REFERRING TO 12. GENERAL**
- 33.1 Commercial ICT reserves the right in its sole discretion to vary or amend these terms and conditions from time to time and any such amended or varied terms and conditions shall be binding on the customer from the time that the customer is notified thereof.
- 33.2 This contract represents the entire agreement between Commercial ICT and the customer and shall govern all future contractual relationships between Commercial ICT and the customer.
- 33.3 No amendment and/or alteration and/or variation and/or deletion and/or addition and/or cancellation of these terms and conditions, whether consensual or unilateral or bilateral shall be of any force and effect unless reduced to writing and signed by a director of Commercial ICT. No agreement, whether consensual or unilateral or bilateral, purporting or obligate Commercial ICT to sign a written agreement to amend, alter, vary, delete, add or cancel these terms and conditions shall be of any force and effect unless reduced to writing and signed by a director of Commercial ICT.
- 33.4 No relaxation or indulgence with Commercial ICT may grant the customer shall prejudice or be deemed to be a waiver of any Commercial ICT' rights in terms of these terms and conditions.
- or any director, member of owner's fax number's; or
- 33.5 The customer shall not cede its rights nor assign its obligations under these terms and conditions.
- 33.6 Commercial ICT shall at any time in its sole discretion be entitled to cede all or any of its rights in terms of this terms and conditions to any third party without prior notice to the customer.
- 33.7 The customer undertakes to notify Commercial ICT within 7 (seven) days of any change of address or change of in director, shareholder, address or the information as set out in this contract.
- 33.8 The headings in this document are included for convenience and are not to be taken into account for the purpose of interpreting this contract.
- 33.9 Each of the terms herein shall be a separate and divisible terms and if any such term becomes unenforceable for any reason whatsoever, then that term shall be severable and shall not affect the validity of the other terms.
- 33.10 The customer undertakes to inform Commercial ICT in writing at least 14 (fourteen) days prior to the intended selling or alienating of the whole of or any part of the customer business and failure to do so will constitute a material breach of this contract entitling Commercial ICT to cancel the contract without further notice to the customer.
- 33.11 Sales of certain goods are subject to the Government laws which states that these goods may not be sold to or be used for the purpose of nuclear weapons/explosive devices, for chemical or biological weapons including key components for the production of such weapons, or for the purpose of missiles or missile systems which deliver weapons for mass destruction. The customer undertakes to exercise due care to ensure that no such restrictions are breached by it.
- 33.12 Goods are manufactured for standard commercial use only.
- 33.13 No 3rd party tampering will be acceptable on any Control24 equipment
- 34. DISCLOSURE OF PERSONAL INFORMATION**
- 34.1 The customer understands that the personal information given in this credit application form is to be used by Commercial ICT for the purposes of assessing credit worthiness. The customer confirms that the information given in this credit application form is accurate and complete. The customer further agrees to update the information supplied as and when necessary in order to ensure the accuracy of the above information failing which Commercial ICT will not be liable for inaccuracies.
- 34.2 Commercial ICT has the customer's consent at all times to contact and request information from any persons, credit bureau or businesses including those mentioned in the credit application form and to obtain any information relevant to the customer's credit assessment, including but not limited to information regarding the amounts purchased from suppliers per month, length of time customer has dealt with each supplier, type of goods purchased and manner and time of payment.
- 34.3 The customer agrees and understands that information given in confidence to Commercial ICT by a third party on the customer will not be disclosed to the customer.
- 34.4 The customer hereby consents to and authorises Commercial ICT at all times to furnish credit information concerning the customer's dealing with Commercial ICT to a credit bureau and to any third party seeking a trade reference regarding the customer in his dealings with Commercial ICT.
- 35. CANCELLATIONS**
- 35.1 Poll Plan's may be cancelled by the Customer online or in writing, with a 30-day notice period. The full month's fees are payable in the notice month
- 35.2 Without the permission of Commercial ICT / Control 24 / Permaconn no client may participate in a Swap out scheme with any Permaconn equipment. The customer agrees that Commercial ICT / Control24 / Permaconn will have the legal right to deny / prevent a Swap out scheme and seek / take legal action to recover all equipment, throughout the life span of any Control24 / Permaconn equipment. Should Control24 / Permaconn equipment be used for a swap out scheme unbeknown to Commercial ICT Control24 / Permaconn or without written permission, Commercial ICT / Control24 / Permaconn will have the full right to confiscate all the Control24 / Permaconn equipment and seek legal action to recover Control24 / Permaconn equipment from third party's involved with providing the swap out scheme. The customer agrees to this clause irrespective if equipment is fully paid for or not fully paid for.
- 36. SERVICES**
- 36.1 Once radios have been moved into an active state the Customer shall not move radios back to inactive state for more than 6 months, unless they wish Commercial ICT to Terminate the agreement of that said radio in writing. Commercial ICT reserves the right to Terminate any radio that is moved back onto the Inactive State by a customer that exceeds a 6 month period.
- 36.2 Customers may request Commercial ICT to terminate radios / outstations.
- 36.3 In the event that the Customer terminates the services of any equipment prior to the conclusion of a formal agreement between Commercial ICT and the customer, the customer will be liable for all cost that Commercial ICT and its duly appointed agents/sub-contractors incur in providing products and services as part of the solution and shall make payment in respect thereof to Commercial ICT upon demand.
- 36.3.1 -Inactive: means the SIM is not recognized on the Network and therefore incapable of communication
- Active Ready: means the SIM is recognized by the Network and will transition to Active Live on the first Data Session; when activated in Atlas.
- Active Live: means the SIM is recognized by the Network and is capable of communication;
- Active Suspend: means the SIM is recognized by the Network but incapable of communication; Atlas system allows for a maximum of 6 months in suspended state.
- Terminated: means the SIM has been permanently removed from the Network; will not be capable of communication and cannot be reactivated again, due to permanent cancellation by Commercial ICT and/or exceeding 6 month active suspended state.