

## GENERAL TERMS AND CONDITIONS



### 1. DEFINITIONS

1.1. In this Terms and Conditions unless the context otherwise indicates:

- 1.1.1. **“Business Day/s”** means calendar days excluding Saturdays, Sundays and Public Holidays;
- 1.1.2. **“CUSTOMER”** means the company duly incorporated in accordance with the Company laws of the Republic of South Africa who duly entered into a Subscriber Agreement with INTER-AFRICA;
- 1.1.3. **“Commencement Date”** means, notwithstanding the Signature Date means the date on which the Services in terms of the Subscriber Agreement is activated (activation date);
- 1.1.4. **“Due Date”** means the last working day of each and every subsequent month, being the date on which the amounts, as reflected on each Invoice rendered, are due and payable by the CUSTOMER to INTER-AFRICA in respect of the Services;
- 1.1.5. **“Equipment”** means all equipment installed at the CUSTOMER’s premises and/or provided to the CUSTOMER to enable the CUSTOMER to gain access to the Services;
- 1.1.6. **“INTER-AFRICA”** means INTER-AFRICA TELECOM (PTY) LTD, with registration number 2019/604113/07, a company duly incorporated in accordance with the Company laws of the Republic of South Africa situated at 108 Eight Road, Midrand, Gauteng;
- 1.1.7. **“Initial Period”** shall mean a period of 36 (thirty-six) months, or such other period as expressly agreed to by the CUSTOMER in terms of the Subscription Agreement;
- 1.1.8. **“Invoice”** means a valid tax invoice setting out all amounts due and payable to INTER-AFRICA by the CUSTOMER in respect of the Services rendered as stipulated, including the fees due and payable for administrative services as set out in the Subscriber Agreement duly signed by the CUSTOMER;
- 1.1.9. **“Network”** means the communication network, network components and Network Equipment owned and/or operated by INTER-AFRICA, including Points of Presence (“PoP”), but does not include customer devices, customer premises equipment (modems, routers etc), or any networks or network equipment not owned or controlled by INTER-AFRICA;
- 1.1.10. **“Party/ies”** means INTER-AFRICA and the CUSTOMER;
- 1.1.11. **“POPI Act”** means Protection of Personal Information Act, 4 of 2013;
- 1.1.12. **“Service/s”** means the Services as elected by the CUSTOMER in accordance with the duly signed Subscriber Agreement;

- 1.1.13. **“Subscriber Agreement” or “SA”** means the form through which the CUSTOMER accepts a quotation for the Services, setting out the details of the Services requested such as quantities, fees, service levels and administrative charges payable by the CUSTOMER;
- 1.1.14. **“VAT”** means Value Added Tax as defined in terms of the Value Added Tax Act, No. 89 of 1991, as amended.
- 1.2. Both INTER-AFRICA and the CUSTOMER act as principals at law in this Terms & Conditions and INTER-AFRICA acts as principal in all its contracts entered into with third parties in relation to the business covered by this Terms & Conditions.
- 1.3. The clause headings to the paragraphs to this Terms & Conditions are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.4. Words importing the singular shall include the plural and *vice versa* and words importing the masculine gender shall include females and words importing persons shall include partnerships and bodies corporate.
- 1.5. When any number of days is prescribed, such number shall exclude the first and include the last day, unless the last day falls on a Saturday, Sunday or public holiday in the Republic of South Africa, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 1.6. This Terms & Conditions shall be binding on the CUSTOMER’s respective successors-in-title and, if permitted in this Terms & Conditions, their respective cessionaries and assignees.
- 1.7. The use of the word “including” followed by a specific example/s shall not be considered as limiting the meaning of the general wording preceding it.
- 1.8. In its interpretation, the *contra proferentem* rule of construction shall not apply nor shall this Terms & Conditions be construed in favour of or against any party by reason of the extent to which any party or its professional advisors participated in the preparations of this Terms & Conditions.

## **2. INTRODUCTION**

- 2.1. The CUSTOMER appoints INTER-AFRICA as its service provider to render the Services in accordance with the duly signed Subscriber Agreement and this Terms & Conditions.
- 2.2. INTER-AFRICA agrees to provide the Services to the CUSTOMER and undertakes to perform the Services in accordance with the terms and conditions contained herein.

## **3. SERVICES**

- 3.1. INTER-AFRICA, being the service provider, will provide the Services to the CUSTOMER as duly elected and agreed upon by the CUSTOMER in accordance with the duly signed Subscriber Agreement.
- 3.2. It is hereby recorded that in the event that the CUSTOMER makes use of voice lines (as elected in the Subscriber Agreement), the voice bundle ("package") will only be charged once the voice lines go live and is not necessarily included in the quotation or the Subscriber Agreement. The applicable voice bundle package will be communicated to the CUSTOMER prior to the first billing cycle. The CUSTOMER remains liable to effect payment towards the voice bundle, on a monthly basis, for the duration of the Subscriber Agreement.

## **4. DURATION**

- 4.1. This Terms & Conditions will commence on the Commencement Date and will continue thereafter for the Initial Period, or such period as agreed upon between the Parties in the Subscriber Agreement ("the Initial Period/Contract Term").
- 4.2. In the event that the Parties failed, alternatively neglected to agree to an Initial Period/Contract Term, the duration of the Subscriber Agreement will automatically be for a period of 36 (thirty-six) months.
- 4.3. On expiration of the Initial Period, the CUSTOMER will have the right to terminate the Subscriber Agreement by giving INTER-AFRICA written notice, of no less than 90 (ninety) days prior to the date of expiry of the Initial Period, of its election to terminate the Terms & Conditions.
- 4.4. If the Subscriber Agreement is not duly cancelled after the Initial Period, the Subscriber Agreement will be automatically renewed for a further 12 (twelve) months, with 90 (ninety) days' written notice.

- 4.5. Should the CUSTOMER upgrade any of its Services during the Initial Period, the Subscriber Agreement will automatically be renewed for a period of 36 (thirty-six) months from the date of such upgrade notwithstanding the originally agreement upon Initial Period/Contract Term.

## **5. BILLING**

- 5.1. INTER-AFRICA will commence to bill a CUSTOMER for the Services upon activation.
- 5.2. If the CUSTOMER subscribed to the Service in the middle of any calendar month, the first bill will include a pro-rata portion for the remaining period of the month in which the CUSTOMER signed up together with the monthly fee for the following month.
- 5.3. INTER-AFRICA will provide a CUSTOMER, usually on a monthly basis, with an Invoice for the amounts payable by the CUSTOMER in respect of the Services rendered. The CUSTOMER remains liable for payment in respect the aforementioned Services, irrespective of whether an Invoice has been received by the CUSTOMER.
- 5.4. The CUSTOMER agrees that payment will be effected on or before the last day of every month for the duration of the Subscriber Agreement. If the selected payment date falls on a public holiday or Sunday, payment will be collected on the business day before the selected payment date. Changes of a payment date within a bill cycle will only be implemented after the conclusion of that bill cycle, and remain for future payments, unless changed.
- 5.5. INTER-AFRICA may, at its own discretion, issue a CUSTOMER an account outside of the normal billing cycle, and/or demand immediate payment of any amounts due by a CUSTOMER.
- 5.6. INTER-AFRICA may vary all or any of the tariffs as agreed upon in the Subscriber Agreement by publishing the amended tariffs, such variation to take effect after 30 (thirty) days written notice to the CUSTOMER.
- 5.7. An Invoice rendered by INTER-AFRICA to a CUSTOMER as contemplated in this clause 5 is *prima facie* proof of the amount due by the CUSTOMER to INTER-AFRICA in respect of the Services and until the contrary is proved. The CUSTOMER is, however, entitled to query or dispute any element of the Invoice. All undisputed portions of the Invoice must, however, be paid on or before the Due Date.
- 5.8. If INTER-AFRICA determines that the disputed amount is an error, INTER-AFRICA shall reverse the amount incorrectly debited, on the CUSTOMER's next Invoice.

Should INTER-AFRICA, however, determine and inform the CUSTOMER that the disputed amount was billed correctly, such, payment together with interest shall be paid by no later than the due date of the next Invoice.

## **6. PAYMENTS**

- 6.1. All monies payable by the CUSTOMER to INTER-AFRICA shall be paid at the election of the CUSTOMER by way of monthly debit order, by way of an electronic funds transfer (EFT) or any available payment channel, which payment by whatever mode must be made timeously on or before the Due Date as set out under the Invoice, free of deduction or set-off to INTER-AFRICA's banker, which details are stated under the Invoice.
- 6.2. Non-receipt of an Invoice by the CUSTOMER shall not be considered as a valid reason for late or non-payment.
- 6.3. The CUSTOMER shall be liable and responsible for payment until payment has been received into INTER-AFRICA's bank account or into any other bank account as elected by the INTER-AFRICA from time to time.
- 6.4. The CUSTOMER shall be in breach of this Terms & Conditions by cancelling any debit order without the prior written consent of INTER-AFRICA or where any debit order is returned unpaid or stopped or should any charge card account or credit card account of the CUSTOMER be rejected. In such case INTER-AFRICA will have the right to suspend the CUSTOMER's account until such arrears amounts together with interest thereon have been received and paid in full.
- 6.5. If the CUSTOMER neglects to pay the amount due in full within 30 (thirty) days from the Due Date, interest may be charged at a rate of 2% per month on the overdue amount and INTER-AFRICA will hand over the CUSTOMER for collections. In the event of the account being handed over to an outside collection agency, any costs incurred as such will be for the CUSTOMER's account.

## **7. UNPAID ACCOUNTS – SUSPENSION OF SERVICES**

- 7.1. Where any amounts due to INTER-AFRICA by the CUSTOMER are not paid on Due Date and remains outstanding for a period of 15 (fifteen) days from the Due Date, INTER-AFRICA shall suspend the CUSTOMER's services, and the suspension will stay in place until the CUSTOMER has paid all arrear amounts, interest and any

applicable reconnection charges or the Terms & Conditions is terminated by INTER-  
AFRICA.

- 7.2. INTER-AFRICA will not be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims as a result of the suspension of Services due to the CUSTOMER's failure to timeously effect payment in terms of this Terms & Conditions.

## **8. INTER-AFRICA'S RESPONSIBILITIES AND DUTIES**

- 8.1. INTER-AFRICA shall, for the duration of the Subscriber Agreement, avoid undue hindrance, interruption or interference with the operations of the CUSTOMER or otherwise hinder the activities of the CUSTOMER and its employees, save to the extent entitled to do so in terms of this Terms & Conditions or as may be reasonably necessary for the performance of the Services under this Terms & Conditions.
- 8.2. INTER-AFRICA will monitor the network and resolve any problems which may require repair/replacement.
- 8.3. INTER-AFRICA will take all reasonable steps within their control to make the Services available to the CUSTOMER at all times in line with the Subscriber Agreement.
- 8.4. The CUSTOMER understands that the Services are only available within the range of base stations that make up the Network and the signal may vary according to where the CUSTOMER is at the time.
- 8.5. Although INTER-AFRICA take all reasonable measures to ensure that Services are offered to the CUSTOMER on a consistent and continuous basis, INTER-AFRICA cannot always guarantee a continuous fault free Services.
- 8.6. The quality and availability of Services may sometimes be affected by factors such as local physical obstructions, bad weather, other causes of radio interference, the features or functionality of the particular Equipment, damaged Equipment or SIM card, or the number of people trying to use the Network at the same time.
- 8.7. INTER-AFRICA reserves the right to establish policies, rules and limitations, from time to time, concerning the use of the Service.

## **9. CUSTOMER'S DUTIES AND RESPONSIBILITIES**

- 9.1. The CUSTOMER undertakes to make timeous payment of all charges as reflected on the Invoice.
- 9.2. The CUSTOMER agrees to supply INTER-AFRICA with such information, documentation and signatures that INTER-AFRICA may reasonably require at the time that the Subscriber Agreement is concluded, in order to give effect to the payment terms as set out in this Terms & Conditions. Any subsequent changes that affect the information supplied to INTER-AFRICA such as bank account details, *domicilium* address and credit card details must be brought to the immediate attention of INTER-AFRICA by the CUSTOMER in writing.
- 9.3. The CUSTOMER shall, whenever required by INTER-AFRICA, procure that INTER-AFRICA's personnel or contracted installer, be permitted access to the CUSTOMER's premises and to remain at such premises –
- 9.3.1. to carry out any inspection, repair, testing or maintenance of any Equipment and other equipment relevant to the provision of the Service; and/or
  - 9.3.2. to verify that the manner in which the Service is being utilised by the CUSTOMER is in compliance with this Terms & Conditions and applicable South African laws, rules and/or regulations; and/or
  - 9.3.3. to install, collect or remove any Equipment; and/or
  - 9.3.4. for any other reasonable purpose whatsoever.
- 9.4. The CUSTOMER is liable for the monthly rental of the Equipment as set out in the Subscriber Agreement. The CUSTOMER agrees to provide its full co-operation with the applicable rental house, of INTER-ARICA's choice, pertaining to the Equipment and will subsequently enter into the relevant rental agreement to that effect.
- 9.5. Ownership of any Equipment is and remains with INTER-AFRICA at all times. The CUSTOMER is advised to ensure the Equipment for any damage or theft whilst it is in its possession. The CUSTOMER is required to return the Equipment in the same condition that the CUSTOMER received it, fair wear and tear excepted, at the termination of the Services. In the event that the CUSTOMER does not return the Equipment, or the CUSTOMER returns the Equipment, but it is damaged and requires repair, the CUSTOMER will be liable for all the costs of repairing and/or replacing the Equipment.

## **10. NON-CIRCUMVENTION**

- 10.1. The CUSTOMER (on behalf of themselves, their officers, directors, agents, associates and any related parties) irrevocably agrees to be legally bound by this Terms & Conditions and guarantees to INTER-AFRICA that the CUSTOMER shall not, directly or indirectly interfere with, circumvent or attempt to circumvent, avoid, by-pass, or obviate INTER-AFRICA's interest, or the interest or relationship between INTER-AFRICA and its suppliers, producers, brokers, employees, dealers, distributors, financial institutions, technology owners, developers or manufacturers, to change, increase or avoid directly or indirectly payment of established or to be established fees, commissions, or continuance of pre-established relationship or intervene in non-contracted relationship with suppliers, developers, employees, manufacturers or technology owners with intermediaries, entrepreneurs, legal counsel, or initiate buy/sell relationships, or transactional relationships that by-pass INTER-AFRICA with any corporation, producer, technology owner, partnership, or individual revealed or introduced by INTER-AFRICA to the recipient.

## **11. NON-SOLICITATION**

- 11.1. The CUSTOMER also covenants and agrees that for the duration of this Terms & Conditions and for twenty-four (24) months after the termination of this Terms & Conditions, between the Parties thereof, regardless of the reason for termination, the CUSTOMER will not, directly or indirectly, solicit or attempt to solicit any business from any of the INTER-AFRICA's customers, including potential customers, customer prospects, or vendors with whom the CUSTOMER had material contact during its involvement with INTER-AFRICA.
- 11.2. The CUSTOMER also covenants and agrees that for the duration of this Terms & Conditions and for twenty-four (24) months after the termination of this Terms & Conditions between the Parties thereof, regardless of the reason for termination, the CUSTOMER will not, directly or indirectly, on its own behalf or on behalf of or in conjunction with any relative, third party or legal entity, recruit, solicit, or induce, or attempt to recruit, solicit, or induce, any employee of INTER-AFRICA with whom it had personal contact or supervised while performing its duties, to terminate their employment relationship with INTER-AFRICA.

## **12. INTELLECTUAL PROPERTY RIGHTS**

Any intellectual property rights vesting in INTER-AFRICA, whether by statute or common law, will remain vested in INTER-AFRICA and the CUSTOMER agrees not to do anything



or allow anything to be done that may infringe INTER-AFRICA's rights and the CUSTOMER hereby indemnifies INTER-AFRICA against any claims, actions and proceeding that may arise as a result of the CUSTOMER infringing or violating INTER-AFRICA's intellectual property rights.

### **13. INDEMNIFICATION**

- 13.1. Except in respect of death or personal injury caused by INTER-AFRICA's negligence, INTER-AFRICA will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under express terms of this contract, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by INTER-AFRICA's servants or agents or otherwise) in connection with the performance of this Terms & Conditions or with the use by the CUSTOMER of the Services supplied.
- 13.2. INTER-AFRICA shall not be liable to the CUSTOMER or be deemed to be in breach of these Terms and Conditions by reason of any delay in performing, or any failure to perform, any of INTER-AFRICA's obligations if the delay or failure was due to any cause beyond INTER-AFRICA's reasonable control.
- 13.3. INTER-AFRICA shall guard against losses to the CUSTOMER as a result of its third-party contractors failing properly to meet their commitments. However, INTER-AFRICA shall not be held responsible for the failure of third parties to fulfil their commitments where the failure is outside the control of and is not due to the negligence of INTER-AFRICA.
- 13.4. INTER-AFRICA reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Services with or without notice. Without limiting the generality of the foregoing INTER-AFRICA may from time to time and without notice to the CUSTOMER, suspend and/or disconnect the Services, in any one of the following circumstances:
  - 13.4.1. during any technical failure, modification or maintenance of the Network; or
  - 13.4.2. if the CUSTOMER fails to comply with any of the terms and conditions of this Terms & Conditions. The CUSTOMER shall repay to INTER-AFRICA on demand all costs which INTER-AFRICA incurs as a result of the CUSTOMER's failure to comply with the terms and conditions of this Terms & Conditions or any cancellation hereof; or
  - 13.4.3. if so, directed by the Regulatory Authority.

- 13.5. The CUSTOMER agrees that INTER-AFRICA shall not be liable to the CUSTOMER or to any third party for any modification, suspension or discontinuation of the Services.

#### **14. SUB-CONTRACTING**

INTER-AFRICA may sub-contract the performance of any of its obligations under this Terms & Conditions without the prior written consent of the CUSTOMER. Where INTER-AFRICA subcontracts the performance of any of its obligations under this Terms & Conditions to any person, INTER-AFRICA shall be responsible for the acts or omissions as if it were an act or omission of INTER-AFRICA itself.

#### **15. CONSENT TO PROCESS PERSONAL INFORMATION IN TERMS OF THE PROTECTION OF INFORMATION ACT, 4 OF 2013 (POPI)**

- 15.1. The CUSTOMER hereby consents and gives INTER-AFRICA the necessary permission to collect, use and disclose (i.e processing of) its personal information. The CUSTOMER acknowledges that the CUSTOMER understand that its personal information is required for the purpose of obtaining the necessary Services from INTER-AFRICA. The CUSTOMER understands its right to privacy and the right to have their personal information processed in accordance with the conditions for the lawful processing of personal information.
- 15.2. The CUSTOMER hereby consents that it understands that third parties will have access to their personal information, and the CUSTOMER hereby consent to INTER-AFRICA sharing its personal information strictly in so far as it is necessary pertaining to any INTER-AFRICA Services.
- 15.3. The CUSTOMER further understands that all its personal information which the CUSTOMER provides to INTER-AFRICA will be held and/or stored securely for the purpose for which it was collected.
- 15.4. The CUSTOMER declares that all personal information being supplied by it to INTER-AFRICA is accurate, up to date, not misleading, and that it is complete in all material respects. The CUSTOMER further undertakes to immediately advise INTER-AFRICA of any changes to its personal information should any of these details change.
- 15.5. The CUSTOMER understands that in terms of POPI Act and other laws of the country, there are instances where its express consent is not necessary in order to permit the processing of personal information, which may be related to police investigations, litigation or when personal information is publicly available.

- 15.6. The CUSTOMER further confirms that INTER-AFRICA's privacy policy has been made available and that the CUSTOMER has read and understand the terms thereof. The CUSTOMER undertakes that it will not hold INTER-AFRICA responsible for any improper or unauthorized use of personal information that is beyond its reasonable control.
- 15.7. INTER-AFRICA reserves the right to make general credit reference enquiries about the CUSTOMER and to check the correctness of the information that has been supplied. INTER-AFRICA shall also be entitled to furnish any information relating to the CUSTOMER's account and compliance with these conditions to any registered credit bureau.

## **16. CANCELLATIONS**

- 16.1. Any party may forthwith cancel this Terms & Conditions at any time if:
- 16.1.1. Any Party is in breach of any of its obligations hereunder;
  - 16.1.2. Any Party has entered into liquidation;
  - 16.1.3. Any Party has become bankrupt or shall be deemed unable to pay its debts;
  - 16.1.4. Any Party ceases or threatens to cease to carry on business;
- By giving the other Party 90 (ninety) days' written notice, such notice will be sent in accordance with clause 20 of this Terms & Conditions and subject to payment of a reasonable premature cancellation charge determined by INTER-AFRICA.
- 16.2. Apart from the aforesaid, unless INTER-AFRICA expressly agrees to the contrary in writing, the CUSTOMER must cancel services on at least 90 (ninety) days' advance notice to take effect at the end of the Initial Period, failing which the CUSTOMER will be liable and subsequently undertakes to pay on demand:
- 16.2.1. the outstanding value of the Equipment on the date of cancellation of the Agreement;
  - 16.2.2. the outstanding subscription fees and usage charges which have been billed but not yet paid by the CUSTOMER; and
  - 16.2.3. a premature cancellation charge in respect of any of Services which would have continued for the remaining Duration of the Agreement in the event that the Subscription Agreement was not cancelled:
    - 16.2.3.1. the aforesaid cancellation penalty is inclusive of the amount due by INTER AFRICA to its back-end supplier pertaining to the Services rendered to the CUSTOMER. The CUSTOMER will be liable for full payment of such fees and charges due to the back-end supplier.

- 16.3. In the event of cancellation by the CUSTOMER, the CUSTOMER will also be responsible to reimburse INTER-AFRICA for all upfront capital construed for the Services, if any.
- 16.4. Over and above the aforesaid, in the event that the CUSTOMER unilaterally elects to cancel the Subscriber Agreement, prior to physical installation but after the necessary site survey has been conducted, extensive planning has already been attended to, the appointment of third-party suppliers already occurred etc, the CUSTOMER will be held liable for a penalty fee in the amount of R12,500.00 excluding VAT. Such penalty fee will be attributed towards physical expenses incurred by INTER AFRICA prior to the cancellation. This penalty fee is immediately due and payable upon the date of cancellation.
- 16.5. The rights, duties and responsibilities of the Parties will continue in full force during the notice period as mentioned above including the ordering and billing of all work done and disbursements incurred for cost whose closing dates fall within the notice period.
- 16.6. Upon the termination of the Subscriber Agreement all Equipment will only be transferred to the CUSTOMER, in the event that the CUSTOMER purchase such Equipment at fair market related value from INTER-AFRICA.
- 16.7. The termination of the Subscriber Agreement will not prejudice any claim which either party may have against the other arising out of this Terms & Conditions.
- 16.8. Services rendered by INTER-AFRICA to the CUSTOMER will cease after termination of the Subscriber Agreement and upon the last day of the notice period as stipulated herein.

## **17. BREACH**

- 17.1. Subject to any other provisions set out herein and without prejudice to any of these provisions, should the CUSTOMER be in breach of any provision of this Terms & Conditions or the Subscriber Agreement, INTER-AFRICA shall be entitled, without prejudice to any other rights that it may have and to the extent required or permitted, as the case may be, by law, to forthwith:
- 17.1.1. afford you a reasonable opportunity to remedy the breach (no longer than 14 days), taking into account the nature of the breach in question; or
- 17.1.2. suspend the CUSTOMER'S access to a Service; or
- 17.1.3. cancel all agreements concluded between the Parties; or

17.1.4. claim immediate performance and/or payment of all the CUSTOMER'S obligations in terms hereof.

17.2. Should INTER-AFRICA suspend, disconnect or terminate the CUSTOMER'S service, INTER-AFRICA will be entitled to charge the CUSTOMER a fee for reconnecting such Services.

17.3. The CUSTOMER shall be liable for all costs, including legal costs on an attorney and client scale, tracing cost and collection commission incurred by INTER-AFRICA in respect of the enforcement of any obligations of the CUSTOMER in terms of this Terms & Conditions.

## **18. SUPERVENING IMPOSSIBILITY**

18.1. Except as expressly provided under these Terms & Conditions, INTER-AFRICA shall not be liable to the CUSTOMER for failure to perform any obligation due to any acts of God, government restrictions or prohibitions or any other Government act or omission, any act or default of any supplier, industrial disputes, strikes, lockouts or work stoppages of any kind or any other similar or dissimilar cause, in so far as these were not foreseeable and beyond INTER-AFRICA's reasonable control. Should any event contemplated in this clause prevent the provision of uninterrupted Services for a period exceeding 8 (eight) weeks, the CUSTOMER shall be entitled to terminate the affected Services without penalty.

## **19. APPLICABLE LAW**

19.1. This Terms & Conditions will in all respects be governed by and construed under the laws of the Republic of South Africa.

19.2. The Parties hereby consent and submit to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Division, Pretoria in any dispute arising from or in connection with this Terms & Conditions.

## **20. DOMICILIUM AND NOTICES**

20.1. The Parties choose *domicilium citandi et executandi* for all purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this Terms & Conditions, as set out in the Subscriber Agreement.

- 20.2. Each party shall be entitled from time to time, by written notice to the other, to vary its *domicilium* to any other physical address within the Republic of South Africa and / or its email address.
- 20.3. Any notice given and any payment made by a party to another party which is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* shall be rebuttably presumed to have been received by the addressee at the time of delivery.
- 20.4. Notwithstanding anything to the contrary in this clause 20, a written notice or other communication actually received by a party shall be adequate notice to it notwithstanding that the notice was not delivered to its given *domicilium*.

## **21. CHANGES TO THE TERMS AND CONDITIONS**

- 21.1. INTER-AFRICA may, in its sole discretion, change any of these terms at any time. It is the responsibility of the CUSTOMER to regularly check these Terms & Conditions and make sure that the CUSTOMER is satisfied with the changes.
- 21.2. If the CUSTOMER continues to utilise the Services after such amended terms have been displayed on the website, the CUSTOMER will be deemed to have accepted such changes.

## **22. GENERAL**

### **22.1. Whole Terms & Conditions**

22.1.1. Subject to the Subscriber Agreement, this Terms & Conditions constitutes the whole of agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Terms & Conditions not incorporated in this Terms & Conditions shall be binding on any of the Parties.

22.1.2. This Terms & Conditions supersedes and replaces any and all Terms & Conditions between the Parties (and other persons, as may be applicable) and undertakings given to or on behalf of the Parties (and other persons, as may be applicable) in relation to the subject matter hereof.

### **22.2. No Indulgences**

No latitude, extension of time or other indulgence which may be given or allowed by

any Party to the other Parties in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this Terms & Conditions and no single or partial exercise of any right by any Party under this Terms & Conditions, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from this Terms & Conditions or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. Failure or delay on the part of any Party in exercising any right, power or privilege under this Terms & Conditions will not constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

#### **22.3. Provisions Severable**

All provisions and the various clauses of this Terms & Conditions are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Terms & Conditions which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of this Terms & Conditions shall remain of full force and effect. The Parties declare that it is their intention that this Terms & Conditions would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

#### **22.4. Continuing Effectiveness of Certain Provisions**

The expiration or termination of this Terms & Conditions shall not affect such of the provisions of this Terms & Conditions as expressly provide that 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.

#### **22.5. No Assignment**

The CUSTOMER shall not be entitled to cede, assign or transfer, or purport to cede, assign or transfer, any of its rights or obligations under this Terms & Conditions to any third party without the prior written consent of INTER-AFRICA, which consent shall not be unreasonably withheld or delayed. INTER-AFRICA will be entitled to do so, without written consent of the CUSTOMER.

**22.6. Indulgence and relaxing**

The failure of INTER-AFRICA to enforce at any time this Terms & Conditions or any part thereof, or any right with regard thereto, must in no way be construed to be a waiver of the provision of the Terms & Conditions or to be an estoppel or novation or in any way to affect the validity of this Terms & Conditions. Any indulgence towards the CUSTOMER or the relaxing of the provisions of this Terms & Conditions must not prejudice the right of INTER-AFRICA to insist on the strict compliance by the CUSTOMER of its undertakings and obligations in terms of this Terms & Conditions.