

Section I: Standard Terms and Conditions

1. DEFINITIONS

In this Services Agreement:

- 1.1 **Business Day** means any day other than a Saturday, Sunday or public holiday in the Republic of South Africa.
- 1.2 **Channel** means an electronic pathway or line connecting two Devices to each other for the purpose of providing the Services, also referred to as a telephone line.
- 1.3 **Device** means a physical network link with a unique electronic address to enable communications on a physical network, including proxy addresses and Internet Protocol (IP) addresses.
- 1.4 **Equipment** means any equipment, including a Device and SIM card, which we supply to you which you use in order to access and/or use the Services.
- 1.5 **Initial Period** means the initial period set out in the Schedule of Services, which is measured in discrete periods of a month commencing from the month following the Start Date.
- 1.6 **Monthly Fixed Charges** means the Line Rental, Hunting Fee (LHS), CUG, SNS, and/or VMS described on the Schedule of Services and any other charge that is of a fixed amount and is recurring in nature in respect of the Services we provide to you, as set out in the Schedule of Services. These charges are monthly charges associated with and payable in respect of each Channel connected by us on your behalf to the System.
- 1.7 **Once-off Charges** means all charges which do not recur on a monthly basis, which we provide to you, as set out in the Schedule of Services.
- 1.8 **Parties** means us and you, and Party means either one of us.
- 1.9 **R** means South African Rand.
- 1.10 **Schedule of Services** means Section D of this Services Agreement.
- 1.11 **Services** means the services requested by you and selected on the Schedule of Services (as these Services are more fully described on our web-site at www.hugetns.com), as well as any additional services which you may request us in writing to render to you, from time to time, whether or not you are a first time Subscriber for our Services (**New**), whether or not you are requesting additional Services by completing this Services Agreement (**Additional**) or whether or not you are asking us to extend existing services (**Renewal**);
- 1.12 **Services Agreement** means the information contained in each of Sections A to H of this agreement and this Section I containing the Standard Terms and Conditions which govern this Agreement.
- 1.13 **SIM card** means a subscriber identification module which we supply to you which, when activated by us and used in conjunction with the Equipment, allows you access to the Services.
- 1.14 **Start Date** means the date on which we either (i) sign this Services Agreement in writing, or (ii) our information systems accept this Services Agreement after all necessary validations, or (iii) the date on which the Services are installed, whichever is the later.
- 1.15 **System** means an electronic communications network operated by a network operator as defined in the Electronic Communications Act, 2005.
- 1.16 **our/us/we** means Huge TNS Proprietary Limited (Co. Registration No. 1993/003902/07), the **Service Provider**, having its principal place of business at Ground Floor, 5 Mellis Road, Rivonia, Sandton, 2128.
- 1.17 **User** means any person you authorise to use the Services.
- 1.18 **Variable Charges** means call charges and Data Charges in respect of the Services which we provide to you, at the rate (**Rate**) set out in the Schedule of Services;
- 1.19 **you** means the **Subscriber** being the entity/organisation whose name appears in Section B and/or Section C of this Services Agreement.

2. START AND DURATION OF THIS SERVICES AGREEMENT

- 2.1 This Services Agreement will start on the Start Date and continue (subject to clause 9) for the Initial Period. In respect of each item of Equipment, each telephone number, SIM card and other identification number allocated and/or delivered to you after the Start Date, and any additional Services requested by you in writing after the Start Date, this Services Agreement will be treated as having started on the date of delivery of the item of Equipment, the telephone number, SIM card and/or other identification number, or the date on which we deliver the additional Services to you, whichever is applicable (**Deemed Start Date**), and it will (subject to clause 9) continue for the Initial Period as calculated from the Deemed Start Date.

3. THE SERVICES

- 3.1 We shall provide the Services to you, at the applicable Monthly Fixed Charges, Variable Charges and Once-Off Charges, in accordance with the Rate set out in the Schedule of Services, by connecting Equipment to a System at the places where you tell us that you conduct your business (**Sites**) on the terms set out in this Services Agreement. The services rendered in terms of this Services Agreement are subject to the Equipment (including Devices and SIM cards) being used by you at such Sites only. SIM cards may not be moved to other locations without our consent, and may not be utilised in any other mobile devices other than the Devices we supply to you in conjunction with the Services.
- 3.2 We reserve the right to remove a Channel, or to withdraw or change any Device, SIM card, telephone number or other identification number allocated to you.
- 3.3 You agree that you will comply and that you will procure that every User complies with our reasonable instructions as may be necessary for the security of the Equipment, the Services, the System and/or other users of the Services and you agree that you will not act or fail to act, or allow others to act or fail to act, in any way that is likely to damage, disrupt or interfere with any Equipment or System, or which is likely to cause injury or damage to any person or property, or which is likely to cause the quality of the Services to be impaired or interrupted.

4. CHARGES AND PAYMENT

- 4.1 All charges are payable by means of debit order and for this purpose you must sign the Debit Order Authority that forms part of this Services Agreement. If we agree in writing that you need not provide us with a Debit Order Authority, all charges must be paid by direct deposit into the bank account that we specify and you agree that we shall charge a Monthly Fixed Charge by way of a monthly on-account fee of R500.00 exclusive of VAT. Where this Services Agreement is for the provision of either additional Services or is a renewal of existing Services and you have signed a Debit Order Authority, such Debit Order Authority will apply to the Services covered in this Services Agreement
- 4.2 We reserve the right to bill your first months charges on a pro rata basis as well as any once-off charges in full immediately.
- 4.3 You must pay any Once-Off Charges, the Monthly Fixed Charges, the Variable Charges and all other charges on the specified debit order date in terms of the Debit Order Authority.
- 4.4 Monthly Fixed Charges include charges for the management of the Equipment and/or the System and allow you continued access to the Services. You must pay the Monthly Fixed Charges even if you do not use the Equipment and/or the System.
- 4.5 You must make all payments to us without any deduction or set-off whatsoever. You may also not withhold payment of any charges for any reason.
- 4.6 Unless the contrary is proved:
- 4.6.1 a call recorded or data used on the Equipment and/or System will be treated as having been made by, used with, or by means of the Equipment and/or the System; and
- 4.6.2 the duration of each call as recorded on the metering system used by the applicable network operator will be used for the purpose of calculating the call charges component of the Variable Charges; and
- 4.6.3 the usage of each data communication on the metering system used by the applicable network operator will be used for the purpose of calculating the data charges component of the Variable Charges.
- 4.7 The number of Channels which are the subject of a Monthly Fixed Charge will be determined at the start of each month, or on a *pro rata* basis from the Start Date or the Deemed Start Date.
- 4.8 We may, on notice to you, increase the Monthly Fixed Charges and/or the Rate from time to time. Monthly Fixed Charges will also increase on 1 March each year in accordance with the annual rate of change in CPI. For this purpose, CPI means the weighted average consumer price index published monthly by Statistics South Africa or its successor, which is referred to as "Headline CPI (all urban areas) annual inflation rate" in statistical release P0141.
- 4.9 If any payment is overdue, we may charge interest on arrears from the due date to the date of actual payment, at a rate equal to the prime rate charged by First National Bank (a division of FirstRand Bank Limited) from time to time on overdrawn accounts plus 4%.
- 4.10 We may, by notice to you, determine the maximum amount of the Monthly Fixed Charges, Variable Charges, or both, for which you can subscribe, and/or change this from time to time or we may request that you to furnish us with a deposit which we will hold as security for the due payment by you of all amounts due to us. In the absence of notice to you the maximum amount will be the Monthly Fixed Charges.

5. OWNERSHIP AND RISK

- 5.1 The Equipment, any telephone numbers, SIM card and any other identification number allocated and/or delivered to you, will not become your property, and must be returned to us on the expiry or cancellation of this Services Agreement, unless you have purchased the Equipment outright or paid it off in full.
- 5.2 Risk in the Equipment, the connection thereof to any System, each telephone number, SIM card and identification number, will pass to you on delivery.
- 5.3 You may not sell or transfer to any other person, or modify, any telephone number, SIM card or other identification number, without our prior written consent. You may not modify or allow anyone else to modify any Equipment without our prior written consent.
- 5.4 If any Equipment or any SIM card is lost, stolen or damaged, you must notify us immediately in writing. In the event that any Equipment for which you have taken delivery is lost, stolen or destroyed, you will be liable for the replacement cost of such Equipment and we will invoice such cost to you. You will remain liable for all Variable Charges related to the use of that Equipment or SIM card until you send us this notification.

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6. COMPLIANCE WITH INSTRUCTIONS AND WARNINGS

6.1 You shall procure that every User shall, at all time, comply with the instructions provided in relation to the Equipment, the Services and/or the System and take proper notice of the warnings provided in relation to any hazards associated with the Equipment, the Services and/or the System, including but not limited to that contained in clause 7.2, and you indemnify us from and against any claims instituted against us arising from your failure or any User's failure to comply with your obligations under this clause 6.

7. LIMITATION OF LIABILITY, INDEMNITY AND EXCLUSION OF WARRANTIES

7.1 To the maximum extent allowed by law, and subject to clause 12.15, we shall not be liable to you or any other person for any loss, damage, cost, claim or demand caused by, or arising from, any breach of this Services Agreement by you or caused by, or arising from, any fact or circumstance beyond our reasonable control or which is consequential, special, indirect, or incidental loss or damage or which is loss of profits, whether same constitutes direct or indirect damages, of whatever nature and howsoever arising from, or in connection with, the Equipment, the Services and/or the System, or caused by, or arising from, any technical faults, malfunctions, interruptions, downtime, errors and/or viruses or other harmful components, software, data or materials associated with the Equipment, the Services and/or the System, or caused by, or arising from, the failure of a third party service provider or network operator, and you hereby indemnify us accordingly.

7.2 You acknowledge that from time to time there may be a suspension of the Services from causes beyond our control. You also acknowledge that given the nature of the Services, the Equipment and the System, they may contain viruses and/or other harmful components, data, software and materials, or they may be open to interference or interception by third parties, which could: (i) cause serious loss or damage to your Devices; (ii) cause delays or other problems in using the Services; and/or (iii) result in unauthorised persons obtaining your information, including your personal information. This may also result in you suffering damage and financial loss and you hereby indemnify us accordingly.

7.3 We give you no warranties whatsoever in connection with the Equipment and/or the Services and/or the System, whether express, implied or tacit.

8. AMENDMENTS TO THIS SERVICES AGREEMENT

8.1 We may from time to time amend this Services Agreement on 7 Business Days' notice to you.

8.2 You may choose to either accept such amendments or you may cancel this Services Agreement on 7 Business Days' written notice to us.

9. SUSPENSION OF SERVICES AND CANCELLATION OF THIS SERVICES AGREEMENT

9.1 We may suspend your use of the Equipment and/or the Services, in whole or in part, if your account is in arrears, or your debit order is rejected for payment, or you commit a material breach of this Services Agreement or at any time the Monthly Fixed Charges and Variable Charges for which you are liable in terms of this Services Agreement are more than the limit we set in terms of clause 4.10 or there are any amendments to this Services Agreement and you do not accept the amendments.

9.2 We shall send you notification of this suspension and shall only re activate once you (i) remedy your breach or (ii) make a payment to us of such amount as we may require to ensure that the Monthly Fixed Charges and Variable Charges for which you are liable are reduced to below the limit we set in terms of clause 4.9 or (iii) or to furnish a security deposit as referred to in clause 4.10 or (iv) you accept the amendments (whichever is applicable).

9.3 If you do not adhere to the requirements set out in clause 9.2, we reserve the right to cancel this Services Agreement immediately. If we cancel this Services Agreement as a result of the provisions of (i), (ii) and (iii) in clause 9.2, or should you elect to terminate this Services Agreement prior to the expiry of the Initial Period, you will remain liable to us for the Monthly Fixed Charges applicable for the remainder of the Initial Period, as well as for a de-installation fee of R500.00 for each Channel which is subject to such cancellation.

9.4 We may cancel this Services Agreement with immediate effect, and claim such damages as we may have suffered, if you do or cause anything to be done which may prejudice our rights in terms of this Services Agreement;

9.5 If you do not cancel this Services Agreement in writing at least 30 days prior to the expiry of the Initial Period, this Services Agreement will continue automatically on a month-to-month basis thereafter. If the Initial Period is 30 days, then this Services Agreement will be deemed to run on a month-to-month basis.

10. DISPUTES

10.1 If any dispute, disagreement or claim arises between the Parties concerning this Services Agreement, the Parties must try to resolve the dispute by negotiation on a date and at a time and place convenient to both Parties, provided that such negotiation must take place within 14 days from the date when the dispute arose and if the dispute has not been resolved by negotiation, either Party may submit the dispute to court as referred to in clause 12.13.

11. ADDRESSES

11.1 Any notice from you to us in connection with this Services Agreement may be addressed to our address described in clause 1.17.

11.2 Any notice from us to you in connection with this Services Agreement may be addressed to your street address, email address, telephone number or cellular number which you provide in Section C of this Services Agreement. Notices to your cellular number may be by means of SMS or by means of a phone call.

11.3 Documents in legal proceedings in connection with this Services Agreement may be served by you on us, to our physical address set out in clause 1.17; or by us on you, to the street address you provide in Section C of this Services Agreement.

11.4 A notice or communication actually received by a Party will be treated as sufficient even if it was not sent to that Party's chosen address.

12. GENERAL

12.1 Words referring to any one gender include the other two genders, the singular includes the plural and the opposite also applies, and natural persons include artificial persons and the opposite also applies.

12.2 When any number of days is referred to in this Services Agreement, they must be calculated by excluding the first day and including the last day, unless the last day falls on a day which is not a Business Day, in which case the last day will be the next Business Day.

12.3 The expiry or cancellation of this Services Agreement will not affect the provisions of this Services Agreement which are expressly provided to operate after expiry or cancellation, or which of necessity must continue to have effect after expiry or cancellation.

12.4 The rule of construction that the contract will be interpreted against the party responsible for its drafting or preparation will not apply.

12.5 Each provision of this Services Agreement, and each part of any such provision, is separate and separable from the others. To the extent that any provision in this Services Agreement, or any part of such provision is, becomes or is declared by a court of competent jurisdiction or other competent authority to be unlawful, invalid or unenforceable for any reason or in any jurisdiction, then it will, to the extent that it is unlawful, invalid or unenforceable, be severed from this Services Agreement and treated as if it had not been written, without invalidating or affecting the enforceability of the remainder of such provision or the remainder of this Services Agreement.

12.6 This Services Agreement replaces all previous agreements between you and us in as far as it relates to the Equipment, the Services and/or System detailed in the Schedule of Services.

12.7 This Services Agreement is the whole agreement between you and us relating to the subject matter of this Services Agreement.

12.8 You may not rely on any representation which allegedly caused you to enter into this Services Agreement, unless the representation is recorded in this Services Agreement.

12.9 No contract changes, additions to, deletions from, or cancellation of this Services Agreement, and no waiver of any right under this Services Agreement, will be effective unless it is in writing and signed by both Parties.

12.10 The grant of any indulgence, extension of time or relaxation of any provision by you or by us under this Services Agreement will not constitute a waiver of any right or prevent or adversely affect the exercise of any existing or future rights.

12.11 We may transfer any of our rights or obligations under this Services Agreement to another person on notice to you. You may not transfer your rights or obligations under this Services Agreement to any other person without our prior written consent.

12.12 A certificate signed by any of our managers, whose appointment and authority it shall not be necessary to prove, as to the existence of any facts and, without limiting the generality of the foregoing, as to the amount of your indebtedness in terms of this Services Agreement, shall constitute *prima facie* evidence thereof.

12.13 This Services Agreement is governed and interpreted in accordance with the laws of the Republic of South Africa and for this purpose the Parties consent to the jurisdiction of the Magistrates' Court having jurisdiction, even if the amount of the claim exceeds the jurisdiction of that court. However, either Party shall have the right to institute legal proceedings in any other competent court.

12.14 You will pay all reasonable expenses which we may incur as a result of your failure to comply with any provision of this Services Agreement, including tracing costs and legal costs on an attorney and own client scale.

12.15 If this Services Agreement, and/or any Equipment and/or Services provided under this Services Agreement, is regulated by the Consumer Protection Act, 68 of 2008, as amended, it is not intended that any provision of this Services Agreement contravenes any provision of that Act. Therefore, all provisions of this Services Agreement must be treated as being qualified, if necessary, to ensure compliance with the provisions of the Consumer Protection Act.

If you would like access to a Services Agreement in a larger font size you can access it at

www.hugetns.com