

Terms & Conditions

CENTRACOM MSA (PTY) LTD TERMS AND CONDITIONS

1. INTERPRETATION

- 1.1. In this agreement unless clearly inconsistent with or otherwise indicated by the context:
 - 1.1.1. "Agreement" means this Master Services Agreement and includes a reference to all Customer Order Forms, schedules and annexures hereto, which are appended to this agreement from time to time;
 - 1.1.2. "Centracom" means Centracom (Pty) Ltd (Registration Number 2004/016200/07)
 - 1.1.3. "Centracom Network" means the telecommunication and data network to which the customer will connect for the provision of the services;
 - 1.1.4. "Connectivity" is the medium used to transmit the VoIP calls,
 - 1.1.5. "Charges" means all charges payable by the Customer to Centracom.
 - 1.1.6. "Customer" means the customer as set out in the subscriber agreement;
 - 1.1.7. "Customer Order Form" or "COF" means the form through which the Customer accepts a quotation for services, setting out the details of the Services requested such as quantities, fees, Service Levels and charges payable;
 - 1.1.8. Data, and Cloud Services from the equipment to the Centracom Network, the mediums may include ADSL, Diginet, Fibre, Fixed Wireless and Mobile Wireless;
 - 1.1.9. "Equipment" means any customer premise equipment supplied, installed owned & maintained by Centracom to deliver the service
 - 1.1.10. "MRC" or "Monthly Recurring Charge" means the monthly charges for the Services as set out in applicable COF;
 - 1.1.11. "NRC" or "Non-Recurring Charge" means the installation fee for the Services as set out in applicable COF;
 - 1.1.12. "Prime rate" means the prime overdraft rate of Nedbank Limited from time to time according to a certificate signed by a manager of any branch of Nedbank Bank Limited shall constitute prima facie proof of such rate;
 - 1.1.13. "Services" means the services provided by Centracom to the customer by means of the Centracom Network;
 - 1.1.14. "Service activation" means the date when the services first commence;
 - 1.1.15. "Wholesale supplier" is a company which through its wholesale agreement with Centracom supplies access services to the customer.
- 1.2. Any reference to the singular includes the plural and vice versa;
- 1.3. Any reference to natural persons includes legal persons and vice versa;
- 1.4. Any reference to a gender includes the other genders
- 1.5. The clause headings in this agreement have been inserted for convenience only and shall not be taken into account in its interpretation
- 1.6. Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause
- 1.7. This agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa.

2. APPOINTMENT

The customer hereby appoints Centracom to provide the services to it for the duration of this agreement. The parties agree that this appointment shall be on an exclusive basis such that the customer shall only be entitled to obtain the services from Centracom and no third party for the duration of this agreement.

3. DURATION

- 3.1. This agreement shall commence on the date of service activation and shall be ongoing for the contract period.
- 3.2. Thereafter the Agreement will renew monthly, subject to the right of the customer or Centracom to terminate the agreement upon not less than three months written notice.
- 3.3. All equipment and access charges shall carry a minimum of 24 months as further defined in clauses 4 and 5.13.

4. CANCELLATION

Should this agreement be terminated prior to the expiry of the initial period or a renewal period for any reason whatsoever, then Centracom shall inter alia have the right to claim all fees payable for the balance of the initial period or renewal period, as the case may be, in respect of access services and/or hardware required to provide the services as well as an amount of R3000.00 (three thousand Rand) or such other amount agreed to by the parties in writing from time to time. Should we contract on your behalf with third party suppliers, the applicable cancellation period for their services will be applied. The cancellation fee levied by the supplier plus 10% will be passed on to the customer.

5. USE OF THE EQUIPMENT

- 5.1. If required Centracom shall provide and install customer premise equipment at the premises of the customer ("equipment") required for the purpose of accessing the services which shall be charged for on a monthly basis more clearly defined in clause 5.11 and 5.12
- 5.2. The Customer shall provide the necessary space, electricity supply and environmental conditions required for the equipment
- 5.3. Ownership in and to the equipment shall remain vested in Centracom or its wholesale supplier. Upon termination of this Agreement the customer shall be obliged to return the equipment in the same working order as delivered
- 5.4. All risk and responsibility for the equipment shall pass to the Customer on delivery of the equipment
- 5.5. The customer acknowledges that he is responsible for the insurance of the equipment for the duration of this agreement
- 5.6. The Customer shall permit Centracom to enter its premises to inspect the equipment or perform any other lawful function in the bona fide interest of Centracom in respect of the equipment, or to carry out any necessary repairs, replacement of equipment or other maintenance work, in respect of the equipment
- 5.7. The Customer shall at all times keep the equipment in its possession and control at the Customer Premises and shall not be entitled to give up possession of the equipment, in whole or in part, to any third party or remove and / or re-install the equipment at a different location
- 5.8. The Customer shall in writing advise the landlord of the customer premises of Centracom's ownership of the equipment and make sure the relevant landlord waiver is signed and submitted to Centracom
- 5.9. If the equipment is repossessed by the landlord for any reason and the landlord waiver has not been received by Centracom, the customer shall be liable for the cost of the equipment

- 5.10. Unless expressly authorised by Centracom, the Customer and any 3rd party may not make any alteration or modification to the equipment, including the software incorporated in the equipment, nor may they move the equipment nor transfer it to another location.
- 5.11. If the equipment is lost, stolen or damaged, the Customer shall remain liable for the replacement and reinstallation thereof
- 5.12. The cost of the equipment will be charged to the customer as a monthly rental which will be collected over the duration of the contract
- 5.13. The customer will remain liable for the monthly rental for a minimum of 24 months or any other contracted period, whichever is the greater, regardless of the airtime contractual obligation stipulated in the Customer Order Form and shall continue thereafter on a monthly basis until cancellation of the contract by either party giving three months' notice.
- 5.13.1. Equipment rentals will increase by 10% (ten percent) annually
- 5.13.2. The customer is liable for any and all calls made from the Centracom SIP Accounts provided, regardless of the whether these calls are legitimate or have been made as a result of hackers gaining access to the customer's SIP accounts.
- 5.13.3. Centracom is not responsible for the supply and commissioning of Open Source IP PBX systems, such as Asterisk platforms and other PBX systems. If the customer has installed such a system and wishes to access the Centracom service by means of such system, the customer acknowledges that such systems are vulnerable to hacking and other fraudulent misuse, and therefore warrants that it has adequate security measures in place to protect its system from such attacks.
- 5.13.4. Without limiting the generality of Centracom Terms and Conditions, Centracom shall not (other than in circumstances of its gross negligence or fraudulent intent) be liable for any damage or loss suffered by the customer caused by and / or attributable to:
 - 5.13.4.1. The unlawful or fraudulent accessing by a third party of the customer's telecommunication lines, PBX, data networks, wireless links or other links or equipment. In such circumstances, the customer shall remain liable for all charges incurred pursuant to such unlawful or fraudulent access and hereby indemnifies Centracom against all loss, liability, damage or expense which Centracom or the customer may suffer as a result thereof.
- 5.13.5. Any damages or loss caused by the negligence (but excluding gross negligence) of Centracom, shall in any event and under all circumstance be limited to an amount equal to the fixed monthly charges payable by the subscriber during the six months preceding the action.

6. USE OF CONNECTIVITY SERVICE

- 6.1. If required Centracom shall apply for and arrange installation of connectivity required for the purpose of accessing the services
- 6.2. The Customer shall provide the necessary space, electricity supply and environmental conditions required for the connectivity service
- 6.3. Connectivity supplied by Centracom is supplied through their wholesale agreements with their various suppliers.
- 6.4. Certain Wholesale Suppliers may request that additional Terms and Conditions, as well as timetables and other documentation, specific to their services, are required for the supply of these services through Centracom. In order to comply with their specific requirements, these will be incorporated into this agreement by means of an Addendum hereto, signed by both the Client and Centracom.
- 6.5. The Customer shall permit Centracom to enter its premises to inspect the connectivity service or perform any other lawful function in the bona fide interest of Centracom in respect of the service, or to carry out any necessary repairs, replacement of equipment, infrastructure or other maintenance work, in respect of the connectivity service.
- 6.6. All service level agreements are dependent on the wholesale supplier solution implemented.
- 6.7. All connectivity services are subject to the wholesale supplier existing lead times, and Centracom cannot be held liable for their failure to adhere to indicated times for delivery or installation.
- 6.8. The access fee quoted is an estimate according to call traffic. Centracom will carry out a pre-installation site audit which will provide the necessary information to more accurately cost the bandwidth requirement. This may affect the fees quoted on. Any amendments will be made accordingly.
- 6.9. Connectivity service charges will be increased by 10% annually or by the amount increased by Centracom's wholesale suppliers, or by the CPI, whichever is the greater.

7. UPGRADES & DOWNGRADES

- 7.1. In the event of an upgrade the customer agrees to pay a once off installation charge as determined by wholesale supplier for the service. The upgraded connectivity service will be charged to the customer set out in the subscriber agreement
- 7.2. In the event of a downgrade the customer agrees that a penalty might be charged as determined by wholesale supplier for the service. The connectivity service will be charged to the customer set out in the subscriber agreement.

8. CUSTOMER'S OBLIGATIONS

- 8.1. Customer shall not commit nor attempt to commit any act or omission which directly or indirectly:
 - 8.1.1. Damages in any way Centracom's technical infrastructure or any part thereof;
 - 8.1.2. impairs or precludes Centracom from being able to provide the Service/s in a reasonable and business-like manner;
 - 8.1.3. constitutes an abuse or malicious misuse of the Service/s;
- 8.2. or is calculated to have the abovementioned effect. In such an event, should Centracom incur expenses to remedy the situation, Centracom reserves the right to charge the Customer the amount necessary to cover Centracom additional expenditure. Notwithstanding the above, Centracom reserves the right to take any other appropriate action it may deem necessary to remedy the situation.
- 8.3. Customer is prohibited from modifying any equipment (including but not limited to router equipment) utilised by Customer to receive any of the Service/s, in any way whatsoever, including the changing of any of the settings of such equipment, or moving the equipment as detailed in clause 5.10.

9. CONNECTION

Centracom shall use its best endeavours to provide the customer with access to the services and maintain such access in accordance with the provisions of this agreement. Centracom shall not be responsible for any consequences as a result of any delay in the connection of the services, including, inter alia, any damages

suffered or any expenses incurred by the customer as further detailed in clause 5.10

10. FIRST RIGHT OF REFUSAL

- 10.1. At the expiration of the contract period, the Customer agrees to give Centracom the first right of refusal if another service provider is able to deliver a more cost effective solution than the one supplied by Centracom
- 10.2. If Centracom is able to provide a greater cost savings to the customer compared to an alternative service provider, then the customer agrees to remain bound to the terms set out in clause 7.

11. TEMPORARY SUSPENSION

- 11.1. Centracom shall be entitled to temporarily suspend the services-
 - 11.1.1. during any technical failure, modification or maintenance of the Centracom Network; or
 - 11.1.2. Should the customer fail to make payment on time for the services as per their monthly invoice
 - 11.1.3. Should the customer fail to comply with any of the terms and conditions of this agreement
- 11.2. Notwithstanding any suspension of the provision of the services in terms of the provisions of clause 8.1 the customer shall remain liable to Centracom for all amounts charged in accordance with the provisions of this agreement
- 11.3. Should the customer's services be suspended for any of the reasons set out above, a suspension fee of R 215.00 will be charged per service to the customer's account. This fee must be paid prior to any reconnection of the services.

12. PROOF OF CONCEPT

- 12.1. The customer acknowledges liability for all costs incurred within the POC period, including all call, installation, hardware and bandwidth charges.

13. PAYMENT

- 13.1. The customer acknowledges that he / she has requested to receive the monthly invoice setting out all charges due and payable by the user to Centracom by way of electronic mail.
- 13.2. In the event of the customer not obtaining the monthly invoice from Centracom for any reason in any one month, the onus is in the customer to contact Centracom and obtain such invoice and accordingly, in the event of the customer not making payment due to not receiving the invoice, Centracom shall be entitled to temporarily suspend the service until such invoice has been paid in full.
- 13.3. All Service/s provided are to be billed as of the Effective Date in respect of each Service. In the event of a single Service consisting of a number of components, billing will commence for each respective component of that Service as and when each component of that Service goes live.
- 13.4. The customer shall be liable to make payment to Centracom in accordance with the charges set out in the Customer Order Form in respect of the services, monthly in arrears as determined in 13.5
- 13.5. Charges which appear on invoices must be paid by the customer to Centracom by no later than the last working day of the month during which the charges are incurred. Failure to comply will result in immediate suspension of service and listing on the credit bureau.
- 13.6. Any amount due by the customer to Centracom, not paid on the due date thereof, shall at the discretion of Centracom, bear interest at a rate equal to 3% (three per centum) per annum above the prime rate, calculated from the date payment was due until date of actual payment thereof
- 13.7. Centracom shall be entitled to demand, at any time after the signing of the agreement by the customer, full payment in advance of all charges to be levied by Centracom for the balance of the initial period of this agreement, excluding call charges which shall be invoiced monthly in arrears, should Centracom have a reasonable suspicion of any fraudulent act having been or about to be committed by the customer in respect of this agreement and the customer failing to rebut such suspicion.
- 13.8. The customer will not have the right to defer, adjust or withhold any payment due to Centracom in terms of or arising out of this agreement
- 13.9. Should the customer's debit order be rejected by their bank, Centracom will charge a Rejection Fee of R50 for the first rejection, and R100 for any subsequent rejection.
- 13.10. All prices quoted in this agreement are exclusive of Value Added Tax ("VAT")
- 13.11. Centracom may vary all or any rates referred to in the Customer Order Form as a result of any changes made to the rates by any third party with whom Centracom has contracted for the provision of the services, upon 7 (seven) days written notification to the customer
- 13.12. Call rates are quoted in line with projected billing. Centracom reserves the right to revise the rates on a quarterly basis to bring them in line with the rate appropriate to actual average usage. Such revision may result in either an increased or decreased rate to the user
- 13.13. In the event that the customer defaults on the payment terms which have been granted by Centracom, Centracom reserves the right at its discretion to vary the payment terms and may review the payment method granted to the customer.

14. MAINTENANCE

- 14.1. All maintenance of Centracom's equipment will be provided free of charge, provided that the customer has a current maintenance contract and their account is up to date.
- 14.2. Maintenance of equipment not provided by Centracom will be charged at the current published rate. Centracom reserves the right to increase this amount from time to time at its sole discretion.
- 14.3. Centracom will charge a monthly maintenance fee of 7% of call usage, or R 150per site per month, whichever is the greater amount for on-going network maintenance.
- 14.4. These fees are subject to an annual increase
- 14.5. The customer will remain liable for the monthly maintenance fee for the duration of the contract regardless of the airtime contractual obligation stipulated in the Subscriber Agreement.

15. GUARANTEE

The customer shall upon written request by Centracom be required to provide Centracom with a guarantee in respect of any services provided to the customer from time to time, in the amount equivalent to the aggregate of 2 (two) month's billing of services.

16. WARRANTIES

- 16.1. Centracom makes no warranties and representations to the customer save as may be specifically provided herein or as notified in writing by Centracom to the customer from time to time. The customer acknowledges that Centracom is not in any way bound by any oral statement, representation, guarantee, promise, undertaking,



- inducement or otherwise which may have been made at any time by any salesman, employee, representative or any person acting or purporting to act for or on behalf of Centracom, whether negligently or otherwise unless such statements, representations, guarantees, promises, undertakings, warranties or inducements are supplied or made in writing by an employee duly authorised thereto by the Board of Directors
- 16.2. Centracom warrants and represents that:
- 16.2.1. it has full capacity and authority and all the necessary licenses, permits and consents to enter into and perform in terms of this Agreement and to provide the Services to the Customer;
- 16.2.2. it is the owner of or has the right to use under licenses any intellectual property employed by it during or as part of the Services;
- 16.2.3. the Services shall be provided in accordance with the provisions of this Agreement;
- 16.3. Save as expressly set out in this Agreement, Centracom does not make any representations nor give any warranties or guarantees of any nature whatsoever in respect of the Service/s and all warranties which are implied or residual at common law are hereby expressly excluded
- 16.4. Without limitation to the generality of 5.1 above, Centracom does not warrant or guarantee that the information transmitted by or available to Customer by way of the Service/s:
- 16.4.1. will be preserved or sustained in its entirety;
- 16.4.2. will be delivered to any or all of the intended recipients;
- 16.4.3. will be suitable for any purpose
- 16.4.4. will be free of inaccuracies or defects or bugs or viruses of any kind; or
- 16.4.5. will be secured against intrusion by unauthorised third parties; and Centracom assumes no liability, responsibility or obligations in regard to any of the exclusions set forth in this clause and as further described in clause 5.
- 17. CREDIT LIMIT**
- 17.1. Centracom will set a credit limit in accordance with the customer's existing telecommunications spend. This service will automatically email the customer notifications when 80% of credit limit has been used
- 17.2. The customer will be required to respond to this communication in writing informing Centracom of the preferred credit limit
- 17.3. Should the client not respond to this email, Centracom shall re-evaluate the call usage and set a credit limit according to the historical usage.
- 18. BREACH**
- 18.1. In the event that—
- 18.1.1. the customer fails to make payment to Centracom of any amount owing by the customer to Centracom in terms of this agreement and fails to make such payment within 7 (seven) days of receipt of written notice to that effect;
- 18.1.2. The customer in any other manner breaches any of the provisions of this agreement and fails to remedy such breach within 7 (seven) days' written notice requiring it to do so;
- 18.1.3. The customer fails to satisfy any judgment granted against it within 30 (thirty) days of such judgment having been granted against it and/or is provisionally or finally liquidated (save for the bona fide purpose of reconstruction or amalgamation) and/or is placed under judicial management or business rescue, or if either party enters into a compromise with any of its creditors;
- 18.1.4. Any license to operate or use the Centracom Network is revoked, terminated or modified for any reason either in whole or in part;
- 18.1.5. For any reason, any network operator ceases to make the Centracom Network available to Centracom or any third party with whom Centracom has contracted in respect of the connection to the Centracom Network; Then Centracom shall, without prejudice to any other rights which it may have in law, be entitled to cancel this agreement
- 18.2. Upon termination of this agreement for any reason whatsoever—
- 18.2.1. The customer shall return the equipment to Centracom;
- 18.2.2. The customer shall pay all charges outstanding at the time of disconnection, including the balance of the monthly fees.
- 19. INTELLECTUAL PROPERTY**
- 19.1. Notwithstanding anything set out in Clause 13 below, all intellectual property (including, without limitation, copyright, trademarks, designs and patents) relating to or used in connection with the Service/s provided under this Agreement shall belong to Centracom. Customer undertakes that it shall at no time, have any right, title or interest in the intellectual property and agrees that it shall not (or permit any third party to) reverse engineer, decompile, modify or tamper with the equipment or software owned by Centracom, or any of its third party suppliers
- 19.2. Customer warrants that it shall not use the Service/s to produce, host or present any content in contravention of any person's intellectual property rights, and in particular warrants that it shall recognize, acknowledge and use any content in accordance with any third party's intellectual property rights. Customer furthermore warrants that it has received all necessary permissions to make use of any intellectual property relating to 3rd parties.
- 20. PROTECTION OF PROPRIETARY INFORMATION**
- 20.1. Each party will keep in confidence and protect Proprietary Information from disclosure to third parties and restrict its use to that which is provided for in this Agreement. Either party acknowledges that unauthorised disclosure or use of Proprietary Information may cause substantial economic loss. All printed materials, containing Proprietary Information will be marked with "Proprietary" or "Confidential", or in a manner which gives notice of its proprietary nature. Proprietary Information shall not be copied, in whole or in part, except when essential for correcting, generating or modifying Proprietary Information for either party's authorized use. Each such copy, including its storage media, will be marked with all notices, which appear on the original.
- 20.1.1. Each party shall ensure that its employees comply with its obligations under this clause 13
- 20.1.2. This clause 13 shall survive termination or cancellation of this Agreement
- 20.1.3. This Agreement does not transfer to either party title to any intellectual property contained in any Proprietary Information of the other party.
- 21. DISPUTE RESOLUTION AND ARBITRATION**
- 21.1. The Parties accept that disputes may arise between the Parties during the term of this Agreement
- 21.2. Any dispute which arises relating to or arising out of this Agreement, including the validity, implementation, execution, interpretation, rectification, termination or cancellation of this Agreement, shall be referred to a committee consisting of two (2) members appointed by the Customer, and two (2) members appointed by Centracom or alternates appointed by them, who will use their best efforts to resolve the dispute within fourteen (14) calendar days of the dispute having been referred to them
- 21.3. Should the committee be unable to resolve a dispute, the parties agree to have the dispute resolved in accordance with the Rules of

- the Arbitration Foundation of Southern Africa by an arbitrator appointed in terms of such Rules
- 21.4. In the case of litigation –
- 21.4.1. the Parties consent to the jurisdiction of the appropriate division of the High Court of South Africa in respect of all proceedings which may arise out of or in connection with this Agreement;
- 21.4.2. all costs of litigation, on an attorney and own Customer scale and including any value added tax, charges and disbursements and fees of a like nature, incurred by the successful Party in successfully enforcing or defending any of the provisions of this Agreement, or any claim hereunder and shall be for the account of the unsuccessful Party
- 21.4.3. Where the Customer instigates the dispute and where the provisions of the CPA are applicable to this Agreement, and the Customer does not use the Services under dispute wholly or mainly for his business or profession, then the provisions of clauses 15.3 shall be voluntary, and the Customer may choose such other means of resolving the dispute as are set out in the CPA.
- 22. CESSION AND ASSIGNMENT**
- 22.1. Centracom shall be entitled to cede, assign and transfer some or all of its rights in terms of this agreement
- 22.2. The customer requires Centracom's approval in writing before it is able to cede, assign, or transfer some or all of its rights in terms of this agreement.
- 23. NO SOLICITATION**
- Neither Party shall during the currency of the Agreement or for a period of 12 (twelve) months following the termination thereof directly or indirectly solicit or offer employment to any Personnel of the other Party who was involved in the implementation or execution of this Agreement, and shall not employ or contract in any manner with any such Personnel of the other Party without the written consent of the other Party.
- 24. LIMITATION OF LIABILITY**
- 24.1. Whether or not advised of their possibility, Centracom will not be liable whether in contract, delict or otherwise for –
- 24.1.1. Any cost of procurement of substitute goods, technology, services or rights;
- 24.1.2. Loss of profits, contracts or goodwill;
- 24.1.3. Any incidental or consequential damages, losses or expenses;
- 24.1.4. Wasted client management or staff time
- 24.2. Centracom shall not be liable for any loss or damage suffered by the customer as a result of interruption in the provision of the services due to any technical problems experienced by the network or equipment, nor shall the customer be entitled to a reduction in the fees payable by the customer to Centracom.
- 25. INDEMNITY**
- 25.1. The customer hereby indemnifies Centracom and holds Centracom harmless against any loss, damage, costs, claims or expenses of any nature, as a result of the installation, provision, or failure of provision, or failure to provide services to the customer. For the purpose of this clause any reference to Centracom shall include its employees, agents and contractors.
- 26. FORCE MAJEURE**
- 26.1. If force majeure causes delays in or failure or partial failure of performance by Centracom of all or any of its obligations hereunder, this agreement, or as the case may be, the affected portion thereof, shall be suspended for the period during which the force majeure prevails, but if the force majeure affects any material part of the agreement only for a maximum period of 60 (sixty) days, then Centracom shall be entitled on 7 (seven) days written notice to cancel this agreement. Written notice of the force majeure specifying the nature and date of commencement thereof shall be dispatched by Centracom to the customer as soon as reasonably possible after the commencement thereof. Written notice of the cessation of the force majeure shall be given by Centracom within 7 (seven) days of such cessation. No party shall subsequently be obliged to comply with the obligations suspended during such period. Centracom shall be entitled, provided that Centracom has given notice to the customer to that effect with the written notice of the force majeure as provided above, to extend the period of this agreement by a period equal to the time that this performance is so prevented. For the purpose hereof, force majeure includes acts or omissions of any government, government agency, provincial or local authority or similar authority, any laws or regulations having the force of law, civil strife, riots, insurrection, sabotage, acts of war or public enemy, illegal strikes, interruption of transport, lockouts, inability on the part of either party as a result of the force majeure of the nature contemplated in this clause to obtain any goods from a supplier or contemplated supplier thereof, combination of workmen, rationing of supplies, flood, storm, fire (or without limitation eiusdem generis) any other circumstances beyond the reasonable control of Centracom and comprehended in terms of force majeure.
- 27. WHOLE AGREEMENT, NO AMENDMENT**
- 27.1. This agreement constitutes the whole agreement between the parties relating to the subject matter hereof
- 27.2. No amendment or consensual cancellation of this agreement or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this agreement and no settlement of any disputes arising under this agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this agreement shall be binding unless recorded in a written document signed by the parties, or by an electronic document electronically signed by the parties. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 28. CALLER LINE IDENTITY**
- 28.1. The customer agrees to a mandatory monthly fee of R51
- 28.2. This fee is subject to an annual increase
- 28.3. The customer will remain liable for the monthly caller identity fee for the duration of the contract regardless of the airtime contractual obligation stipulated in the Subscriber Agreement.
- 29. VOICE RECORDING**
- 29.1. The customer acknowledges that the voice recording provided by Centracom is a value added feature and will only archive recorded calls for a period of 30 days
- 29.2. The customer accepts the mandatory monthly charge of R199 for this service
- 29.3. The customer indemnifies Centracom from any consequential loss due to a recording not being available
- 29.4. The customer will remain liable for the voice recording fee for the duration of the contract regardless of the airtime contractual obligation stipulated in the Subscriber Agreement

- 29.5. The customer acknowledges that they are aware of the legal requirements pertaining to, and the admissibility of the voice recordings made in this manner
- 29.6. Additional technical and legal information regarding this service is available on the Centracom website. The customer acknowledges that it has read, understood and accepted this information.
- 30. NUMBER PORTING**
- 30.1. The customer agrees to pay a fee of R126 per number ported
- 30.2. The customer acknowledges that it has read, understood and accepted the additional information on porting displayed on the Centracom website.
- 31. CLI Manipulation**
- 31.1. ICASA no longer governs call termination rates for calls that originate outside South Africa and terminate on local provider networks. All major South African operators interconnected with Centracom have taken the stance that calls displaying incorrect CLI will be charged at International Origination rate. The Numbering Plan Regulations-Gazette 39861 (1)(d) "Prohibits the transmission of an inaccurate Calling Line Identification (CLI) as the originator of communication. Numbers that are reported and found to be used in the manipulation of the CLI, shall be barred as per sub-regulation 9(2)."
- 31.2. To this effect, Centracom calls on all Resellers/Customers to take note of the following:
- 31.2.1. CLI manipulation is prohibited in terms of the Numbering Plan Regulations and also constitutes a material breach of your agreement with Centracom, which places an obligation upon you to comply with all laws and regulations.
- 31.2.2. Resellers/Customers may not route traffic with manipulated or incorrect CLI through the Centracom network.
- 31.2.3. Those Resellers/Customers found to be practicing CLI manipulation or deliberately, or inadvertently, displaying incorrect CLI will be charged according to the prevailing International Origination rate.
- 31.2.4. Those Resellers/Customers who wish to route internationally sourced calls need to contact Centracom for a new SIP account, with This new SIP account exclusively routing internationally sourced traffic which will be charged at the agreed rate for internationally sourced traffic
- 32. APPLICATION OF THE CONSUMER PROTECTION ACT**
- 32.1. A transaction (as defined in the CPA) between the Customer and Centracom may or may not fall under the provisions of the CPA depending upon whether certain values set out in clause 14.2 in respect of the Customer ("Threshold Values") are below a certain value at the time the transaction is entered into.
- 32.2. The Threshold Values are the Customer's asset value or annual turnover, and the value against which they are measured is as determined by the Minister of Trade and Industry by publication in the Government Gazette from time to time.
- 32.3. Centracom's duties towards the Customer may vary depending upon whether the transaction in question is subject to the CPA, and Centracom will act upon the information given to it by the Customer in this regard. Consequently:
- 32.3.1. The Customer warrants that any statement made to Centracom in respect of its Threshold Values is accurate
- 32.3.2. The customer represents and warrants that the turnover or net asset value of the customer exceeds the sum of R2m (Two million rand) as defined and calculated in terms of the Government Gazette 34181 of 1 April 2011. The customer further warrants and acknowledges that this transaction therefore falls outside of the scope of The Consumer Protection Act
- 32.3.3. If the Customer claims that all the Threshold Values are below the relevant value, or otherwise that the CPA applies to the transaction in question, Centracom may at its instance require the Customer to provide it with financial statements as proof thereof.
- 32.3.4. If the Customer misstates the Threshold Values in such a way that Centracom considers for a period that the transaction is subject to the CPA when it is not, all provisions of this Agreement that do not apply to transactions subject to the CPA shall retroactively apply to the transaction in question, and the Customer shall be liable for any damage sustained by Centracom resulting from such misstatement.
- 33. ACCESS TO INFORMATION ACT**
- 33.1. The Customer hereby acknowledges and agrees that Centracom and its Cessionaries, as the Credit Grantor/s,:
- 33.1.1. Perform a credit search on the Customer's record with one or more of the registered credit bureaus and obtain a bank report when assessing the Customer's application for credit;
- 33.1.2. Monitor the Customer's payment behavior by researching the Customer's record at one or more of the credit bureaus;
- 33.1.3. Use new information and data obtained from credit bureaus in respect of the Customer's future credit applications;
- 33.1.4. Record the existence of the Customer's account with any credit bureau;
- 33.1.5. Record and transmit details of how the Customer has performed and how their account is conducted by the Customer in meeting its obligations on the account;
- 33.1.6. The Customer acknowledges and agrees that any information regarding its credit worthiness, defaults in payment to the Supplier, and details of how its account with the Supplier is conducted, may be disclosed to any other creditor or potential creditor of the Customer or to one or more credit bureau/s.
- 34. DOMICILIUM CITANDI ET EXECUTANDI**
- 34.1. The parties choose as their domicilia citandi et executandi for all purposes under this agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the following addresses –
- 34.1.1. Customer: as set out in the Subscriber Agreement
- 34.1.2. Centracom: Building 9, Woodmead Estate, 1 Woodmead Drive, Woodmead Fax: (086) 506 0049, info@centracom.co.za
- 34.2. Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing but it shall be competent to give notice by telefax or by E-mail where a party has notified the other party of such a telefax number or an E-mail address.
- 35. GENERAL**
- 35.1. Centracom may change the terms and conditions of this agreement as a result of changes in taxes, laws, regulations, the terms and conditions of the ICASA Licence issued to Centracom or any circumstances or events similar to the foregoing.
- 35.2. Any increases as a result of fluctuating exchange rates shall be for the account of the customer.