

SMS SERVICE AGREEMENT

BUSINESS / CORPORATE

COMPANY NAME

VAT REGISTRATION NUMBER

PAGE NO.

of

COMPANY CONTACT DETAILS

Telephone No

Contact Person

Email Address

Street Address

FAX No

Cell No

URL

Postal Address

PRODUCT / SERVICE DETAIL

AmiCell SMS Internet Client Qty =

Email to SMS

Automated Web Access (API)

AmiCell SMS Gateway Client Qty =

NOTE:

SERVICE FEES & PAYMENT OPTIONS

Item	Unit Price (Excl. VAT)	PAYMENT METHOD (Select one or both)
Service Hosting Charged Monthly in advance	R 50,00	<input type="checkbox"/> Prepaid (R 20,00 Recharge Fee per QTY=1000 SMS Credits)
SMS Local (1-1000)	0,33c	<input type="checkbox"/> Debit Order (Complete Banking Details below and Certify)
SMS Local (1001-5000)	0,29c	
SMS Local (5000+)	0,25c	
SMS International	R1.59	Start Date <input type="text" value="dd / mm / yyyy"/>

BANKING DETAILS

Account Holder

Bank Name

Acc. Type

Account No

Branch Code

Branch Name

DECLARATION & DEBIT ORDER AUTHORIZATION

The Company/Subscriber warrants that all the information contained in this Service Agreement is true and correct and by its signature hereto, it acknowledges entering into a Service Agreement with MicroTeq, upon MicroTeq Standard Terms and Conditions as provided for and as set out in this Schedule. The Company/Subscriber acknowledges and agrees to hold it self bound to the terms and conditions as applicable upon it. THE AUTHORISED SIGNATORY warrants full authority to enter into this Agreement on behalf of the Company/ Subscriber.

Notwithstanding the banking details contained in this Schedule, the Company/Subscriber hereby authorizes MicroTeq to debit the bank account held by the Company/Subscriber for any amounts owed by the Company to MicroTeq in terms of this Agreement on a monthly basis for the duration of the Agreement.

FOR AND ON BEHALF OF THE COMPANY

PRINT NAME

DATE

SIGNATURE

AmiCell® SMS Service REGISTRATION (Completed by MicroTeq)

IP Address - - -

Account Name

Password

Connection Port

Server S/N

Activation Key

1. DEFINITIONS

** Unless the context otherwise indicates a contrary intention, the words herein below defined shall have the meanings assigned to them, and similar expressions shall bear corresponding meanings:-

- 1.1 Charges means the Hosting and SMS sending Charges and any other charges pertaining to the provision of the Service,
- 1.2 MicroTeq means MicroTeq, Registration Number CK92/003271/23, of 2 Monument Ave. (Cnr. River rd.) Lyttelton Manor, Centurion;
- 1.3 Network means the cellular telephony system operated by the Operator;
- 1.4 Services means the hosting of services on the SMS platform and SMS sending and receiving, including, inter alia, additional Services, provided to the Company by MicroTeq.
- 1.5 Operator means any licensed cellular operator in South Africa;
- 1.6 Order means an Order placed by the Company on MicroTeq, as per the Service Agreement for the provision of Services;
- 1.7 Price List means that schedule on which the Charges are levied by MicroTeq to the Company.
- 1.8 Prime Rate means a rate of interest per annum which is equal to the Standard Bank of South Africa Limited's published minimum lending overdraft rate of interest per annum plus 3% (three percent), compounded monthly in arrears and charged by such bank on the unsecured overdrawn current accounts of its most favored corporate clients in the private sector from time to time. In the case of a dispute as to the rate so payable the rate shall be certified by any manager or assistant manager of the said bank, whose decision shall be final and binding on the parties;
- 1.9 The Schedule means the SMS Service Agreement section of this Agreement to which these terms and conditions are attached or printed overleaf;
- 1.10 Company means that party whose particulars appear on the Schedule or his/her its successors or authorised assignees;

2 COMMENCEMENT AND TERMINATION

2.1 This Agreement shall commence on the date of signature of this Agreement and shall, subject to the provisions of clause 7, continue indefinitely, unless terminated:-

- 2.1.1 by MicroTeq, forthwith on written notice to the Company, in the event of the sub-license issued by the Operator in terms of which MicroTeq is given access to the Network Services is terminated for whatsoever reason.
- 2.2 Notwithstanding the use of agents or other intermediaries by MicroTeq, the Order by the Company is an offer made by the Company to MicroTeq and will be considered once received by MicroTeq. MicroTeq's acceptance of the offer (if it does accept) shall consist of provision of the services as indicated on the schedule and upon which commencement of service, this Agreement shall become binding between MicroTeq and the Company whether or not the Company was notified of the acceptance of the offer. The Company herewith expressly dispenses with notification of acceptance of the offer by MicroTeq.

3 SUPPLY OF SMS SERVICES

- 3.1 The Order placed by the Company is subject to MicroTeq's approval in its sole discretion. If MicroTeq does not approve the Order, it shall not be under any obligation to give reasons for its decision.
- 3.2 MicroTeq shall utilize its best endeavors to promptly comply with any provision of services as recorded in the Schedule, but shall not be liable to the Company in the event that such provision is delayed or cancelled, for whatsoever reason.
- 3.3 The Company agrees that open-end access is provided to the AmiCell SMS Systems, and the Service configuration is based on a Standard Specification, which is available on request.
- 3.4 The Company shall ensure that the Service is used according to the specification at all times to enable optimal functionality of the AmiCell SMS System and data accuracy.
- 3.5 The Company shall be responsible for obtaining all necessary approvals and authorities imposed by any competent authority and required for the purpose of any such provision of services ordered, and the Company hereby indemnifies MicroTeq against any claim or liability suffered by MicroTeq by reason of such approvals and authorities not having been obtained.

3.6 Upon commencement of this Agreement, and once the registration process is successfully completed, the Services will be activated and made available to the Company. During the serialization process, the IP Address, Username, Password and Port connection will be assigned to the Company. The unique serial number will be the only identifier by which MicroTeq will identify the Company whilst using the AmiCell SMS Service. The Company acknowledges that no further verification or authentication of the identity of the Company will be undertaken by MicroTeq and consequently, all activities concluded through the Internet and on the GSM network, which can be traced to the Company's account, shall be deemed to have been undertaken exclusively by the Company and the Company is therefore legally bound for all transactions resultant from such activities. It is therefore the Company's responsibility to ensure that access to/usage of the Services is restricted, and not subjected to negligent usage. The Company indemnifies MicroTeq against any claims, actions or damages as a result of the fraudulent or unauthorized use of the Company's username and password or loss thereof.

3.7 Due to the nature of the Services, MicroTeq cannot be held responsible for risks incurred through the use of the AmiCell SMS Service, as well as all risks associated with data security, privacy, availability and reliability of message processing and transmission. Thus, the Company is fully and exclusively liable for any and all risk resultant from the use of the AmiCell SMS Service.

3.8 The Company acknowledges that SMS messages are transmitted in an unencrypted format and as such MicroTeq cannot guarantee against eavesdropping of SMS messages at any stage.

3.9 The Company acknowledges and accepts that the provision of the Services may be enabled through MicroTeq's agreements with various Service providers and MicroTeq is therefore only able to act under the conditions imposed through such agreements. The delivery of SMS messages transmitted via the internet is subject to the availability and performance of the MicroTeq network, the Network Operators technical systems and networks and telephone networks and cannot be guaranteed by MicroTeq.

4. CHARGES

4.1 In consideration for the provision of the Services supplied by MicroTeq to the Company, the Company shall effect payment to MicroTeq of the applicable Charges, as detailed in the Schedule, and whether or not the Services have been, or are being utilized by the Company.

4.2 MicroTeq may, on written notice to the Company, vary any Charges, either in whole or in part, with effect from the date specified in such notice.

4.3 Unless otherwise agreed to by MicroTeq in writing, the Company shall effect payment to MicroTeq

4.3.1 in advance of an amount equal to the full Service Fee inclusive of Hosting, Usage and Value Added Tax for the full period before commencement of the Service upon presentation of an Invoice;

4.3.2 of all other Service Charges, in full, on presentation of an Tax Invoice and against such provision

4.3.3 in arrears of an amount equal to the full Service Fee inclusive of Hosting, Usage and Value Added Tax for the full period by means of debit order authorization as set out in the schedule.

4.3.4 at the premises of MicroTeq or at the bankers of MicroTeq. Where payment is made by the Company through a debit order, other electronic means or any other intermediary, the Company's bankers or other intermediaries shall act as the Company's agents and the Company shall have discharged its obligations only upon payment being received by MicroTeq at MicroTeq's Premises or by the bankers of MicroTeq and such payment has been identified by MicroTeq as the Company's payment for the relevant Company's Account.

4.4 Notwithstanding the provisions of Clause 4.3., MicroTeq may at any time on reasonable written notice to the Company vary its invoicing and payment procedures and requirements.

4.5 A Tax Invoice shall be sent by MicroTeq to the Company to the Email and Postal addresses supplied by the Company in the Schedule or in writing to MicroTeq.

4.6 Subject to any contrary provisions of the Price List from time to time:-

4.6.1 local, national and international SMS's are calculated and charged per unit. The Company shall be liable for the full charge in respect of that unit.

4.7 SMS's sent to any surcharged gaming or information bulletins will carry a twenty percent (20%) surcharge on the actual cost per SMS sent to such a gaming or information bulletin MSISDN number.

5. SUSPENSION

5.1 MicroTeq may at any time, without notice to the Company and in any manner whatsoever, suspend access to the Network Services in the event that:-

5.1.1 any modification, maintenance or remedial work is required to be undertaken pertaining in any manner whatsoever, to the Network Services or the Network;

5.1.2 the Company fails to perform any of his obligations, or breaches any terms of this Agreement;

5.2 MicroTeq reserves the right to effect payment of applicable re-setup Charges pursuant to the restoration of Services suspended in the circumstances described in Clause 5.1.2.

6 LIMITATION OF LIABILITY

Without detracting from any of the other provisions of this Agreement, MicroTeq shall not be liable to the Company for any loss or damage suffered by the Company, and whether same is direct or consequential, in the event that:-

6.1 MicroTeq fails for any reason whatsoever to provide any Services, either on the required date, or at all; and/or

6.2 The Network Services are interrupted, suspended or terminated, for whatsoever reason; and/or

6.3 MicroTeq fails to suspend the provision of the Services to the Company in terms of an arrangement between MicroTeq and the Company or after the Company has specifically requested MicroTeq to do so.

7. BREACH

7.1 In the event that the Company breaches any term of this Agreement, or any warranty given by him hereunder, or fails to fulfill any obligation resting upon him, including a failure to pay any amount owing to MicroTeq on due date, then without prejudice to MicroTeq's rights, MicroTeq may forthwith and without notice to the Company, either terminate this Agreement, or call for specific performance of all the Company's obligations and immediate payment of all sums of money owing by the Company, whether or not then due, in either event without prejudice to MicroTeq's right to seek such damages as it may have suffered by reason of such breach or failure. Notwithstanding the a foregoing, and pending MicroTeq's election in terms of this clause, MicroTeq shall not be obliged to perform any of its obligations under this Agreement and the Company shall remain liable for the payment of all amounts owing by the Company in terms of this Agreement, whether or not such amounts are then due.

7.2 MicroTeq shall be entitled forthwith without notice, to terminate this Agreement in the event that the Company is sequestrated, liquidated, or placed under judicial management, whether provisionally or finally, and whether voluntarily or compulsory.

7.3 Without detracting from any of the other provisions of this Clause 7, in the event of the Company breaching of any provisions of this Agreement or the Company prematurely terminating this Agreement and MicroTeq electing to cancel same, the Company shall be liable to effect payment to MicroTeq of all the Service Charges which would have been payable to MicroTeq.

8. GENERAL

8.1 In the event of the Company failing to effect payment of any amount owing by him to MicroTeq on due date, then without derogating from MicroTeq's rights in terms of Clause 7, the Company shall be liable to effect payment of interest to MicroTeq on the amount so owing, at the Prime Rate from due date to date of payment.

8.2 All prices and Charges set out in this Agreement and any Price List are exclusive of Value Added Tax and any other applicable tax or duty, the liability for which shall vest with the Company.

8.3 The rights and obligations of the Company in terms of this Agreement may not be ceded or delegated to any third party without MicroTeq's prior written consent. The rights and obligations of MicroTeq in terms of this Agreement, may be ceded, assigned and/or delegated by it to any other party on written notice to the Company.

8.4 MicroTeq may change the terms and conditions of this Agreement as a result of changes in taxes, laws, regulations, the terms and conditions of the license issued by the Operator, the terms and conditions of any Agreement between the network service provider and MicroTeq or any circumstances or events similar to the aforesaid. MicroTeq shall notify the Company of any changes in writing.

8.5 This document contains the entire Agreement between the Parties contained herein, and no other warranties or undertakings have been made by MicroTeq or any dealer or agent of MicroTeq.

8.6 This Agreement and all matters or disputes arising there from or incidental thereto shall be governed and construed in accordance with the laws of the Republic of South Africa.

8.7 The Company, by his signature hereto and in terms of the provisions of Section 45 of the Magistrate's Court Act, No 32 of 1944, as amended, consents to the jurisdiction of the Magistrate's Court in relation to any actions or proceedings instituted against the Company in terms of, or arising out of the provisions of this Agreement, provided that MicroTeq, in its sole and absolute discretion shall be entitled to institute any such actions or proceedings, in any division of the High Court of South Africa possessed of the requisite jurisdiction.

8.8 A certificate under the hand of any manager of MicroTeq certifying the sum of any amount owing by the Company to MicroTeq shall be prima facie proof of its contents and sufficient proof for the purposes of enabling MicroTeq to obtain any judgment or order against the Company.

8.9 If any term, condition, requirement or provision contained in this Agreement is held by any court having jurisdiction to be unenforceable, illegal, void or contrary to public policy, such term, condition, requirement or provision shall be of no effect whatsoever upon the binding force or effectiveness of any of the remainder of this Agreement, it being the intention and declaration of the parties that had they or either of them known of such unenforceability, illegality, invalidity or that the provision was contrary to public policy, they would have entered into a contract, containing all other terms and conditions.

8.10 Each of the Parties choose domicilium citandi et executandi ("domicilium") for the purposes of the giving of any notice, the serving of any process and for any purposes arising from this Agreement at their respective addresses set forth in Clause 1.2 and/or the Schedule.

8.11 Each of the Parties shall be entitled from time to time, by written notice to the other to vary its domicilium to any other address within the Republic of South Africa which is not a post office box or poste restante. Such address shall become the domicilium of that party within fifteen (15) days of the other party receiving such notification.

8.12 Any notice given and any payment made by a Party to the other ("the addressee") which:-

8.12.1 is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee at the time of delivery; provided that if the delivery is effected by or on behalf of the Company at MicroTeq's domicilium, the presumption shall only apply as regards MicroTeq if proof of receipt is obtained by the party effecting such delivery and duly produced as may be required to prove such delivery;

8.12.2 is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicilium for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee on the seventh day after the date of posting.

8.13 Where, in terms of this Agreement any communication is required to be in writing, the term "writing" shall include communications by facsimile and Email. Communication by facsimile shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee 48 (FORTY EIGHT) hours after the time of transmission and communication by Email shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee 24 (TWENTY FOUR) hours after the time of transmission .

8.14 In the event of MicroTeq instituting legal proceedings against the Company to recover amounts due to MicroTeq or take any other legal steps arising out of this Agreement, the Company shall be liable for legal costs on the scale as between attorney and own client and/or any collection costs.

8.15 MicroTeq shall be entitled to charge the Company for any banking, and/or administration fees incurred by it in the event of the Company defaulting in its payment or any other of its obligations.