

COMPANY INFORMATION

SERVICE AGREEMENT

Company Name

Registration Number

VAT Number

COMPANY CONTACT DETAILS

Contact Person

Email Address

Cell Phone Nr

Telephone Nr.

Address

Code

CAMPAIGN DETAILS

Campaign Name

From Date

To Date

1 (One) Month Minimum

Keyword Choice(s)

Forward SMS Entries to Email Address

Return SMS Required

INTEGRATION

(Maximum 160 Characters. SMS charged at 25c Per SMS)

File Output to XML, Text or CSV

Callback URL

Email an Attachment

Custom Software Development

Reply with Dynamic Data

Send Bulk SMS

(Custom Software Development is subject to a separate Quotation)

CAMPAIGN COSTS

Campaign Registration	R 200,00 (Excl. VAT)	(Once Off)
Cost per Keyword	R 350,00 (Excl. VAT)	(Per Month in Advance – Minimum One Month)
Return SMS Response	R 0,25 (Excl. VAT)	(Charged Monthly in Arrears or Pre-Paid in Advance)

DECLARATION: The Company 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 AmiCell SMS as per the AmiCell SMS 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 Company/Subscriber further acknowledges that pending AmiCell SMS's written acceptance hereof it shall have no claim against AmiCell SMS arising out of this Service Agreement application. THE AUTHORIZED SIGNATORY further warrants full authority to enter into this Service Agreement on behalf of the Company/Subscriber.

FOR AND ON BEHALF OF THE COMPANY / SUBSCRIBER

FOR AND ON BEHALF OF AmiCell SMS

Print Name

Signature

Date

Print Name

Signature

Date

AmiCell SMS TERMS AND CONDITIONS – KEYWORD SERVICE AGREEMENT

The Standard Rated SMS Systems are hosted by AmiCell SMS. AmiCell SMS will manage entries (MO), replies (MT) and supply MO and MT information to the Company in electronic format.

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 Hosting, responder and any other charges pertaining to provision of the Service,
1.2 Network means the cellular system operated by the Network Operators in South Africa;
1.3 Services means the hosting of standard rated SMS services on the SMS platform, SMS sending and receiving, including, inter alia, additional Services, provided to the Company by AmiCell SMS.
1.4 Order means an Order placed by the Company on AmiCell SMS, as per the Service Agreement approved by AmiCell SMS, for the provision of Services;
1.5 Price List means that schedule on which the Charges are levied by AmiCell SMS to the Company.
1.6 the Schedule means the Standard Rated SMS Service Agreement section of this Agreement to which these terms and conditions are attached or printed overleaf;
1.7 Company means that party whose particulars appear on the Schedule or its successors or authorised assignees;
1.8 MO means a single SMS sent from a mobile handset to an Application provided by AmiCell SMS;
1.9 Originator means the mobile handset user.
1.10 MT means an SMS sent from an Application to a mobile handset also known as an SMS reply;
1.11 Standard Rated Message means a mobile originated message on the Cellular Networks charged to the originator (mobile user) at the rates supplied by the networks to the user.
1.12 Keyword means the identifying word associated with the campaign of the Company.
1.13 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.

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 8, continue until such date as all monies due to, or by the Company is paid, unless terminated:-
2.1.1 by AmiCell SMS, forthwith on written notice to the Company, in the event that the license issued by the Standard Rated SMS Service Provider is terminated for whatsoever reason: or
2.1.2 by AmiCell SMS, forthwith on written notice to the Company, in the event of the sub-license issued by the Operator in terms of which AmiCell SMS is given access to the Network Services is terminated for whatsoever reason.
2.2 Notwithstanding the use of agents or other intermediaries by AmiCell SMS, the Order by the Company is an offer made by the Company to AmiCell SMS and will be considered once received by AmiCell SMS. AmiCell SMS's acceptance of the offer shall consist of provision of the services as indicated on the schedule and upon which commencement of service, this Agreement shall become binding between AmiCell SMS and the Company. The Company herewith expressly dispenses with notification of acceptance of the offer by AmiCell SMS.

3. SUPPLY OF STANDARD RATED SMS SERVICES

3.1 The Order placed by the Company is subject to AmiCell SMS's approval. If AmiCell SMS does not approve the Order, it shall not be under any obligation to give reasons for its decision.
3.2 AmiCell SMS 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 following timelines for provision of services shall apply:
3.3.1 Once payment is received from the Company for campaign registration and monthly hosting in advance, a period of 3 working days must be allowed to activate the keyword on the SMS Platform.
3.3.2 AmiCell SMS will at all times ensure that the Services are available and take no responsibility for external resources not being available to perform the technical requirements.
3.3.3 The 10 Digit tandard Rate SMS Cellular Number will be supplied by AmiCell SMS to the Customer.
3.4 Customization of replies and interfaces (MT) is subject to a separate quotation.

4. COMPANY OBLIGATIONS

4.1 The Company will ensure that the Standard Rated MO Originator is notified of all charges related to the Standard Rated SMS Service on all advertisement material and notifications.
4.2 The Company will not knowingly allow originators of MO messages to use the service for any purpose that is improper, immoral or unlawful.
4.3 The Company will not use this service in any way likely to injure or damage any person, property, AmiCell SMS, the Standard Rated SMS Provider or any of the Operators.
4.4 The Company warrants that use of the Keyword Service do not and will not contravene any laws or regulations of the Republic of South Africa and in particular any laws relating to gaming and gambling and the Company indemnifies, holds harmless and shall defend AmiCell SMS against any claim, action or damage suffered or incurred by AmiCell SMS as a result of a breach by the Company of this warranty.
4.5 The Company will not be entitled to use any trademarks (registered or unregistered) of AmiCell SMS, MTN, Vodacom, Telkom or Cell C in any advertising, publication or communication related to Standard Rated SMS Services.
4.6 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 AmiCell SMS against any claim or liability suffered by AmiCell SMS by reason of such approvals and authorities not having been obtained.
4.7 The Company shall be responsible to provide surety for Prizes or Services offered to Originators and the Company hereby indemnifies AmiCell SMS against any claim or liability suffered by AmiCell SMS by reason of such prizes or services not being secured.
4.8 Any competitions or promotional competitions must comply with the Lotteries Act 57 of 1997. The Company explicitly and fully indemnifies AmiCell SMS in the event of a breach.

5. CHARGES

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

5.3 Unless otherwise agreed to by AmiCell SMS in writing, the Company shall effect payment to AmiCell SMS 5.3.1 of an amount equal to the full Set-up and Service Hosting Fee of the whole period of the campaign before commencement of the Service upon presentation of an Tax Invoice;
5.3.2 of all other Service Charges, in full, on presentation of an Tax Invoice;
5.3.3 of all SMS responder (MT) charges monthly in arrears.
5.3.4 at the premises of AmiCell SMS or at the bankers of AmiCell SMS. Where payment is made by the Company through a debit order, other electronic means or any other intermediary, the Company shall have discharged its obligations only upon payment being received by AmiCell SMS at AmiCell SMS 's Premises or by the bankers of AmiCell SMS and such payment has been identified by AmiCell SMS as the Company's payment for the relevant Company's Account.
5.4 Notwithstanding the provisions of Clause 5.3., AmiCell SMS may at any time on reasonable written notice to the Company vary its invoicing and payment procedures and requirements.
5.5 Subject to any contrary provisions of the Price List from time to time, MT SMS's are calculated and charged per unit. The Company shall be liable for the full charge in respect of that unit.

6. SUSPENSION

6.1 AmiCell SMS may at any time, without notice to the Company and in any manner whatsoever, suspend access to the Services in the event that:-
6.1.1 any modification, maintenance or remedial work is required to be undertaken pertaining in any manner whatsoever, to the Standard Rated Services or the Network;
6.1.2 the Company fails to perform any of his obligations, or breaches any terms of this Agreement;
6.2 AmiCell SMS reserves the right to effect payment of applicable re-setup Charges pursuant to the restoration of Services suspended in the circumstances described in Clause 6.1.2.

7. LIMITATION OF LIABILITY

Without detracting from any of the other provisions of this Agreement, AmiCell SMS 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:-
7.1 AmiCell SMS fails for any reason whatsoever to provide any Services, either on the required date, or at all; and/or The Network Services are interrupted, suspended or terminated, for whatsoever reason.

8. BREACH

8.1 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 AmiCell SMS on due date, then without prejudice to AmiCell SMS's rights, AmiCell SMS 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 AmiCell SMS 's right to seek such damages as it may have suffered by reason of such breach or failure.
8.2 AmiCell SMS 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.
8.3 Without detracting from any of the other provisions of this Clause 8, in the event of the Company breaching of any provisions of this Agreement or the Company prematurely terminating this Agreement and AmiCell SMS electing to cancel same, the Company shall be liable to effect payment to AmiCell SMS of all the Service Charges which would have been payable to AmiCell SMS.

9. GENERAL

9.1 In the event of the Company failing to effect payment of any amount owing by him to AmiCell SMS on due date, then without derogating from AmiCell SMS 's rights in terms of Clause 8, the Company shall be liable to effect payment of interest to AmiCell SMS on the amount so owing, at the Prime Rate from due date to date of payment.
9.2 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.
9.3 The rights and obligations of the Company in terms of this Agreement may not be ceded or delegated to any third party without AmiCell SMS's prior written consent. The rights and obligations of AmiCell SMS in terms of this Agreement, may be ceded, assigned and/or delegated by it to any other party on written notice to the Company.
9.4 AmiCell SMS 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 Standrad Rated SMS Provider or the Network Operator, the terms and conditions of any Agreement between the network service provider and AmiCell SMS or any circumstances or events similar to the aforesaid. AmiCell SMS shall notify the Company of any changes in writing.
9.5 This document contains the entire Agreement between the Parties contained herein, and no other warranties or undertakings have been made by AmiCell SMS or any dealer or agent of AmiCell SMS.
9.6 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.
9.7 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 AmiCell SMS, 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.
9.8 A certificate under the hand of any manager of AmiCell SMS certifying the sum of any amount owing by the Company to AmiCell SMS shall be prima facie proof of its contents and sufficient proof for the purposes of enabling AmiCell SMS to obtain any judgment or order against the Company.
9.9 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.
9.10 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.