

## ERRATUM - BID PUBLICATION

### **RFB 00009-2014**

### **REQUEST FOR BID FOR THE APPOINTMENT OF DEBT COLLECTION AGENCIES**

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Publish date: 11 November 2014  
Closing date & Time: 03 December 2014 @ 11:00  
Contact Person: Boitshoko Mary Matsapola  
Tel: (012 311 6019)  
E-mail address: matsapbm@telkom.co.za

#### **SCOPE OF THE ERRATUM:**

**KINDLY TAKE NOTE OF THE FOLLOWING MODIFICATIONS MADE FROM THE ORIGINAL BID PUBLICATION:**

- 1. Replacement of the acronym “PSSA” with “PASA” in the bid document.**
- 2. Attached are Telkom’s Master and Annexure Agreement for Services**



Telkom Master  
Agreement for service



Annexure to Telkom  
Master Agreement - 5

- 3. The correct RFB Number under Attachment C – Document 1 – Pro forma authority for signatory is RFB 00009-2014.**

End -



AGREEMENT NUMBER: **insert**

**THIS SERVICES ANNEXURE IS MADE BETWEEN:**

- (1) **TELKOM SA SOC LIMITED**, Registration Number 1991/005476/30, a listed state owned company duly registered in accordance with the laws of the Republic of South Africa, with its registered address at 152 Johannes Ramokhoase Street, Telkom Towers North, Pretoria (“**Telkom**”); and
- (2) **INSERT**, Registration Number: **insert**, a private company, duly registered in accordance with the laws of the Republic of South Africa, with its registered address at **insert** (“**the Service Provider**”).

jointly referred to as “**the Parties**”.

**INTRODUCTION:**

This Annexure is concluded in terms of and supplements the Master Agreement (“**the Agreement**”) between the Parties dated **insert date**.

The Services specified under this Annexure will be governed by the terms of this Annexure as read together with the Agreement.

For the avoidance of doubt, any defined terms used in this Annexure and for which no definition is provided in this Annexure shall bear the meaning thereto as defined in the Agreement.

**IT IS AGREED**

1. **TERM**

- 1.1 This Annexure shall commence on the **insert date** and shall continue subject to termination in accordance with the provisions of this Agreement or otherwise in accordance with law.

**OR**

This Annexure shall commence on the **insert date** and shall continue for a term of **insert term** years, unless terminated in accordance with the provisions of the Agreement or otherwise in accordance with law.

**OR**

This Annexure shall commence on the **insert date** and shall continue for a term of **insert term** years (“**Initial Term**”), unless terminated in accordance with the provisions of the Agreement or otherwise in accordance with law. At the expiry of the Initial Term and of each Renewal Term (as defined below), this Annexure shall automatically renew for further periods of **insert term months/years** (“**Renewal Term**”), unless either Party gives written notice of its intention to terminate this Annexure not less than **3 (three) months** prior to the expiry of the Initial Term or relevant Renewal Term.

2. **SERVICES**

- 2.1 The Service Provider will deliver the Services to Telkom as set out in Schedule 1 (Services, Service Levels and Service Credits) attached to this Annexure for the duration hereof.

- 2.2 The Service Provider acknowledges that it is not the exclusive Service Provider of any of the Services to Telkom. Telkom does not guarantee that it will order or request any quantities whatsoever of the Services from the Service Provider. The Parties understand that Telkom shall only order the Services from the Service Provider as-and-when required by Telkom.

- 2.3 Where the Service Provider is required to perform any of the Services at a Telkom site, the Service Provider shall ensure that after the performance of the Services, the Telkom site is reinstated to the condition prevailing on the date on which the Services in question

commenced. This obligation is subject to any changes made to the Telkom site by the Service Provider, and agreed to by Telkom, for the purposes of the Services.

3. **DELIVERABLES**

3.1 The Service Provider shall, if applicable, provide the Deliverables in accordance with Schedule 1 (Services, Service Levels and Service Credits) attached to this Annexure. (Deliverable under this Annexure means any information, technology, or other deliverable delivered by the Service Provider under or in connection with this Annexure)

3.2 Title and risk in any Deliverables supplied under this Annexure shall pass to Telkom upon the delivery and acceptance of such Deliverables by Telkom, free from any Third Party rights or interests.

3.3 The Service Provider warrants, represents and undertakes that any Deliverables delivered under this Annexure will be free from defect, free from any Third Party rights and interests (including liens, charges and options), that the performance of its obligations under this Annexure and Telkom's receipt of the Services will not infringe any Intellectual Property Rights of any Third Party and the Service Provider has and will continue to have all rights in and to the Supplier Tools necessary to perform the Service Provider's obligations under this Annexure. (Supplier Tools means all know-how, development tools, processes, methodologies and technologies which are vested in or licensed to the Service Provider and which are used by the Service Provider in performing the Services).

4. **FEES**

4.1 Telkom shall pay the Service Provider the Fees set forth in Schedule 2 (Fees) for the Services provided to Telkom under this Annexure.

4.2 For any amounts payable by Telkom to the Service Provider under this Annexure, the Service Provider shall invoice Telkom the Fees, and Telkom shall pay the Service Provider in accordance with the invoicing and payment provisions set out at clause 6 (Fees, Invoicing and Payment) of the Agreement.

5. **SERVICE LEVELS AND SERVICE CREDITS**

5.1 The Service Provider shall meet or exceed the applicable Service Levels in performing the Services as agreed to between the Parties under this Annexure.

5.2 If at any time any failure to meet any Service Level occurs, the Service Provider shall advise Telkom's Representative as soon as reasonably practicable of the failure and of the steps that the Service Provider will take to fully remedy the failure and without prejudice to Telkom's other rights and remedies, the Service Provider shall if requested to do so by Telkom:

5.2.1 pay to Telkom the appropriate Service Credits, if such Service Credits were agreed to by the Parties under his Annexure, where the Service Provider fails to perform the Services in accordance with the Service Level; and

5.2.2 to the extent that re-performance of the Services is possible, re-perform the Services in relation to which there was a failure at no additional cost to Telkom.

5.3 Telkom shall also be entitled, without prejudice to its other rights and remedies under this Agreement:

5.3.1 to withhold any Fees that relate to the Services to which the relevant failure relates until such time as the failure has been remedied and the Services to which the relevant failure relates are being performed in accordance with the Service Levels; and

- 5.3.2 to arrange for the re – performance of the Services by a Third Party where the Service Provider was requested and unable to re – perform the Services in accordance with clause 5.2.2 (Service Levels and Service Credits) and all costs associated with the re – performance of the Services by the Third Party shall be payable by the Service Provider.
- 5.4 The amount of any Service Credits payable under this clause 5 (Service Levels and Service Credits) will be calculated in accordance with the provisions set out in Schedule 1 (Services, Service Levels and Service Credits).
- 5.5 Service Credits may be recovered by Telkom as a credit against the next invoice which may subsequently be due for issue under this Annexure or, if no such invoice is due, as a debit due by the Service Provider and payable within 30 (thirty) days of demand.
- 5.6 The payment of any Service Credits is without prejudice to Telkom's other rights and remedies for the Service Provider's failure to meet any Service Level.
6. **OBLIGATIONS OF TELKOM**
- 6.1 Telkom shall as soon as reasonably possible following the Service Provider's reasonable request, provide the Service Provider with such information concerning Telkom's operations and activities as may be reasonably necessary for the Service Provider to comply with its obligations under this Annexure.
- 6.2 The Obligations of Telkom under clause 6.1 (Obligations of Telkom) shall be subject at all times to the confidentiality obligations under the Agreement.
- 6.3 Telkom shall provide the Service Provider and its Personnel such access to the Telkom's sites as is reasonably necessary in Telkom's opinion to allow the Service Provider to perform its obligations under this Annexure.
7. **INTELLECTUAL PROPERTY RIGHTS AND INTELLECTUAL PROPERTY RIGHTS INDEMNITY**
- 7.1 The Service Provider and its Affiliates will retain all Intellectual Property Rights in the Supplier Tools.
- 7.2 The Service Provider hereby grants, and will procure that its Affiliates grant, to Telkom a royalty-free, non-exclusive, non-transferable license to use the Supplier Tools to the extent necessary to receive the Services during the term of this Annexure.
- 7.3 The Service Provider and its Affiliates will retain all Intellectual Property Rights in the Deliverables. The Service Provider hereby grants, and will procure that its Affiliates and Agents grant, to Telkom a royalty-free, non-exclusive, non-transferable, perpetual license to use the Deliverables.
- 7.4 The Service Provider shall at all times whether during or after termination or expiry of this Annexure indemnify and keep indemnified Telkom against all losses, claims, damages, liabilities, additional license fees and expenses (including all reasonable legal fees) incurred by or awarded against Telkom or which are agreed by Telkom to be paid by way of settlement or compromise arising out of or in relation to any infringement or alleged infringement of any Intellectual Property Rights of any Third Party which is suffered by Telkom as a result of Telkom's receipt of the Services or its use or possession of the Supplier Tools, Deliverables, or any part thereof, ("IPR Claim").
- 7.5 If at any time an IPR Claim is made, the Service Provider may, at its own expense and sole option, either:

7.5.1 procure for Telkom the right to continue using the relevant Services, Supplier Tools or Deliverables; or

7.5.2 replace or modify the Services, Supplier Tools or Deliverables with non-infringing substitutes, provided that any substitute shall not materially prejudice Telkom's use of the Services, Supplier Tools or Deliverables and that such substitution will be carried out so as to avoid or reduce insofar as possible any interruption to Telkom's business operations.

7.6 If the Service Provider has availed itself of its rights to modify the Services, Supplier Tools or Deliverables or to supply substitute item(s) or to procure a license and such exercise of the said rights has not avoided the relevant IPR Claim, then Telkom may at its option terminate this Annexure and return the Deliverables to the Service Provider and, without prejudice to the indemnity in clause 7.4 (Intellectual Property Rights and Intellectual Property Rights Indemnity), the

Service Provider shall refund in full all Fees paid by Telkom under this Annexure in relation to such Deliverables.

8. **PROGRESS AND REVIEW MEETINGS**

8.1 The Representatives appointed in terms of Schedule 3 (Representatives, Reports and Management Information) of this Annexure shall meet and conduct review meetings to monitor the Services no less than once a quarter or more frequently as agreed between the Parties.

8.2 The Service Provider shall provide the Reports and Management Information in the manner and at the times specified in Schedule 3 (Representatives, Reports and Management Information) attached hereto.

8.3 Any change in either Party's Representative shall be promptly notified in writing to the other Party.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20...

AGREEMENT NUMBER [insert] - SERVICES ANNEXURE between Telkom SA SOC Ltd Registration nr 1991/005476/30 and [insert] Registration nr [insert]

\_\_\_\_\_  
**(Print name in block letters)**

Duly authorized representative  
on behalf of **Telkom**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Designation**

**WITNESSES:**

1.)

\_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

2.)

\_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

**And**

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20...

AGREEMENT NUMBER [insert] - SERVICES ANNEXURE between Telkom SA SOC Ltd Registration nr 1991/005476/30 and [insert] Registration nr [insert]

\_\_\_\_\_  
**(Print name in block letters)**

Duly authorized representative  
on behalf of **Telkom**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Designation**

**WITNESSES:**

1.)

\_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

2.)

\_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20...

AGREEMENT NUMBER [insert] - SERVICES ANNEXURE between Telkom SA SOC Ltd Registration nr 1991/005476/30 and [insert] Registration nr [insert]

\_\_\_\_\_  
**(Print name in block letters)**

Duly authorized representative  
on behalf of **the Service Provider**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Designation**

**WITNESSES:**

1.) \_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

2.) \_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

## **SCHEDULE 1 – SERVICES, SERVICE LEVELS AND SERVICE CREDITS**

### **1. SERVICES**

1.1 The Service Provider will provide the following Services to Telkom under this Annexure:

*Note:*

*Define the Services that the Service Provider will be required to deliver under the terms of this Annexure;*

*Identify the process/activities and responsibilities associated with the Services;*

*Service description should be prescriptive of the outputs required and include any Deliverables that Telkom require the Service Provider to provide under this Annexure.*

### **2. SERVICE LEVELS AND SERVICE CREDITS**

2.1 The Service Provider shall meet or exceed the agreed Service Levels set out in Appendix A to this schedule in the performance of the Services under this Annexure.

2.2 In the event that the Service Provider performs any element of the Services in a manner which is not in compliance with the Service Levels, Telkom may at its election either receive the Service Credit associated with such Service Level failure as set forth in Appendix A to this schedule or avail itself of any other remedy available to it under the Agreement.

2.3 Telkom undertakes to notify the Service Provider promptly and in writing of any elections made under this clause 2 (Service Levels and Service Credits) as set out in clause 5 (Service Levels and Service Credits) of this Annexure.

2.4 The Service Provider acknowledges the provisions of this schedule to be fair and reasonable in the circumstances.

*Note:*

*Define the required levels of service performance that will be used as a service level baseline when quantifying the quality of the Services performed by the Service Provider under this Annexure;*

*Define the monitoring methodology and the particular measurements to be taken in to account to determine whether the Service Level baseline has been met or exceeded;*

*Define the tariffs in terms of the Service Credits to be deducted when there is degradation in the Services.*



## APPENDIX A – SERVICE LEVELS AND SERVICE CREDITS

Service Levels	Service Credit
<i>Insert description of the Service Level</i>	<i>Insert methodology in how Service Credits will be calculated</i>
<i>Service Level</i>	<i>credit amount expressed as either % of changes or R amount</i>
<i>Service Level</i>	<i>credit amount expressed as either % of changes or R amount</i>
<i>Service Level</i>	<i>credit amount expressed as either % of changes or R amount</i>

## SCHEDULE 2 – FEES

### 1. FEES

Telkom shall pay to the Service Provider the Fees set out below for the delivery of the Services under this Annexure.

*Note:*

*Define the Fees or the method of calculation of Fees payable to the Service Provider.*

*Ensure that the Fees or the method of calculation is clear and covers all parts of the Services delivered hereunder.*

*Include Fees escalation process if the Service Provider shall be entitled to an increase in the Fees.*

## SCHEDULE 3 – REPRESENTATIVES, REPORTS AND MANAGEMENT INFORMATION

### 1. INTRODUCTION

This schedule sets out the Reports and Management Information requirements in terms of frequency, attendees and reporting requirements in respect of the Services as well providing the identity and contact details of the Telkom and Service Provider Representatives.

### 2. FREQUENCY

- 2.1 Review meetings shall be held to evaluate the Service Provider's performance of the Services at the following intervals:

Frequency	Purpose	Telkom attendees	Service Provider attendees
Monthly	Monthly Activity Update Monthly Service Level update Savings update	Representative	Representative
Quarterly	<i>Insert if required</i>		
Annual	<i>Insert if required</i>		

- 2.2 Agenda for review meetings to be prepared and distributed 5 (five) days in advance of review meeting.

- 2.3 Minutes of review meeting to be produced and distributed 5 (five) days after meeting.

### 3. REPORTING AND MANAGEMENT INFORMATION

- 3.1 The Reports and Management Information to be provided (final format and content to be agreed between the Parties) includes:

Item	Summary Content
Monthly Activity	<i>Insert as required</i>
Quarterly Review	<i>Insert as required</i>
Annual Review	<i>Insert as required</i>

- 3.2 The scheduled reports to be received on the dates agreed to between the Parties from time to time.

### 4. REPRESENTATIVES

- 4.1 The Parties shall be represented by the following individuals during the duration of this Annexure:

**Service Provider Representative:**

*Insert details*

**Tel: Cell:**  
**Fax: Email:**

**Telkom Representative:**

*Insert details*

**Tel:**   **Cell:**  
**Fax:**   **Email:**

**THIS MASTER AGREEMENT IS MADE BETWEEN:**

- (1) **TELKOM SA SOC LIMITED**, Registration Number 1991/005476/30, a listed state owned company duly registered in accordance with the laws of the Republic of South Africa, with its registered address at 152 Johannes Ramokhoase Street, Telkom Towers North, Pretoria (“**Telkom**”); and
- (2) **INSERT**, Registration Number: **insert**, a private company, duly registered in accordance with the laws of the Republic of South Africa, with its registered address at **insert** (“**the Service Provider**”).

jointly referred to as “**the Parties**”.

**INTRODUCTION:**

- (A) The Service Provider is in the business of supplying a number of product and service offerings as defined below.
- (B) Telkom shall elect the products and/or services it wishes to receive as set out in this Agreement and as further specified in the relevant Annexures executed hereunder, as may be amended, supplemented or superseded from time to time.

**IT IS AGREED**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement the following definitions will apply:
  - 1.1.1 **Affiliates** mean any person or entity Controlling, Controlled by or under common Control with such Party;
  - 1.1.2 **Agents** means directors, officers, employees, agents, professional advisers, contractors, sub-contractors or any Affiliate of either Party;
  - 1.1.3 **Agreement** means this agreement, together with any Annexures executed hereunder as read together with this Agreement, and as each may be amended from time to time with the prior consent of both Parties;
  - 1.1.4 **Annexure** means the annexures executed under this Agreement which specify the terms and conditions applicable to each of the Products and/or Services offered by the Service Provider to Telkom, which supplement the terms contained in this Agreement as they relate to the specific Products and/or Services in question and as they may each be amended, supplemented or superseded from time to time, subject to the Parties prior written consent;
  - 1.1.5 **Control** means the power, direct or indirect, to direct or cause the direction of the management and policies of such entity whether by contract, ownership of shares, membership of the board of directors, agreement or otherwise and, in any event and without limitation of the foregoing, any entity owning more than 50% of the voting securities of a second entity shall be deemed to control that second entity. The terms

“**Controlling**” and “**Controlled**” shall have a corresponding meaning;

- 1.1.6 **Commencement Date** means **Insert date**, notwithstanding the actual signature date hereof;
- 1.1.7 **Confidential Information** means Information relating to one Party or its Agents (the “Disclosing Party”) and/or the business carried on or proposed or intended to be carried on by the Disclosing Party and which is made available in connection with this Agreement to the other Party (the “Receiving Party”) (or its Agents) by the Disclosing Party (or its Agents) or which is recorded in agreed minutes following oral disclosure to the Receiving Party and any other information which is otherwise made available by the Disclosing Party (or its Agents) to the Receiving Party (or its Agents), whether before, on or after the Commencement Date of this Agreement, including any information, analysis or specifications derived from, containing or reflecting such information but excluding information which:
- 1.1.7.1 is publicly available at the time of its disclosure or becomes publicly available (other than as a result of disclosure by the Receiving Party or any of its Agents contrary to the terms of this Agreement); or
- 1.1.7.2 was lawfully in the possession of the Receiving Party or its Agents (as can be demonstrated by its written records or other reasonable evidence) free of any restriction as to its use or disclosure prior to its being so disclosed; or
- 1.1.7.3 following such disclosure, becomes available to the Receiving Party or its Agents (as can be demonstrated by its written records or other reasonable evidence) from a source other than the Disclosing Party (or its Agents), which source is not bound by any duty of confidentiality owed, directly or indirectly, to the Disclosing Party in relation to such information;
- 1.1.8 **Contract Year** means each consecutive 12 (twelve) month period from the Commencement Date;
- 1.1.9 **Data** means any data (including personal information as defined in the Electronic Communications and Transactions Act No. 25 of 2002 and any other applicable legislation) provided, supplied, stored, collected, collated, accessed or processed by the Service Provider in performing its responsibilities under this Agreement;
- 1.1.10 **Fees** means the rates and charges payable to the Service Provider for the delivery of the Products and/or rendering of the Services as detailed in each Annexure executed hereunder;
- 1.1.11 **Good Industry Practice** means the exercise of such reasonable skill, care, prudence, efficiency, foresight and timeliness as would be expected from a reasonably and suitably skilled, trained and experienced person engaged in the same type of undertaking and for the same or similar circumstances;
- 1.1.12 **Information** means all information including, without limitation, any information relating to systems, operations, plans, intentions, market opportunities, know-how, trade secrets and business affairs in whatever form, whether in oral, tangible or in documented form and, if in tangible or documented form, whether marked or identified as being proprietary or not;
- 1.1.13 **Intellectual Property Rights** includes any copyright, design rights, patents, inventions, logos, business names, service marks and trademarks, internet domain names, rights in databases, data, source codes, reports, drawings, specifications, know how,

business methods and trade secrets, applications for registration, and the right to apply for registration, for any of these rights and all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;

- 1.1.14 **Management Information** means the information to be provided by the Service Provider in any Reports;
- 1.1.15 **Party** means any one of the Parties to this Agreement. The term "**Parties**" shall have a corresponding meaning;
- 1.1.16 **Personnel** means the employees, agents and approved sub-contractors of the Service Provider who are assigned to perform the Services and/or to deliver the Products;
- 1.1.17 **Products** means the range of products offered by the Service Provider to Telkom as further specified in the relevant Annexures executed hereunder, as may be amended, supplemented or superseded from time to time;
- 1.1.18 **Regulator** means any person/entity having regulatory or statutory authority over any part of the Products and/or Services or the Service Provider's business as the case may be;
- 1.1.19 **Regulatory Change/s** means any change in law, enactment, order, regulation, regulatory policy, guideline or industry code which impacts on the performance of this Agreement;
- 1.1.20 **Regulatory Requirements** means all legal and regulatory requirements in the Republic of South Africa and any other jurisdiction from which the Services are provided and/or the Products are delivered that are applicable in relation to the Services and/or Products;
- 1.1.21 **Representative** means the Telkom and Service Provider representatives appointed to represent that Party in terms of any individual Annexure executed hereunder;
- 1.1.22 **Reports** mean the reports in the form set out in any Annexure attached hereto;
- 1.1.23 **Security Policy** means the Telkom security policies and procedures in place as amended from time to time;
- 1.1.24 **Services** means the Service Provider's suite of service offerings to Telkom as further specified in relevant Annexures executed hereunder, as may be amended, supplemented or superseded from time to time;
- 1.1.25 **Service Credits** means an amount calculated in accordance with any Annexure executed hereunder in respect of the failure by the Service Provider to meet one or more Service Levels;
- 1.1.26 **Service Levels** means the service levels set out in any relevant Annexure executed hereunder;
- 1.1.27 **Third Party** means any person or entity which is not a Party to this Agreement; and
- 1.1.28 **Value Added Tax Act or VAT Act** means the Value Added Tax Act, No 89 of 1991 (as amended), including any similar tax which may be imposed in place thereof from time to time.
- 1.2 In this Agreement, unless the context otherwise requires:

- 1.2.1 if any provision in a definition is a substantive provision conferring rights or imposing obligations on a Party, notwithstanding that it is only in the interpretation clause, effect shall be given to it as if it were a substantive provision in the body of this Agreement;
- 1.2.2 in this Agreement a Party includes a reference to that Party's successors in title and assigns allowed at law;
- 1.2.3 any reference in this Agreement to:
- 1.2.3.1 "**business hours**" shall be construed as being the hours between 07h30 and 17h00 on any business day. Any reference to time shall be based upon South African Standard Time;
- 1.2.3.2 "**days**" shall be construed as calendar days unless qualified by the word "**business**", in which instance a "**business day**" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;
- 1.2.3.3 "**law**" means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law;
- 1.2.3.4 "**person**" means any person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality; and
- 1.2.3.5 "**writing**" means legible writing and in English.
- 1.2.4 the words "**include**" and "**including**" mean "**include without limitation**" and "**including without limitation**". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it;
- 1.2.5 the words "**shall**" and "**will**" and "**must**" used in the context of any obligation or restriction imposed on a party have the same meaning;
- 1.2.6 words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement;
- 1.2.7 unless otherwise provided, defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning;
- 1.2.8 a reference to any statutory enactment shall be construed as a reference to that enactment as at the Commencement Date and as amended or substituted from time to time;
- 1.2.9 unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day;
- 1.2.10 if the due date for performance of any obligation in terms of this Agreement is a day which is not a business day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately succeeding business day;



- 1.2.11 where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention;
- 1.2.12 the rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply;
- 1.2.13 the expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;
- 1.2.14 no provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (stipulatio alteri) who is not a party to this Agreement;
- 1.2.15 any reference in this Agreement to "**this agreement**" or any other agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time; and
- 1.2.16 in this Agreement the words "**clause**" or "**clauses**" and "**annexure**" or "**annexures**" and "**schedule**" or "**schedules**" refer to clauses and annexures or schedules to this Agreement.

## **2. STRUCTURE OF THE AGREEMENT**

- 2.1 This Agreement is supplemented with Annexures, each Annexure deemed to be a part of this Agreement as if fully incorporated into the body of this Agreement. This Agreement relates generally to the commercial relationship between the Parties, whilst the Annexures are specific to the particular Products and/or Services to be delivered and/or rendered by the Service Provider to Telkom under this Agreement.
- 2.2 Any conflict between the provisions of the various sections of the Agreement and the Annexures will be resolved in accordance with the following order of precedence (in descending order of priority) as follows:
- 2.2.1 in relation to conflicts pertaining to technical and/or financial issues and/or Service Level issues specific to particular Services being provided, the order of precedence shall be: (a) the Annexures (including the schedules attached thereto), and (b) the Agreement;
- 2.2.2 in relation to all other conflicts, the order of precedence shall be (a) the Agreement, (b) the applicable Annexure, and (c) the annexures/schedules to the foregoing documents in the same order of precedence attaching to the documents to which they are annexed.
- 2.3 Any conflict between Annexures shall be resolved by reference to clause 2.2 (Structure of the Agreement), it being the intention of the Parties that in resolving such conflicts, the terms of any Annexure shall not apply to any other Annexure and *vice versa*.
- 2.4 This Agreement supersedes all previous agreements relating to the subject matter of this Agreement and no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on any of the Parties.

**3. DURATION**

- 3.1 This Agreement shall commence on the Commencement Date and shall subject to the provisions of this Agreement endure indefinitely thereafter until terminated in accordance with the relevant provisions hereof.
- 3.2 A specific Annexure shall be operative from the date stipulated therein and will endure, subject to the provisions of this Agreement for the fixed term specified therein.
- 3.3 Telkom, on the one hand and the Service Provider, on the other hand may at any time and for whatsoever reason cancel this Agreement on the giving of 30 (thirty) business days prior written notice thereof, save that this Agreement will continue to apply in full in respect of all Annexures with fixed terms until all such fixed terms have elapsed.

**4. APPOINTMENT AND RELATIONSHIP BETWEEN THE PARTIES**

- 4.1 Telkom hereby appoints the Service Provider, on a non – exclusive basis, to provide it with Products and/or Services on an on-going basis and the Service Provider hereby accepts such non - exclusive appointment. This Agreement only serves as a blanket Agreement and the appointment of the Service Provider does not mean that Telkom will order any quantities whatsoever of the Products and/or Services from the Service Provider. The Parties understand that Telkom shall only order the Products and/or Services from the Service Provider as-and-when required by Telkom and only when an order is placed with the Service Provider.
- 4.2 Individual Annexures will be entered into by the Parties if and when Telkom requires any Products and/or Services to be provided by the Service Provider under this Agreement.
- 4.3 Nothing contained in this Agreement shall be construed so as to create any partnership, joint venture or similar relationship between the Parties. Similarly, no agency or employment relationship is established between the Parties.
- 4.4 This Agreement is entered into solely between, and may be enforced only by, Telkom and the Service Provider and this Agreement shall not be deemed to create any rights to Third Parties, including service providers and clients of a Party, or to create any obligations of a Party to any such Third Parties.

**5. DELIVERY OF PRODUCTS AND SERVICES**

The Service Provider shall provide such Products and/or Services to Telkom as are detailed in the relevant Annexures executed under this Agreement from time to time.

**6. FEES, INVOICING AND PAYMENT**

- 6.1 The fees and charges applicable in delivering and/or performing the Products and/or Services by the Service Provider shall be as stated in any relevant Annexure executed under this Agreement.
- 6.2 For any amounts payable by Telkom to the Service Provider under this Agreement, the Service Provider shall invoice Telkom the agreed Fees and Telkom shall pay the Service Provider in accordance with the invoicing and payment provisions set out below. Notwithstanding any other provisions of this Agreement, the Service Provider shall not provide any Products and/or Services to Telkom and Telkom shall not incur any liability to the Service Provider, including the obligation to make any payment, until the Service Provider has been provided with a valid purchase order by Telkom in respect of the Products and/or Services to be provided.

- 6.3 Telkom does not allow advance payments to the Service Provider.
- 6.4 The Service Provider shall deliver to Telkom:
- 6.4.1 the invoice in respect of the Services rendered; and/or
- 6.4.2 the invoice and the proof of delivery (“POD”) in respect of the Products delivered; and
- 6.4.3 the statement, reflecting all the previous invoices delivered to Telkom in the previous calendar months,  
on or before the 5th (fifth) day of the following calendar month.
- 6.5 The Service Provider shall deliver the invoice and the statement to:
- Telkom SA SOC Limited  
Accounts Payable  
Private Bag X145  
Pretoria, 0001
- 6.6 Telkom shall only be liable to make payment to the Service Provider upon receipt of all the documents contemplated in clause 6.4 (Fees, Invoicing and Payment).
- 6.7 It is specifically recorded that no liability to pay shall arise until such time as the correct and complete documentation as envisaged in clause 6.4 (Fees, Invoicing and Payment) have been received by Telkom.
- 6.8 Telkom shall pay the Service Provider on the last business day of the calendar month following the month in which the correct and complete documentation as envisaged in clause 6.4 (Fees, Invoicing and Payment) have been received by Telkom. If the correct and complete documentation is not received by Telkom as envisaged in clause 6.4 (Fees, Invoicing and Payment), payment will only be made to the Service Provider on the last day of the calendar month following the month in which the correct and complete documentation as envisaged in clause 6.4 (Fees, Invoicing and Payment) have been received by Telkom.
- 6.9 The payments made under this Agreement shall be remitted to the Service Provider’s bank account as follows:
- 6.9.1 for the Rand portion, the payment bank account shall be as follows:  
**insert** (delete if not applicable)
- 6.9.2 for the USD portion, the payment bank account shall be as follows:  
**insert** (delete if not applicable)
- 6.10 Telkom shall be entitled to set off any amounts owing by the Service Provider to Telkom against any amount Telkom owes to the Service Provider under this Agreement. Telkom shall provide the Service Provider with 30 (thirty) days prior written notice of its intention to apply set off within which period the Service Provider shall either: (i) immediately pay to Telkom the amount outstanding or (ii) agree on an alternative payment solution acceptable to Telkom to resolve the outstanding payment issue. If the matter cannot be resolved as stated above, Telkom shall immediately be entitled to proceed with set off.

- 6.11 At all material times, during the course of this Agreement, the Service Provider shall comply with all tax laws of the Republic of South Africa, and where applicable, comply with the tax laws applicable to the relevant taxes in its country of residence. Telkom shall at any time be entitled to request proof of such compliance from the Service Provider and the Service Provider shall be obliged to produce such proof, failing which Telkom shall be entitled to terminate this Agreement forthwith.
- 6.12 If the Service Provider is registered as a **South African** value added tax vendor in terms of the VAT Act: The Parties guarantee that they are and will remain registered for Value Added Tax ("VAT") in terms of the VAT Act as amended. Invoices issued by the Service Provider will be original tax invoices, complying with the requirements of the VAT Act, before payment will be effected. The amounts payable exclude VAT and VAT at the rate applicable on the date of invoicing will be payable in addition to such amounts. The name, address and VAT registration number of the Service Provider and the name, address and VAT Registration number of Telkom will appear on all tax invoices.
- 6.13 The base rate of the foreign exchange portion and the local (rand) portion of the Fees will be fixed and firm for the period including as to renewal/s, set out in an Annexure executed under this Agreement, or failing such provision in an Annexure, for a period of 12 (twelve) months at a time, with only the foreign exchange portion that will be subject to a rate of exchange variation. The foreign rate of exchange will be determined on the date as specified in an Annexure, or failing such provision in an Annexure, the final release date of the relevant order by Telkom to the Service Provider. The Fees will only be subject to an annual substantiated contract price adjustment if agreed to between the Parties and reflected in an Annexure or the body of this Agreement (as the case may be).
- 6.14 For foreign currency invoices, the consideration and VAT amounts, as well as the conversion rate applicable to a foreign currency invoice, shall be reflected in South African Rand (ZAR) on the tax invoices, as per the requirements of Section 20 (4) and (5) of the VAT Act. The consideration payable shall be converted to ZAR on the date the tax invoice is issued. With effect from 1 September 2012, the exchange rate to be used on foreign currency tax invoices is the daily exchange rate as published on the South African Reserve Bank ("SARB") website, applicable on the date as contemplated in clause 6.13 (Fees, Invoicing and Payment) above. The daily exchange rate is the weighted average of the SARB's daily rates at approximately 10:30 a.m. The information is published on the following website: <http://www.resbank.co.za/Research/Rates/Pages/SelectedHistoricalExchangeAndInterestRates.aspx>.
- 6.15 If at any time Telkom, acting in good faith, disputes all or any of the Fees and/or charges before payment of an invoice:
- 6.15.1 Telkom shall notify the Service Provider within 30 (thirty) days after the date of receipt of a proper invoice for the fees, specifying in reasonable detail Telkom's reasons for disputing the invoice;
- 6.15.2 Telkom shall pay the Service Provider after the date of receipt of the relevant corrected invoice the amounts not disputed by Telkom; and
- 6.15.3 if the Parties are unable to resolve the dispute within 30 (thirty) business days of notice given in accordance with clause 6.15.1 (Fees, Invoicing and Payment), either Party may escalate the matter for resolution in accordance with the dispute resolution process as specified in clause 19 (Dispute Resolution) below..

6.16 Upon resolution of a dispute, (i) any sum which Telkom agrees to pay (whether such agreed sum is in the amount originally invoiced, or a reduced amount) shall be payable in the same manner as set out in clause 6.8 (Fees, Invoicing and Payment) and (ii) any sum which the Service Provider agrees to pay or refund to Telkom shall be payable to an account within 30 (thirty) days of the resolution of the dispute or, at Telkom's option, shall be set off against amounts payable by Telkom to the Service Provider.

6.17 Payment of an invoice shall not prevent Telkom from subsequently disputing all or any of the fees in good faith whether during or after the term of this Agreement.

6.18 Telkom shall, in its sole discretion, consider any requests made by the Service Provider to make earlier payments to the Service Provider under this Agreement, subject to Telkom (through its Shared Services Centre – Accounts Payable department) and the Service Provider agreeing in writing on an appropriate early settlement discount to be applied.

## **7. ADJUSTMENT IN FEES**

7.1 The agreed Fees in an Annexure shall remain fixed for the duration stated in that Annexure, unless specifically agreed otherwise in a specific Annexure attached hereto.

7.2 Nothing contained in this Agreement will put an obligation on Telkom to accept any proposed increase to the Fees by the Service Provider during the term hereof.

## **8. DUTY OF GOOD FAITH**

8.1 The Service Provider and/or its Personnel shall not be entitled to claim or receive any benefits or rewards, other than specifically provided for in this Agreement. The Service Provider confirms that it or any of its Personnel have not given or received any benefit of any nature whatsoever, nor shall they give any benefit of any nature whatsoever, which can be construed as an unlawful inducement to enter into this Agreement or any other agreement emanating from this Agreement and that they have ensured that all anti-corruption laws, internal processes and anti- corruption preventative measures have been complied with, prior to signature of this Agreement.

8.2 The Service Provider shall further ensure that all such anti-corruption laws, internal processes and anti- corruption preventative measures which may apply to it under any law or company policy will continue to be complied with for the duration hereof.

8.3 The Service Provider shall, as and when requested, provide Telkom with a detailed report on any gifts, incentives or consideration given by the Service Provider or its Personnel to Telkom or any of its Personnel during the particular contract year.

8.4 Telkom shall be entitled terminate this Agreement with immediate effect in the event that the Service Provider is in breach of this clause 8 (Duty of Good Faith).

## **9. CONFLICT OF INTEREST**

9.1 The Service Provider and its Personnel hereby agrees to avoid any conflicts of interest between the interests of the Service Provider's business on one hand, and personal, professional, and business interests on the other. This includes avoiding potential and actual conflicts of interest, as well as perceptions of conflicts of interest.

9.2 The Service Provider understands that the purpose of this clause is to protect the integrity of the Service Provider's decision-making process, to enable its constituencies to have confidence in its integrity, and to protect the integrity and reputations of its Personnel.

9.3 Upon or before the provision of any Products and/or Services under this Agreement, the Service Provider will make a full, written disclosure of interests, relationships, and holdings that could potentially result in a conflict of interest.

9.4 This written disclosure will be kept on file and the Service Provider will update it as appropriate. In the course of meetings or activities, the Service Provider will disclose any interests in a transaction or decision where the Service Provider (including its business or other non - profit affiliations), its family and/or its significant other, employer, close associates will receive a benefit or gain.

## **10. OBLIGATIONS OF THE SERVICE PROVIDER**

10.1 The Service Provider shall appoint a Representative under each Annexure executed under this Agreement, who will be responsible for the Products and/or Services delivered and/or provided by the Service Provider to Telkom in accordance with that Annexure.

10.2 The Representatives shall be properly authorised by the Service Provider to carry out the Service Provider's obligations under this Agreement and under each Annexure attached hereto.

10.3 The Representatives shall report to Telkom within the time frames and in the format as required in any Annexure executed hereunder, on the progress of the Products and/or Services or the status of any Service Levels and any necessary corrective action relating to the non-achievement of Service Levels.

10.4 The Service Provider shall ensure that it has appropriate agreements in place with Third Parties to enable Telkom to receive the Products and/or Services under this Agreement, where the Service Provider is using or providing Telkom with Third Party information, support or materials for a project including but not limited to where the Service Provider is employing other service providers whose work may affect Telkom's ability to receive the Products and/or Services.

10.5 The Service Provider shall apply reasonable endeavours to promptly bring to Telkom's attention any act, failure, defect or omission on the part of Telkom or its Personnel which may impact upon the delivery of the Products and/or Services. In addition, the Service Provider undertakes to apply reasonable endeavours to promptly bring to Telkom's attention any act, failure, defect or omission on the part of the Service Provider or its Personnel which may impact upon the delivery of the Products and/or Services.

## **11. OBLIGATIONS OF TELKOM**

11.1 Telkom shall for the duration of this Agreement ensure that its personnel co-operate with the Service Provider and are made available to the Service Provider as reasonably required by the Service Provider where the co-operation with and availability of such personnel to the Service Provider is reasonably necessary and/or desirable for the effective and successful delivery and/or provision of the Products and/or Services.

11.2 Telkom shall appoint a Representative under each Annexure executed under this Agreement, who has the overall authority, responsibility and accountability on behalf of Telkom to monitor the delivery of the Products and/or Services by the Service Provider in accordance with this Agreement and any Annexure executed hereunder.

11.3 The Telkom Representative shall take responsibility for all Telkom activities relating to the Products and/or Services envisaged by the Parties in this Agreement and in any

Annexure, be responsible for the overall co-ordination of such activities and oversee the delivery of the Products and/or Services by the Service Provider.

- 11.4 Telkom shall grant the Service Provider access to all data, information, systems and facilities as reasonably required by the Service Provider to effectively perform its duties and obligations in terms of this Agreement and any Annexure executed hereunder, but always subject to Telkom's security policies and procedures.

## **12. WARRANTIES AND UNDERTAKINGS**

- 12.1 Each Party warrants and represents that, as at the Commencement Date of this Agreement:

12.1.1 it has full capacity and authority to enter into and perform its obligations under this Agreement; and

12.1.2 this Agreement is executed by a duly authorised Representative of that Party.

- 12.2 The Service Provider warrants, represents and undertakes on an on-going basis that:

12.2.1 it shall ensure that the Products are delivered and the Services are performed in a professional manner by suitable Service Provider staff utilising professional standards and practices;

12.2.2 its obligations under the Agreement will be performed by a sufficient number of appropriately experienced, qualified, competent, trained and efficient Personnel and in accordance with Good Industry Practice;

12.2.3 all Personnel will be vetted in accordance with Good Industry Practice;

12.2.4 all Personnel are entitled to work in the Republic of South Africa or any other country in which the Products and/or Services are to be provided including without limitation the necessary work permits;

12.2.5 it will be solely responsible for the payment of remunerations and associated benefits, if any, of the Personnel, and for withholding and remitting income tax and/or any other applicable requirement to conform with any applicable laws and regulations;

12.2.6 there are no actions, suits or proceedings or regulatory investigations pending or, to the Service Provider's knowledge, threatened against or affecting the Service Provider before any court or administrative body or arbitration tribunal that might affect the ability of the Service Provider to meet and carry out its obligations under this Agreement;

12.2.7 the Service Provider has and will continue to hold all necessary approvals from Regulators necessary to perform the Service Provider's obligations under this Agreement;

12.2.8 the Service Provider will perform its obligations under the Agreement in compliance with all applicable laws, enactments, orders, regulations, guidance and all Regulatory Requirements and/or Regulatory Changes;

12.2.9 the Products will be free from defect, free from any Third Party rights and interests (including liens, charges and options) and that the use or possession by Telkom of any Products will not subject Telkom to any claim for infringement of any Intellectual Property Rights of any Third Party;

- 12.2.10 whilst at any Telkom site or on Telkom's premises it shall and shall ensure that its Personnel shall comply with:
  - 12.2.10.1 Telkom's health and safety policy in force from time to time (copy of which will be provided to the Service Provider on the Service Provider's written request); and
  - 12.2.10.2 all reasonable requirements and procedures made known to the Service Provider by Telkom concerning conduct at any of Telkom sites or on Telkom's premises;
- 12.2.11 the performance of its obligations under this Agreement and Telkom's use of the Products and/or Services and any licences granted by the Service Provider to Telkom will not infringe any Intellectual Property Rights of any Third Party;
- 12.2.12 it has taken all reasonable precautions to ensure that, in the event of a disaster, the impact of such disaster on the ability of the Service Provider to comply with its obligations under this Agreement will be reduced to the greatest extent possible and that the Service Provider shall ensure that it has appropriate back-up arrangements and procedures in place;
- 12.2.13 all documents, data, software or other materials relevant to the supply of the Products and rendering of the Services are kept under secure conditions with appropriate back-up arrangements in place;
- 12.2.14 it will comply with Telkom's Security Policy in force from time to time (copy of which will be provided to the Service Provider on the Service Provider's written request);
- 12.2.15 without the consent of Telkom, the Service Provider will not knowingly or negligently insert, or authorize Third Parties including subcontractors to insert, into any software used to perform its obligations under this Agreement, any code that would have the effect of disabling or otherwise shutting down all or any portion of the Telkom services or otherwise impairing the operation of Telkom services to its customers. The Service Provider further warrants, represents and undertakes that, with respect to any disabling code that may be part of the software, the Service Provider will not knowingly or negligently invoke, or authorise a Third Party to invoke, such disabling code at any time, including upon expiration or termination of this Agreement for any reason, without Telkom's written consent;
- 12.2.16 in delivering the Products, it will not allow any element to be introduced into the Products which is designed to corrupt data or adversely impact upon the performance of computer systems including without limitation any virus, worm, logic bomb, disabling code or routines or expiration dates (as these terms are generally understood within the computer industry);
- 12.2.17 the Service Provider has, prior to delivery of any Products or other enhancement correction or development of the Products to Telkom, the most up-to-date software available, to test the same for all commonly known viruses in the Products or any embedded software and all viruses known by the Service Provider at the Commencement Date of this Agreement and that at the time of its delivery to Telkom the Products do not contain any trojan horse, worm, logic bomb, time bomb, back door, trap door, keys or other components which would be harmful to the Telkom systems or to the Products; and
- 12.2.18 it will comply with the network access agreement and policy of Telkom if the Service Provider has access to any portion of Telkom's systems or network.
- 12.3 Both Parties warrant and undertake that they shall and will remain, for the duration of this Agreement, cognisant of and compliant with all relevant legislative or Regulatory



Requirements and/or rulings or codes of practice of any competent authority or industry body that has jurisdiction over that Party and its business and over the delivery of the Products and the provision of the Services or which are relevant to the provision, receipt and/or use of the Products and Services hereunder, as the case may be.

12.4 Telkom warrants that it has not been induced to enter into this Agreement by any prior representations, warranties or guarantees, whether oral or in writing, except as expressly contained in the Agreement.

12.5 Except as expressly stated in the Agreement, all warranties and conditions, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

### **13. CONFIDENTIAL INFORMATION**

13.1 From time to time during the duration of this Agreement, Confidential Information may be given by the Disclosing Party to the Receiving Party.

13.2 The Receiving Party will treat and keep all Confidential Information as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Confidential Information to any other person other than in accordance with the terms of this Agreement.

13.3 The Receiving Party will only use the Confidential Information for the sole purpose of complying with its obligations under this Agreement.

13.4 Notwithstanding clause 13.2 (Confidential Information) the Receiving Party may disclose Confidential Information:

13.4.1 to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 13.3 (Confidential Information) provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party on the same terms as contained in this Agreement. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or

13.4.2 to the extent required by law or the rules of any applicable regulatory authority, subject to clause 13.5 (Confidential Information) below.

13.5 If the Receiving Party is required to disclose any Confidential Information in accordance with clause 13.4.2 (Confidential Information) above, it shall promptly notify the Disclosing Party so that the Disclosing Party may have an opportunity to prevent the disclosure through appropriate legal means and the Receiving Party shall cooperate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.

13.6 The contents and the existence and the scope of this Agreement are Confidential Information.

13.7 If any Confidential Information is copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and, if requested by the Disclosing Party, take such steps (including the institution of legal proceedings) as shall be

necessary to remedy (if capable of remedy) the default and/or to prevent further unauthorised copying, disclosure or use.

- 13.8 Notwithstanding whether the Receiving Party uses the Confidential Information in accordance with this Agreement or not (including modifying or amending the Confidential Information), all Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights of the Disclosing Party (or its Agents), including Intellectual Property rights, over the Confidential Information whatsoever beyond those contained in this Agreement.
- 13.9 Use by the Receiving Party of any Confidential Information in accordance with the terms of this Agreement will not infringe the Intellectual Property of any other person or party.
- 13.10 The Receiving Party agrees to ensure proper and secure storage of all Confidential Information and any copies thereof to at least the same standard as the Receiving Party keeps its own Confidential Information. The Receiving Party shall not make any copies or reproduce in any form any Confidential Information except for the purpose of disclosure as permitted in accordance with this Agreement.
- 13.11 The Receiving Party shall keep a written record, to be supplied to the Disclosing Party upon request, of the Confidential Information received and any copies made thereof and, in so far as is reasonably possible, of the location of such Confidential Information and any copies thereof.
- 13.12 Without prejudice to any other rights or remedies of the Disclosing Party, the Receiving Party acknowledges and agrees that damages may not be an adequate remedy for any breach by it of the provisions of this clause 13 (Confidential Information) and that the Disclosing Party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of any such provision by the Receiving Party or its Agents, and no proof of special damages shall be necessary for the enforcement of the rights under this clause 13 (Confidential Information).

#### **14. INTELLECTUAL PROPERTY RIGHTS**

- 14.1 All Intellectual Property rights belonging to a Party prior to the Commencement Date of this Agreement shall remain vested in that Party.
- 14.2 All Intellectual Property Rights developed or created in the delivery of the Products and/or the provision of the Services shall remain vested in Telkom. The Service Provider shall accordingly assign all such Intellectual Property Rights to Telkom upon written request by Telkom.
- 14.3 The Parties specifically agree that all Intellectual Property Rights and other proprietary rights used in the delivery of the Products and/or Services under this Agreement, shall vest and remain vested in the Service Provider and/or the Third Party licensor/owner of such Intellectual Property Rights, as the case may be.
- 14.4 The Service Provider hereby grants, and will procure that any Third Party licensor/owner grant, to Telkom a royalty-free, non-exclusive, non-transferable, perpetual licence to receive the Products and/or Services during and after the term of this Agreement.
- 14.5 None of the Intellectual Property Rights in Telkom's trademarks and brands shall be used by the Service Provider for any purpose without Telkom's prior written consent.

- 14.6 Where there are modifications to pre-existing material which are inseparable from the pre-existing material, then the Party which owns the pre-existing material will own the modifications.

**15. LIMITATION OF LIABILITY**

- 15.1 Subject to clause 15.3 (Limitation of Liability), the total liability of Telkom and the Service Provider, as the case may be, in respect of a claim arising in terms of this Agreement (whether arising from negligence, breach of contract or otherwise howsoever) (in this clause, "Default") in any Contract Year will be limited to 100% (one hundred per cent) of the total Fees paid to the Service Provider in terms of the Products and/or Services provided under the Annexure or Annexures in question, in the Contract Year immediately preceding that in which the event giving rise to the liability arises (or where such event arises in the first Contract Year of this Agreement, the actual total Fees paid together with the projected Fees for the remainder of the first Contract Year).

- 15.2 Subject to clause 15.3 (Limitation of Liability) and to the maximum extent permitted by law, in no event shall either Party be liable to the other Party for any indirect or consequential losses or damages, loss of profits, business, revenue, goodwill or anticipated savings suffered by the other Party during the term of this Agreement.

- 15.3 Neither Party excludes or limits liability to the other Party for death, personal injury caused by its proven negligence or that of its employees, for fraud or theft by it or its employees, for any indemnity claims under this Agreement, for a breach of any of the provisions under clause 14 (Intellectual Property Rights), clause 13 (Confidential Information) and a Third Party obtaining unauthorised access to Telkom's Network and/or Systems as a result of the Service Provider's negligent or intentional acts.

- 15.4 The Parties expressly agree that if any limitation or provision contained or expressly referred to in this clause 15 (Limitation of Liability) is held to be invalid under any applicable statute or rule of law it will to that extent be deemed omitted but if any Party becomes liable for loss or damage which would otherwise have been excluded that liability will be subject to the other limitations and provisions set out in this clause 15 (Limitation of Liability).

- 15.5 Nothing in this clause 15 (Limitation of Liability) will be taken as in any way reducing or affecting a general duty to mitigate loss suffered by a Party.

**16. REGULATORY INDEMNITY**

- 16.1 The Service Provider will be solely liable for all losses, damages, costs, expenses and liabilities (including legal fees) incurred by or awarded against Telkom or their respective directors, officers, agents, employees, members, subsidiaries and successors in interest (together the "Indemnified Persons") in connection with any proceedings, claim or action against an Indemnified Person resulting from a breach by the Service Provider of any Regulatory Requirements.

- 16.2 The Service Provider will hold harmless each of the Indemnified Persons and indemnify each Indemnified Person on written demand in respect of all losses, damage, costs, expenses and liabilities (including legal fees) incurred by or awarded against an Indemnified Person in connection with any proceedings, claim or action against an Indemnified Person resulting from a breach by the Service Provider of any Regulatory Requirements.

**17. TERMINATION**

- 17.1 Should the Service Provider breach or otherwise be in default of any of its obligations under or in terms of this Agreement or any one or more of the Annexures hereunder and remain in default or fail to remedy such breach, if such breach is indeed capable of remedy, within 14 (fourteen) days of receipt of written notice calling upon it to do so, Telkom will be entitled, but not obliged, in addition to any other rights which it may have or remedies which may be available to it:
- 17.1.1 to cancel the relevant Annexure, with or without claiming damages, provided that such breach constitutes a material breach; or
- 17.1.2 to cancel the entire Agreement (including all Annexures executed), with or without claiming damages, provided that such breach constitutes a material breach; or
- 17.1.3 to obtain an order against the Service Provider for specific performance, with or without claiming damages.
- 17.2 In the event that either Party is provisionally or finally liquidated or adopts a resolution to voluntarily begin with business rescue proceedings or is placed under business rescue proceedings by order of a court, or ceases or threatens to cease to carry on its normal line of business in the Republic of South Africa or defaults or threatens to default in the payment of its liabilities generally, or commits any act or omission which would, in the case of an individual, be an act of insolvency in terms of the Insolvency Act, 1936 (as amended), then the other Party will be entitled to terminate the Agreement on written notice to the other Party.
- 17.3 Telkom may terminate any Annexure executed under this Agreement for convenience at any time on giving the Service Provider not less than 30 (thirty) days' notice, provided that Telkom shall pay to the Service Provider all outstanding undisputed fees (apportioned on a daily basis and less any service credits) relating to the work undertaken by the Service Provider up until the date of such termination subject always to the Service Provider's duty to mitigate its loss and to the Service Provider providing Telkom with a full breakdown of all Fees.

## **18. CONSEQUENCES OF TERMINATION**

- 18.1 Any termination of this Agreement or any Annexure will not affect any accrued rights or liabilities of either Party nor will it affect the coming into force or continuation in force of any other clauses and provisions of this Agreement or any Annexure which are expressly or by implication intended to come into force or continue in force on or after termination.
- 18.2 On termination of this Agreement or any Annexure for whatever reason, either Party shall ensure that its personnel, immediately, or as otherwise advised in writing by the other Party: deliver to him, or any Third Party nominated in writing by him, property belonging to him including any Confidential Information which may be in the possession of, or under the control of the other Party and/or its personnel. The other Party may not withhold such delivery for any reason, including any dispute between Telkom and the Service Provider arising from the operation, construction, or termination of this Agreement or any Annexure and the other Party shall on request supply a certificate signed by a director as to its full compliance with the requirements of this clause.
- 18.3 To the extent any of the property referred to in clause 18.2 (Consequences of Termination) is in electronic form and contained on non-detachable storage devices, the other Party shall provide the requesting Party with unencrypted copies of the same on magnetic media or, at requesting Party's option, if such information is capable of transmission by e-mail, and shall irretrievably destroy and delete copies so held. The

other Party shall also provide to the requesting Party any media or images containing copies of artwork, text or designs provided by Telkom and the Service Provider shall on request supply a certificate signed by a director as to its full compliance with the requirements of this clause and clause 18.2 (Consequences of Termination).

18.4 Upon termination of this Agreement or any Annexure, the Service Provider shall ensure that the benefit of any licences or rights granted to Telkom under this Agreement or any Annexure will be retained by Telkom, or, in the event that Telkom engages another service provider to deliver the Products and/or render the Services, will be granted to such service provider to enable the continuation of the delivery of the Products and/or rendering of the Services to Telkom.

## **19. DISPUTE RESOLUTION**

19.1 Prior to the initiation of formal arbitration procedures, the Parties shall, within 5 (five) business days after a dispute has arose, first attempt to resolve their dispute informally by reference to a joint committee comprised of a single designated representative of each Party who shall have the authority of the Party he/she represents to settle the dispute.

19.2 Should the designated representatives, within 5 (five) business days after the dispute has been referred to them, conclude in good faith that they are unable to settle the dispute or should either Party have failed to appoint a designated representative on the written request of the other within 5 (five) business days after being requested to do so, then either Party may refer the matter for arbitration in terms of clause 20 (Arbitration) below or to any court in the Republic of South Africa that has the authority to hear any legal proceedings connected with the Agreement.

## **20. ARBITRATION**

20.1 Subject to clause 19 (Dispute Resolution), any dispute which may arise at any time between the Parties relating to any matter arising out of the Agreement or the interpretation, termination and/ or cancellation thereof, shall, if not resolved by dispute resolution, be submitted to and decided by arbitration, in accordance with the Rules of the Arbitration Foundation of Southern Africa for Commercial Arbitrations by an arbitrator or arbitrators appointed by the Foundation.

20.2 Either Party to the Agreement may demand that a dispute be referred to arbitration by giving written notice to that effect to the other Party.

20.3 This clause shall not preclude either Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

20.4 The arbitration referred to in clause 20.1 (Arbitration) shall be held:

20.4.1 at Pretoria in the English language; and

20.4.2 immediately and with a view to its being completed within 15 (fifteen) business days after it is demanded.

20.5 The Parties irrevocably agree that the decision in arbitration proceedings:

20.5.1 shall be final and binding upon the Parties subject to review if the arbitrator made a manifest error or appeal in terms of Article 22 of the Rules of the Arbitration Foundation of Southern Africa for Commercial Arbitrations;

20.5.2 shall be carried into effect; and

20.5.3 may be made an order of any court of competent jurisdiction.

20.6 This clause is severable from the rest of the Agreement and therefore shall remain effective between the Parties even if the Agreement is terminated.

## **21. NOTICES**

21.1 Any notice or other document to be served under this Agreement to a Party may be to be served at its address set out below:

### **Telkom Notices:**

Telkom SA SOC Limited  
The Group Executive  
Procurement Services  
Telkom Tower North  
152 Johannes Ramokhoase Street  
Pretoria  
Republic of South Africa  
0002

Facsimile No: +27 12 311 2227

### **The Service Provider Notices:**

insert

Facsimile: insert

21.2 Either Party shall be entitled from time to time, by written notice to the other, to vary its domicilium address to any other address within the Republic of South Africa, which is not a post office box.

21.3 All notices given in terms of this Agreement shall be in writing and any notice given by one Party to the other (the addressee) which:

21.3.1 is delivered by hand during the normal business hours at the addressee's *domicilium* shall be deemed to have been received by the addressee at the time of delivery; or

21.3.2 is sent by fax to the addressee's fax number shall be deemed to have been received by the addressee on the 1<sup>st</sup> (first) business day after the date of transmission thereof.

21.4 Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by one of the Parties from the other including by way of facsimile transmission shall be adequate written notice or communication to such Party.

## **22. DATA PROTECTION**

The Service Provider shall comply with all Data use and Data protection requirements as may be applicable to the Products and/or Services provided to Telkom under this Agreement and as are dictated by any applicable legislative requirements and the requirements of all applicable codes of conduct, as they may apply to the Service Provider.

## **23. AUDIT**

- 23.1 Telkom may at its discretion and cost audit the Service Provider's compliance with this Agreement (including audits of the Service Provider's premises and systems) provided that any such audit is carried out with reasonable prior notice and in a reasonable way so as to cause as little disruption as is reasonably possible to the delivery of the Products and/or rendering of the Services and the Service Provider's other business activities.
- 23.2 Where Telkom has reasonable grounds to believe that the Service Provider is not complying with its obligations under this Agreement, an audit may be carried out with minimum prior notice.
- 23.3 The Service Provider shall provide all assistance reasonably requested by Telkom in relation to any audit, including access to the Service Provider's Personnel, records and premises.
- 23.4 Telkom may engage Third Party advisers to undertake any audit subject to confidentiality obligations.
- 23.5 Telkom may allow any Regulator and any persons appointed by such Regulator (subject to confidentiality obligations) to participate in any audit and to receive the results of that audit.

#### **24. INSURANCE**

- 24.1 The Service Provider shall, for the continued duration of this Agreement, have and maintain sufficient insurance to cover its obligations and liabilities under this Agreement. The Service Provider shall provide Telkom with written proof of such insurance.
- 24.2 If the Service Provider or its Personnel are involved in any occurrence which to their knowledge may give rise to a claim under any insurance policy effected by Telkom, the Service Provider shall without delay:
- 24.2.1 notify Telkom of the circumstances giving rise to such occurrence, the nature of the occurrence and the estimate of any loss or damage which may be suffered as a result of such occurrence; and
- 24.2.2 provide Telkom and its insurance brokers with any assistance reasonably required in order to ensure that Telkom is able to successfully prosecute such insurance claim.

#### **25. BLACK ECONOMIC EMPOWERMENT ("BEE")**

- 25.1 The Service Provider undertakes to assist Telkom in accordance with this clause 25 (Black Economic Empowerment), to meet the applicable targets specified in relation to procurement in the Codes of Good Practice on Broad-Based Black Economic Empowerment ("BBBEE Codes") published under the BBBEE Act and/or any BBBEE Code issued in terms of section 9(1) of the BBBEE Act or charter issued in terms of section 12 of the BBBEE Act, in respect of the information and communications technology sector ("ICT") in which Telkom operates or any other sector in which Telkom operates.
- 25.2 The Service Provider warrants, represents and undertakes that as at the Commencement Date it is a level 4 (four) BBBEE contributor, measured in terms of the BBBEE Codes and any BBBEE Code published in terms of section 9(1) of the BBBEE Act in respect of the sector in which the Service Provider operates, and hence has a BBBEE recognition level of 100% (one hundred per cent) ("BBBEE Rating").

- 25.3 Without limiting the Service Provider's obligations in terms of clause 25.1 (Black Economic Empowerment), the Service Provider shall:
- 25.3.1 throughout the term of this Agreement, on an on-going and continuous basis use reasonable endeavours to retain and/or improve its BBBEE Rating;
- 25.3.2 provide Telkom with annual updates on its status in respect of BBBEE compliance, requirements and confirmation that it has retained and/or improved its BBBEE Rating;
- 25.3.3 advise Telkom within a period of 30 (thirty) days if its BBBEE Rating changes from the BBBEE Rating as at the Commencement Date; and
- 25.3.4 in the event of an adverse change to its BBBEE Rating, advise Telkom within a period of 30 (thirty) days, what steps have and/or will be taken by the Service Provider to restore its BBBEE status to the level as detailed in clause 25.2 (Black Economic Empowerment).
- 25.4 Failure by the Service Provider to comply with its obligations under this clause 25 (Black Economic Empowerment) shall constitute a material breach of this Agreement and shall entitle Telkom to terminate this Agreement under clause 17 (Termination).

**26. SUBCONTRACTING AND THIRD PARTY CONTRACTS**

- 26.1 The Service Provider may, only with the prior written approval of Telkom which approval may be withheld or conditioned in Telkom's sole discretion, employ subcontractors for the execution of any portion of its obligations under this Agreement, but such subcontracting shall not relieve the Service Provider of its obligations under this Agreement and the Service Provider shall remain liable for any acts or omissions of such subcontractors. The Service Provider shall further ensure that all subcontractors perform in terms of all applicable provisions of this Agreement. The Service provider may not subcontract more than 25% of the value of the Agreement to any other enterprise that does not have an equal or higher B-BBEE status level than the Service Provider, unless the contract is subcontracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 26.2 Telkom shall have the right during the continued duration of this Agreement to direct the Service Provider to replace such sub-contractor upon 30 (thirty) days written notice if the sub-contractor's performance is materially deficient, or good faith doubts exist concerning the sub-contractor's ability to render future performance because of inter alia changes in the ownership, management, or the financial condition of the sub-contractor.
- 26.3 Each subcontractor shall, prior to its appointment as subcontractor under this Agreement, sign irrevocable, unconditional and written confidentiality and non-disclosure undertakings in favour of Telkom on terms and conditions acceptable to Telkom.
- 26.4 All agreements of whatever nature concluded or to be concluded between the Service Provider and a Third Party in relation to the delivery of the Products or rendering of the Services shall include a provision that the Service Provider shall be entitled to freely cede, assign and delegate its rights and obligations under such agreement to Telkom; save that should the Service Provider be advised by a Third Party with whom it is contracting that any agreement cannot be assigned to Telkom, alternatively, such contract can be assigned but at a cost to Telkom, the Service Provider shall immediately notify Telkom of such fact as well as any cost implications as a result of such inability (or ability to assign, as the case may be) to assign and the Service



Provider shall not enter into such agreement without the prior written consent of Telkom.

**27. LEGISLATIVE REQUIREMENTS**

27.1 The Service Provider warrants, represents and undertakes on an on-going basis that it shall and will procure that its subcontractors shall, in performing its obligations under this Agreement, comply with all applicable legislation and any amendments and re-enactments thereof.

27.2 The Service Provider shall deliver to Telkom such management information relating to its compliance with this clause 27 (Legislative Requirements) in relation to the Products and/or Services as Telkom may reasonably request in writing.

27.3 Failure by the Service Provider to comply with any of its obligations under this clause 27 (Legislative Requirements), shall constitute a material breach of this Agreement and shall entitle Telkom to terminate this Agreement under clause 17 (Termination).

**28. SECURITY CLEARANCE**

28.1 The Service Provider acknowledges that some work done on behalf of Telkom may require some security clearance on behalf of the company, its Personnel and subcontractors.

28.2 Failure to receive the required security clearance will constitute material breach of this Agreement or any relevant Annexure and Telkom shall be entitled to terminate this Agreement or any relevant Annexure with immediate effect.

**29. FORCE MAJEURE**

29.1 Delay or failure to comply with or breach of any of the terms and conditions of this Agreement if occasioned by or resulting from an act of God or public enemy, fire, explosion, earthquake, perils of the sea, flood, war declared or undeclared, civil war, revolution, civil commotion or other civil strife, riot, strikes, blockade, embargo, sanctions, epidemics, act of any Government or other Authority, compliance with Government orders, demands or regulations, or any circumstances of like or different nature beyond the reasonable control of the Party so failing ("**force majeure event**"), will not be deemed to be a breach of this Agreement nor will it subject either Party to any liability to the other.

29.2 Should either Party be prevented from carrying out its contractual obligations as a result of a force majeure event lasting continuously for a period of 5 (five) days, either Party shall be entitled, after due consultation with the other Party in an effort to come to a mutually acceptable arrangement, to terminate this Agreement on written notice to the other Party, without liability.

**30. FRAUD**

30.1 If, at any time during the duration of this Agreement, Telkom finds, based on prima facie evidence, that the Service Provider has, in respect of this Agreement:

30.1.1 acted dishonestly and/or in bad faith; and/or

30.1.2 has made any intentional or grossly negligent misrepresentation to Telkom, whether in any negotiations preceding the conclusion of, or in the execution of this Agreement between the Parties; then

Telkom will be entitled by written notice to the Service Provider forthwith to terminate this Agreement (or the relevant Annexure).

30.2 Upon such termination Telkom shall be entitled, in addition to all other remedies available to it, to recover from the Service Provider all damages it has suffered by virtue of such conduct by the Service Provider. If, at any time of such termination, Telkom is indebted to the Service Provider for any amounts whatsoever, Telkom shall be entitled to withhold payment in respect thereof for a period of 90 (ninety) days from the date of termination in order to investigate the Service Provider conduct and any damages suffered by Telkom. Nevertheless to the extent that the Service Provider is found "not guilty" of any wrong doing, all those amounts shall be immediately reimbursed by Telkom with interest.

30.3 No payment by Telkom to the Service Provider after the lapse of such period shall preclude Telkom thereafter, from recovering from the Service Provider any such damages as it may have suffered.

### **31. LIENS AND CLAIMS BY THIRD PARTY**

31.1 The Service Provider waives all liens and rights of possession relating to the Services.

31.2 If a Third Party makes a claim, which is as a result of the sole conduct of the Service Provider, to Telkom to anything connected with the Service Provider the Service Provider will:

31.2.1 after notification by Telkom, deal with such a claim in such a manner as to avoid all prejudice to Telkom and keep Telkom fully informed; or

31.2.2 alternatively, Telkom may deal with such a claim at its discretion, in which event the Service Provider will render to Telkom all necessary assistance.

31.3 If Telkom incurs any fair and reasonable expenses or make any reasonable disbursements in terms of this clause 31 (Liens and Claims by Third Party), the calculation of which shall be provided to the Service Provider, it may be set-off against moneys owed to the Service Provider.

### **32. TELKOM PROPERTY IN POSSESSION OF THE SERVICE PROVIDER**

32.1 Telkom's property supplied to a Service Provider for the execution of this Agreement remains the property of Telkom and will at any time be available for inspection by a Telkom Representative. Any such property in the possession of the Service Provider on completion of this Agreement will, at the Service Provider's expense, be returned to Telkom forthwith.

32.2 The Service Provider will be responsible at all times for any loss of or damage to Telkom property in his possession, and if required the Service Provider will furnish such security for the payment of any such loss or damage as Telkom may require.

### **33. GENERAL**

33.1 **Entire Agreement:** This Agreement constitutes the whole of the agreement between the Parties hereto relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement, shall be binding on any of the Parties.

- 33.2 **No Variation:** No variation, addition, deletion, or agreed cancellation will be of any force or effect unless in writing and signed by or on behalf of the Parties hereto. Failure or delay on the part of any Party hereto in exercising any right, power or privilege hereunder will not constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 33.3 **Assignment:** Save as otherwise herein provided, neither this Agreement nor any part, share or interest therein nor any rights or obligations hereunder may be ceded, assigned, or otherwise transferred without the prior written consent of the other Party.
- 33.4 Any consent or approval required to be given by any Party in terms of this Agreement will not be unreasonably withheld.
- 33.5 Each Party agrees that, in its respective dealings with the other Party under or in connection with this Agreement, it shall act in good faith.
- 33.6 **Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement as at the date of signature of the Party last signing one of the counterparts. The Parties undertake to take whatever steps may be necessary to ensure that each counterpart is duly signed by each of them without delay.
- 33.7 **Governing Law:** This Agreement will in all respects be governed by and construed under the laws of the Republic of South Africa.
- 33.8 **Jurisdiction:** The Parties hereby consent and submit to the exclusive jurisdiction of the North Gauteng High Court of the Republic of South Africa in any dispute arising from or in connection with this Agreement.
- 33.9 **Severability:** If any term, condition, provision or performance, or any part of a term, condition, provision or performance of this Agreement is determined to be invalid, illegal, unlawful or unenforceable to any extent, that term, condition, provision or performance or the relevant part thereof shall be severed from the remaining terms, conditions, provisions and performance of this Agreement, or amended to make it valid, legal, lawful and enforceable, in such a manner as to leave the amended Agreement substantially the same in essence, and this Agreement so amended shall remain in force and effect.
- 33.10 If there are any changes to legislation which impacts on this Agreement, the Parties in good faith undertake to inform the other. The Parties shall discuss the impact of such legislative changes and if necessary the effective date on which such changes shall be practically implemented.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20...

Master Agreement between Telkom SA SOC Ltd Registration nr 1991/005476/30 and [insert] Registration nr [insert]

\_\_\_\_\_  
**(Print name in block letters)**  
Duly authorized representative  
on behalf of **Telkom**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Designation (signatory)**

**WITNESSES:**

1.) \_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

2.) \_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

**And**

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20...

Master Agreement between Telkom SA SOC Ltd Registration nr 1991/005476/30 and [insert] Registration nr [insert]

\_\_\_\_\_  
**(Print name in block letters)**  
Duly authorized representative  
on behalf of **Telkom**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Designation (co-signatory)**

**WITNESSES:**

1.) \_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

2.) \_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20...

Master Agreement between Telkom SA SOC Ltd Registration nr 1991/005476/30 and [insert] Registration nr [insert]

\_\_\_\_\_  
**(Print name in block letters)**  
Duly authorized representative  
on behalf of **the Service Provider**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Designation**

**WITNESSES:**

1.) \_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)

2.) \_\_\_\_\_  
(Print name in block letters)

\_\_\_\_\_  
(Signature)