

SUBSCRIBER STANDARD TERMS AND CONDITIONS

Version 2 – July 2021

Subscriber Details

“the Subscriber”	
Registered name of company:	
Company registration No:	
VAT registration No:	
Physical Address: (chosen <i>domicilium citandi et executandi</i> for all purposes arising)	
Authorised Representative:	
Contact details:	

1. INTRODUCTION

- 1.1. With effect from the date of acceptance hereof by Blejmarc (Pty) Ltd t/a Blejmarc (“Blejmarc”), the subscriber appoints Blejmarc to provide telecommunication and related services from time to time in accordance with the provisions hereof (“the services”).
- 1.2. The subscriber and signatory irrevocably acknowledge that this document constitutes an offer which may only be accepted or rejected by Blejmarc. The offer will be considered by Blejmarc at its premises situated at 296 Oak Avenue, Unit 11, Randburg, 2194.
- 1.3. Activation of the services and/or a fully counter-signed quotation and/or a fully counter-signed contract application shall constitute acceptance of the said offer. The subscriber hereby expressly dispenses with the need to be notified of acceptance of the offer.
- 1.4. Date of successful application, for purposes of estimating installation dates, shall be a reference to the date after which all approvals and/or wayleaves and/or any other prerequisites required by Blejmarc in its sole, absolute, and binding discretion for installation have been obtained by Blejmarc to its complete satisfaction. The Subscriber shall do everything required to provide Blejmarc with all approvals necessary to activate services and the subscriber shall not be able to rely upon an alleged failure to do so on its part as a reason to escape its obligations in terms hereof. The Subscriber indemnifies Blejmarc against any claims and/or damages directly or indirectly resulting from a delayed installation which is wholly or partially attributable to outstanding approvals and/or wayleaves and/or any other prerequisites required by Blejmarc for the installation. Should the subscriber elect to cancel the Agreement prior to installation, because of delayed installation, clause 3.1 shall apply.
- 1.5. Blejmarc confirms that its services provided are in line with the Product Specific Rules and Terms of Service (“Product Rules”) as published on Blejmarc’s website from time to time. The Subscriber hereby agrees to, at all times, abide by these Product Rules. This clause is read together with clause 14.5 of this Agreement.

2. DURATION

- 2.1. This agreement shall continue for the period specified in the most recent quotation/contract application signed by the subscriber and accepted by Blejmarc reckoned from the

date of activation of the services by Blejmarc (“the initial period”) and shall continue indefinitely on the same terms and conditions for further periods of equal duration (“subsequent periods”) unless and until terminated by either party giving unto the other at least three calendar months, written notice of termination as envisaged by 2.6.

- 2.2. Unless expressly stated in writing to the contrary in a document signed by both the subscriber and by Blejmarc, and then only to the extent, if any, so stated, each subsequent signed quotation/contract application shall constitute an agreement between the Parties that in all respects remains subject to the terms and conditions of this Agreement.
- 2.3. If the subscriber is a wholesaler and/or reseller, it agrees to incorporate the terms of this agreement in all and any end user, wholesaler, and reseller agreements.
- 2.4. Any and all notices to Blejmarc by the subscriber in terms of this agreement shall be in writing on the subscriber’s letterhead, signed by a duly authorised representative and delivered by email to cancellations@blejmarc.com and marked for the attention of the “Customer Relations Manager”.
- 2.5. In the event that the subscriber is a natural person and dies or is sequestered, or in the event that the subscriber is a juristic person and is wound up and/or placed under business rescue and/or in the event that the subscriber enters into a scheme of arrangement or compromise with its creditors or allows a judgment to be taken against it then and in any such event Blejmarc may (but shall not be obliged) to terminate this agreement summarily and without notice. Should Blejmarc so terminate this agreement the subscriber shall remain liable for all and any cancellation charges, including *inter alia* all other charges as set out in this Agreement.
- 2.6. The subscriber may discontinue a service before the end of the initial period/ applicable subsequent period as the case may be by giving Blejmarc three calendar months’ written notice in advance of such discontinuation whereupon such service shall be discontinued at the end of the applicable period in accordance with this agreement and the subscriber shall pay to Blejmarc an early cancellation charge calculated in accordance with 2.7 and 2.8 (“the early cancellation charge”) within 7 (seven) calendar days of notification of same, provided that if the early cancellation charge is not paid strictly on or before the due date for payment then and in such event the discontinuation notice will be null and void and this agreement shall remain in full force and effect as if the

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said notice had not been given and all and any discounts, if any, previously afforded to the subscriber shall be forfeited and be added back to the early cancellation charge.

2.7. The early cancellation charge is calculated as follows:
 $C = (N \times R) - A + (RC+D)$

2.8. Where:

2.8.1. C is the Cancellation Charge

2.8.2. N is the New Period, being the revised total number of months calculated in either 12 (twelve) and/or 24 (twenty-four) and/or 36 (thirty-six) and/or 48 (forty-eight) and/or 60 (sixty) month increments (based on the contract term with Blejmarc and/or any third-party provider) and reckoned to the end of the next contract period after the cancellation date.

2.8.3. R is the service rate applicable to the revised shorter period as per the current ruling Blejmarc price list.

2.8.4. A is the actual payment received to date from the subscriber related to the service being cancelled.

2.8.5. RC are the reasonable costs that Blejmarc may incur to terminate this agreement.

2.8.6. D is the total discount provided and would provide to the subscriber over the term of the agreement.

So, for example: for a 36-month contract cancelled after 16 months. If the 36-month Price is R100 per month and the 24-month price is R120 per month, the total over 24-months would be R2880 less the amount paid to date for the 16-months of R1600. The early cancellation charge is then therefore $(R120 \times 24) - (R100 \times 16) + R0+R0$ gives the subscriber an early cancellation charge of R1280.00.

2.9. Upon any termination of this Agreement, the subscriber agrees and acknowledges to return to Blejmarc the loaned Equipment (read together with clause 8 of this Agreement); failure therewith agrees to be liable to pay to Blejmarc the replacement value thereof upon demand by Blejmarc, including the replacement value of missing and/or damaged parts thereof.

2.10 The subscriber acknowledges and confirms for all purposes arising that the costing of Blejmarc's product offering and the services has been spread over the period of the contract and that a change in the subscriber's circumstances cannot in any way be relied upon by the subscriber to seek or be granted a variation or modification of the costs of the services.

3. CANCELLATION PRIOR TO INSTALLATION OF EQUIPMENT

3.1. The subscriber hereby acknowledges that acceptance of any Blejmarc quotation and/or contract application is a binding commitment and constitutes an order placed on Blejmarc for the quoted services. The subscriber acknowledges, accepts, and confirms that a cancellation requested by the subscriber of Blejmarc's services, subsequent to the signing thereof, but prior to the physical installation of the equipment/services, will result in a penalty fee of twenty-five percent (25%) of the total contract value, which payment shall be due and payable by the subscriber immediately upon demand.

3.2. Notwithstanding the above, Blejmarc reserves the right to recover from the subscriber who agrees to pay to Blejmarc, in addition to clause 3.1 above, any charges rendered to Blejmarc by subcontractors, as a result of the early cancellation, which portion thereof exceed 25% of the total contract value, which payment shall be due and payable by the subscriber immediately upon demand.

4. PROVISION OF SERVICES

4.1. Connectivity Services:

4.1.1. The subscriber acknowledges that Blejmarc is a service provider that operates and manages the network and the functioning, operation, regulation and coverage area of the network and certain related services provided to the subscriber. The subscriber acknowledges that Blejmarc depends upon third party service providers and/or suppliers and that the delivery of services by Blejmarc may be affected by circumstances beyond Blejmarc's control. Blejmarc will use its reasonable endeavours to ensure a reliable service is provided to the subscriber backed up by a 99% (ninety nine percent) uptime Service Level Guarantee on connectivity services.

4.1.2. Should the connectivity service result in less than 99% (ninety nine percent) uptime when measured over a calendar month, the subscriber shall have 30 (thirty) calendar days from the time of the incident to apply to Blejmarc in writing for a pro-rata credit. Upon approval of the subscriber's application for a credit in terms hereof (delivered as described in clause 2.2), Blejmarc will raise a pro-rata credit for the time that the services were unavailable based on the monthly fixed billing period that was affected.

4.1.3. The 99% (ninety nine percent) Service Level Guarantee, including downtime credits, do not apply to the following connectivity services:

- ADSL, VDSL and/or any other form of DSL connectivity.
- Mobile and satellite connectivity (LTE, 2G, 3G, 4G, etc.).
- Any form of broadband connectivity or residential connectivity which includes but is not limited to Fibre to the home (FTTH).
- Any other form of connectivity that is not Business Grade Fibre, Wireless or Metro Ethernet connectivity procured from Blejmarc.

4.1.4. Blejmarc does not guarantee any services listed in

4.1.3 In the event the subscriber uses any of the services mentioned in 4.1.3 for either Internet connectivity and/or Voice related services, Blejmarc will not be responsible for the quality of the service.

4.1.5. Blejmarc shall endeavour to maintain an MTTR (Mean Time to Repair) of 48 Hours

4.1.6. Blejmarc's Connectivity SLA services are linked to the term of the connectivity services. i.e., should the subscriber sign for a 36-month fibre service and add a connectivity SLA, then the term of the SLA will be linked to the 36-month fibre contract.

4.2. Backup Services:

4.2.1. The subscriber agrees that neither Blejmarc, nor its directors, staff, agents and or partners shall incur any liability whatsoever in the event of any loss of data including but not limited to call recordings, configuration and any data stored on any of the following devices (including but not limited to) servers, PBX servers, PBX backup servers, VPBX server or virtual and/or hosted servers. it is the responsibility of the subscriber to make sure their data and information is adequately backed up and recoverable.

4.2.2. Blejmarc PBX restoration and configuration is included in the monthly PBX backup service fee.



However, if any hardware is damaged and the server/hardware is out of warranty it will be the responsibility of the subscriber to cover the cost of the replacement parts/hardware and/or server (as quoted by Blejmarc) before any restoration can take place. All Blejmarc PBX backups are run daily afterhours.

- 4.2.3. The subscriber will receive a daily automated e-mail to a specified e-mail address with confirmation that the PBX backup was successful, in the event the subscriber does not receive this confirmation the subscriber would need to raise a support ticket as per clause 16.
 - 4.2.4. The Blejmarc PBX backup service is solely a replication of information to the hosted storage device and each day the old data will be written over with the new data. The backup will not have multiple restore points and the most recent backup will be the only available backup.
 - 4.2.5. When Blejmarc backup services are utilised in conjunction with Blejmarc connectivity (limited to Blejmarc business fibre and wireless services), Blejmarc will use its reasonable best endeavours to provide the bandwidth needed to complete the daily backups, in the event that the subscriber utilises any other form of connectivity (as defined in clause 4.1.3 and 4.1.4) it is the responsibility of the subscriber to manage the connectivity and backups. Blejmarc will not be held liable for any backups taking place on any other form of connectivity (as defined in clause 4.1.3 and 4.1.4).
 - 4.3. Voice and PBX Services:
 - 4.3.1. Virtual PBX services are monitored within the Virtual PBX hosting facility 24 (twenty-four) hours per day, 7 (seven) days a week.
 - 4.3.2. Blejmarc undertakes to respond to events arising within the Virtual PBX hosting facility during Business Hours.
 - 4.3.3. Blejmarc is entitled to perform emergency maintenance on the Virtual PBX hosting facility should Blejmarc determine at its sole discretion that it is necessary to do so and even if doing so causes downtime of the service. Where possible Blejmarc will use its reasonable best endeavours to provide the subscriber with notice if any downtime is expected.
 - 4.3.4. Where possible Blejmarc shall provide the subscriber with 24 (twenty-four) hours' notice ahead of performing any planned maintenance on the Virtual PBX hosted facility that may result in downtime that will affect the subscribers use of the service. Blejmarc however may perform any emergency maintenance on the hosted PBX facility without prior notice to the subscriber.
 - 4.3.5. The standard virtual PBX service does not cover the costs of onsite or afterhours support to the subscriber. Any problems not due to a fault with the service, including, but not limited to hardware (out of warranty) faults and any other fault experienced on the subscriber's local area network (not supplied by Blejmarc) shall be assessed and billed separately.
 - 4.3.6. The subscriber agrees that under no circumstances can Blejmarc be held responsible for any costs or damages (including, but not limited to, call costs, call fraud and theft) incurred by the subscriber due to unauthorised and/or authorised use of any Voice and/or PBX and/or Virtual PBX related service that the subscriber makes use of.
 - 4.3.7. The subscriber may be provided (on request) limited access to the PBX system in order to manage and control certain aspects of the virtual/hosted/onsite PBX. The subscriber agrees that under no circumstances can Blejmarc be held responsible for any costs or damages (including, but not limited to, call costs, call fraud and theft) incurred by the subscriber due to the subscriber incorrectly configuring the PBX management system.
 - 4.3.8. The subscriber agrees that under no circumstances may Blejmarc be held responsible for difficulties with any Voice service if the subscriber's usage of the service exceeds the maximum call capacity specified by Blejmarc.
 - 4.3.9. Any uncapped voice services exclude all international telephone calls and/or premium rated telephone calls unless explicitly agreed to in writing and signed by both parties. Should the subscriber choose to call the excluded telephone numbers they will be billed for this according to our prevailing voice rates which can be requested from Blejmarc at any time.
 - 4.3.10. Should the subscriber make use of any softphones (a piece of software that allows the user to make telephone calls over the internet without using a desk IP phone) Blejmarc will not support any request that relates to softphones. The subscriber hereby acknowledges and understands that Blejmarc does not provide any call quality guarantees over any softphones and that the subscriber is fully responsible for any items relating to softphones.
 - 4.3.11. Notwithstanding anything else contained in the agreement Blejmarc may change the voice rates of this agreement on 14 (fourteen) calendar days written notice of any changes. If the subscriber does not agree with the changes in voice rates, it must stop using the services. If the subscriber continues to use the services following notification of a change to the voice rates, the changed rates will apply to the subscriber's Agreement and the subscriber will be deemed to have accepted such terms and bound thereby.
 - 4.4. Managed Services:

Blejmarc endeavours to provide reasonable security on its services however should the subscriber make use of any Blejmarc managed router (either hosted or onsite) and/or managed firewall (either hosted or onsite) the subscriber agrees that should an attempt be made to gain unauthorised and/or authorised access (including, but not limited to) a hacking attempt, Blejmarc will not be liable for any damages suffered, whatsoever, should the subscriber's systems become compromised.
- 5. General Services Terms:**
- 5.1.1. The subscriber shall not be entitled to set-off or deduct any monies in respect of unavailable connectivity services and/or any other services.
 - 5.1.2. Service uptime is measured by Blejmarc, and it is the subscriber's responsibility to provide evidence contrary to Blejmarc's report.



- 5.1.3. Blejmarc shall be entitled in its sole discretion to immediately suspend, cancel, vary or terminate this agreement or any part thereof, without Blejmarc incurring any liability whatsoever in the event of non-availability of the service or if any agreement giving Blejmarc the right to render the service, or any part thereof, or giving Blejmarc access to anything relating to the service, is suspended, cancelled, varied or terminated, providing the Subscriber with as much notice as reasonably possible under the circumstances
 - 5.1.4. Should Blejmarc breach any material provisions of an SLA agreement between the parties then the subscriber shall have 15 (fifteen) calendar days from the time of the breach to apply to Blejmarc in writing for a full or pro-rata credit (which value will always be based on the value of the SLA). Upon approval of the subscriber's application for a credit in terms hereof (delivered as described in clause 2.2), Blejmarc will either raise a full or pro-rata credit based on the severity of the breach.
 - 5.1.5. Save for clause 10. In no event, whatsoever, shall Blejmarc, including but not limited to, its consultants and/or third-party contractors and/or employees be liable to the subscriber for loss of profits and/or for incidental, special and/or consequential damages arising out of and/or in connection with, services rendered by Blejmarc in terms of this Agreement or the delivery, installation, servicing, performance or use of software.
- 5.2. The subscriber acknowledges that Blejmarc shall provide the agreed services at the premises declared upon activation of the Agreement. In the event that the subscriber elects to move premises, the subscriber acknowledges that Blejmarc shall be required to uninstall the equipment and to establish whether services are feasible and commercially viable at the new premises including but not limited to clear line of sight for microwave connectivity and/or fibre availability at the new premises necessary for re-installation. In the event that it is established that services are not feasible at the new premises, the parties may agree to terminate the Agreement prior to completion of the full contractual period whereby the subscriber acknowledges and agrees to pay Blejmarc an early cancellation fee as per clause 2.7 and 2.8 above. The parties may also consider Blejmarc to provide alternative services in the circumstances, whereby the parties must counter-sign a new quotation and/or contract application. The Subscriber acknowledges further that relocation to new premises does not waive, abandon and/or cancel any arrears owing (if any) and all other charges applicable and due in respect of the initial contract of services rendered prior to its relocation. The subscriber acknowledges that its request to relocate Blejmarc's services shall be at its own risk and shall under no circumstances amount to breach on Blejmarc's part.

6. CHARGES

- 6.1. The subscriber shall pay to Blejmarc:
 - 6.1.1. upon receipt by Blejmarc, of the fully counter signed contract application and/or quotation, the initial installation and set-up charge and any other introductory or commencement charges; and

- monthly in advance, the monthly subscription and/or services charges; and
 - 6.1.2. monthly in arrears, or as and when billing is passed on, the total usage charges and/or generated by the subscriber in conjunction with each billing period and any other charges payable in respect of the services requested by the subscriber or other charges levied by Blejmarc from time to time; and
 - 6.1.3. upon demand, a deposit of an amount determined by Blejmarc in its sole discretion which shall not bear interest; and
 - 6.1.4. Value Added Tax at the applicable rate on all VAT charges and services. All charges, unless otherwise stated exclude Value Added Tax.
- 6.2. The charges payable by the subscriber to Blejmarc for the provision or facilitation of the services shall be stipulated in any notice, directive, promotion, or applicable tariff plan issued by Blejmarc.
- 6.3. The subscriber agrees that Blejmarc shall be entitled to, from time to time, vary the charges payable by the subscriber to Blejmarc for the services providing the subscriber with 30 (thirty) calendar days written notice. Any changes in voice rates will however be managed based on clause 4.3.11.
- 6.4. The subscriber acknowledges that data and other services are rendered to the subscriber by means of the hardware which are issued to the subscriber, and which facilitates access to the network and the services. The subscriber will be liable for all charges applicable to hardware issued to the subscriber, irrespective of whether or not such hardware has been used by the subscriber or whether any other has been requested by the subscriber. Until Blejmarc has received notification in writing (as described in clause 2.2) from the subscriber and confirmed such notification that the equipment has been returned, stolen, or destroyed, the subscriber shall be liable for all data and other charges howsoever and by whomsoever for the replacement costs thereof.
- 6.5. Blejmarc's monthly statement of charges shall prima facie proof of the amounts owed by the subscriber to Blejmarc in terms hereof and of the other facts stated therein and should the subscriber dispute the number, duration or amount charged in respect of any services rendered by Blejmarc, then the subscriber shall bear the onus of proving that the Blejmarc statement is incorrect in respect of such charges.
- 6.6. Notwithstanding anything else contained in this agreement. Should Blejmarc incur a price escalation from its suppliers then it is agreed that Blejmarc may escalate its charges to the subscriber at the same rate of escalation. Any escalations will be communicated to the subscriber on 14 (fourteen) days' notice.
- 6.7. A reconnection fee will be levied on all residential and business services respectively, where the subscriber's right to use the services is suspended due to non-payment. This fee is in respect of any restoration of the services. This fee is payable in advance, together with any outstanding amounts which are due to Blejmarc and any deposit which Blejmarc requests to be paid.
- 6.8. A de-installation fee (equivalent to the once-off Installation/Configuration Fee as quoted) will be due upon termination of the Agreement and upon return of Blejmarc's equipment to Blejmarc and/or upon the subscriber's request to move the installed equipment to other premises for reinstallation.

7. PAYMENT



- 7.1. Should the subscriber send any monies, cheques, orders or bills by means of the postal services, then the postal authority shall be deemed to be the agent of the subscriber and the subscriber shall bear all risk of loss, theft and delay in and to any such monies, cheques, orders or bills sent by post and, without derogating from the aforesaid, the subscriber shall draw all cheques, postal orders and bills payable to " Blejmarc (Pty) Ltd " and marked "not transferable".
- 7.2. The subscriber agrees that payment shall only have been made to Blejmarc when the monies remitted by the subscriber have been received into Blejmarc's bank account.
- 7.3. Should any debit order and/or cheque payment be returned unpaid or stopped and/or should any charge card account and/or credit card account of the subscriber be rejected for whatsoever reason or should Blejmarc exercise its right to suspend the provision of the services due to late or non-payment of any monies due in terms hereof by the subscriber, then the subscriber shall pay an administration charge, including but not limited to reconnection fees, bank charges, debit order fees, as may be levied by Blejmarc from time to time for each such non- payment, suspension or any other breach of this agreement which amount shall be payable upon demand and recoverable by Blejmarc.
- 7.4. All monies payable by the subscriber to Blejmarc in terms hereof shall be paid timeously on due date, free of deduction or set-off to Blejmarc's principal place of business.
- 7.5. All payments must be affected within 7 (seven) calendar days of invoice date or where payment is affected by debit order then such payment must be affected on Blejmarc's direct debit date. Non-receipt of invoices by the subscriber will not be considered as a valid basis for late or non- payment.
- 7.6. All arrear payments shall attract interest at the rate of the prime lending rate of First Rand Bank Limited plus and additional 3% (three percent) as it may be from time to time, calculated from due date to date of payment.
- 7.7. Blejmarc shall be entitled to apply the deposit as per clause 6.1.4 or any portion thereof towards any monies which are owing by the subscriber. The subscriber shall upon demand reinstate the deposit, failure to reinstate the deposit within 7 (seven) calendar days may cause the services to be suspended.
- 7.8. The subscriber agrees and acknowledges that a certificate given under the hand of a financial manager or credit controller of Blejmarc whose status and authority need not be proved shall be considered prima facie proof of the amount due and shall entitle Blejmarc to apply for judgement against the subscriber and to obtain summary judgment or provisional sentence, as the case may be.

8. CREDIT LIMIT

- 8.1. Blejmarc may in its sole, absolute, and binding discretion from time to time to determine and amend the maximum aggregate amount of fees and charges ("credit limit") which may be used and/or accumulated by the subscriber during each billing period and Blejmarc shall be entitled to suspend the services should the subscriber exceed such maximum amount.
- 8.2. Blejmarc may demand that the subscriber pay a deposit in an amount determined at Blejmarc's sole, absolute, and binding discretion. Any portion of such deposit not consumed shall be credited towards the subscriber's future liabilities for amounts owed in terms of this agreement.
- 8.3 The subscriber agrees and undertakes that upon signature by the subscriber of the quotation and/or contract application, in so doing it irrevocably declares that it can afford to pay the monthly charges over the full

length of the contractual period and confirms that the monthly charges, including any and all charges enforceable under this Agreement, are sustainable for the subscriber.

EQUIPMENT

- 9.1. All Blejmarc Equipment shall be and remain the property of Blejmarc.
- 9.2. Accordingly, where Blejmarc's Equipment is in the possession, or under the control of the subscriber the subscriber agrees:
 - 9.2.1. not to remove or allow the Blejmarc Equipment to be removed from the site without Blejmarc's consent;
 - 9.2.2. to keep the Blejmarc Equipment in good condition and complete;
 - 9.2.3. not to allow the Blejmarc Equipment to be encumbered by operation of law or otherwise;
 - 9.2.4. to allow Blejmarc to inspect the Blejmarc Equipment at reasonable times;
 - 9.2.5. take reasonable steps to protect the Blejmarc Equipment from loss and/or damage and/or theft; and
 - 9.2.6. to return such Blejmarc Equipment to Blejmarc on the termination of the applicable Services.
- 9.3. All risk of loss, theft, destruction, or damage to the equipment, being the property of Blejmarc, and which is provided to the subscriber, shall vest in the subscriber.
- 9.4. In the event of theft or loss of an LTE router and/or SIM card, the Subscriber has a statutory obligation to report such loss or theft to the South African Police Services immediately, and to request Blejmarc to suspend such SIM Card. The Subscriber shall be liable to pay the replacement cost thereof.
- 9.5. Where the subscriber purchased equipment from Blejmarc then the manufacturer's warranty will apply to such equipment. Such warranty is limited to 12 months from date of purchase and normally covers defective equipment as a result of faulty design, manufacture or workmanship provided that such equipment has not been misused, over-loaded, modified or repaired by an unauthorised party. Blejmarc may require the subscriber to make available the equipment to Blejmarc or its nominee for inspection of the equipment at a time and place to be arranged by Blejmarc or its nominee.
- 9.6. Should Blejmarc accept the equipment for repairs and maintenance it shall be deemed to do so as agent on behalf of the manufacturer or local supplier of the equipment and Blejmarc shall not be liable for any loss, damage, destruction, theft, or negligent workmanship howsoever or by whomsoever caused.
- 9.7. Should the subscriber not pay any monies due in respect of equipment or accessories purchased, leased, or loaned from Blejmarc then Blejmarc shall be entitled without prejudice to any other rights it may have at law forthwith and without notice to suspend, interrupt, or disconnect the services or any part thereof and reclaim possession of its equipment.
- 9.8. Should Blejmarc loan equipment to the subscriber whilst the subscriber's owned or leased equipment is being repaired then the subscriber shall upon demand return the equipment to Blejmarc and all risk in and to such loaned equipment shall vest in the subscriber until the subscriber returns it to Blejmarc at the subscriber's own cost. Should the subscriber fail to return any Blejmarc owned equipment to Blejmarc when asked to, then Blejmarc shall be entitled to charge and recover from the subscriber (who shall pay such charges upon demand) a rental fee of R1 000 (one



thousand rand) excluding VAT per day reckoned from the due date of return or demand, whichever is the earlier, until the equipment is returned to Blejmarc. The provisions of this agreement shall apply *mutatis mutandis* to such loaned equipment and its use.

- 9.9. Should the subscriber fail to return any Blejmarc owned equipment to Blejmarc upon termination of the Agreement and upon Blejmarc's demand and/or upon the subscriber's breach, then Blejmarc shall be entitled to charge and recover from the subscriber (who shall pay such charges upon demand) the replacement value of the equipment, including the replacement value of any missing and/or damaged parts thereof.

10. LIMITATION OF LIABILITY

- 10.1. Neither Blejmarc, nor its directors, staff, agents and or partners shall be liable for any claim by the subscriber from whatsoever cause and howsoever arising.
- 10.2. Notwithstanding 10.1 above, Blejmarc shall nevertheless be liable for damages directly occasioned by its wilful default or gross negligence but then limited to a maximum of an aggregate of 3 (three) months' subscription and/or service fees paid by the subscriber to Blejmarc.

11. BREACH

- 11.1. Should the subscriber breach any provision of this Agreement including, product specific rules and terms of service as published on the Blejmarc website from time to time and/or failing to pay Blejmarc any monies due in terms hereof on due date, then Blejmarc shall be entitled, without prejudice to any of its other rights arising out of this Agreement forthwith and without any liability towards the subscriber, to suspend its provision to the subscriber of the services in whole or in part and/or to disconnect the subscriber and/or the equipment from the network and/or to render the equipment inoperable by whatever means having provided the subscriber with 24 (twenty-four) hours written notice of such suspension.
- 11.2. The subscriber shall be afforded 15 (fifteen) calendar days to rectify its breach. Should the subscriber fail to rectify its breach within the above time, Blejmarc shall be entitled to terminate the Agreement and claim all charges and damages entitled by law against the subscriber.

12. LEGAL COSTS

- 12.1. Should Blejmarc instruct its attorneys to enforce any of Blejmarc's rights arising from this agreement or to institute action against the subscriber, then the subscriber shall be liable for all legal costs incurred on an attorney and own client scale including *inter alia* any collection commission incurred by Blejmarc and the subscriber shall upon demand pay such costs.

13. DOMICILIUM

- 13.1. Blejmarc hereby chooses as its domicilium citandi et executandi ("domicilium") the address set out as follows: Blejmarc, 296 Oak Avenue, Unit 11, Randburg, 2194.
- 13.2. The subscriber hereby chooses as its domicilium citandi et executandi ("domicilium") the physical address specified at the commencement of this document.

- 13.3. The signatory hereby chooses as its domicilium citandi et executandi ("domicilium") the same address as chosen by the subscriber in 12.2;
- 13.4. Either party and/or the signatory shall be entitled from time to time, by written notice to the other (delivered as described in clause 2.4)), to vary its domicilium to any other address within the Republic of South Africa which is not a post office box or poste restante.

14. UNDERTAKING AS CO-PRINCIPAL DEBTOR ON BEHALF OF THE SUBSCRIBER BY THE SIGNATORY

- 14.1. If the subscriber as identified on the face page hereof is a company, close corporation, the trustee(s) of a trust or a juristic person, then the signatory hereto who signs on behalf of the subscriber ("the signatory") warrants that he/she is duly authorised to enter into this agreement on behalf of the subscriber and, if required, to sign the debit authorization against the subscriber's bank account. By his signature hereto, the signatory hereby binds himself as co-principal debtor for the subscriber unto and in favour of Blejmarc for the due and punctual fulfilment of all of the subscriber's obligations to Blejmarc arising out of this agreement including the payment of all charges, fees, penalties and liquidated damages. The signatory as co-principal debtor hereby renounces and waives the benefits of the legal defences of excussion, division and cession of actions and hereby acknowledges that he understands the full meaning of such defences and the effect of such renunciation and waiver.

15. GENERAL

- 15.1. The subscriber hereby consents to Blejmarc conducting an investigation into the creditworthiness of the subscriber and the signatory (where necessary) utilising the information contained on the face page and identity information supplied with the contract application, which information the subscriber and signatory warrants is true and correct, and such information forms the basis of this agreement. The subscriber agrees that should such information turn out not to be correct in all respects, Blejmarc shall be entitled to, immediately and without prejudice to any other rights that Blejmarc may have, terminate this agreement in terms of clause 2.
- 15.2. The Subscriber must comply with the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002 ("RICA") registration process prior to services being activated and furnish to Blejmarc all compliance documentation.
- 15.3. Termination of this agreement as described in clause 15.1 by Blejmarc does not relieve the subscriber from the liability to pay any applicable early cancellation charges and all charges contained in this Agreement resulting from the subscriber's breach.
- 15.4. Any subsequent changes that affect the information supplied to Blejmarc such as bank account details must be brought to the immediate attention of Blejmarc.
- 15.5. The subscriber hereby agrees to abide by Blejmarc's product specific rules, terms of service and acceptable and fair usage policy, which is made available on Blejmarc's website and can be supplied on request to the subscriber. Should Blejmarc suspect or find evidence of violation of its product specific rules, terms of service, the acceptable and fair usage policy or network traffic and/or voice traffic that interferes with Blejmarc's network, the subscriber hereby agrees to be immediately disconnected without notice



- until the violation and/or interfering network traffic is removed.
- 15.6. The subscriber and signatory hereby agrees that Blejmarc and its Attorney may, in addition to any of its other rights in terms of this agreement or otherwise, list any default information of the subscriber with any credit information bureau, and the subscriber agrees to the disclosure by Blejmarc to any third party, of any information pertaining to the subscriber or this agreement, to the extent that such disclosure is necessary for the conduct of Blejmarc's business, or is required by any relevant statute, regulation or license.
- 15.7. The subscriber and signatory consent to Blejmarc and/or its Attorney to conduct a tracing enquiry with any credit information bureau.
- 15.8. Either party shall be entitled to cede its rights and/or to delegate its obligations arising from this agreement and/or assign this agreement, wholly or partly, to any other third party. The subscriber however shall not be entitled to cede or delegate his rights and/or obligations arising out of this contract, unless accepted in writing by a director of Blejmarc. The Quotation and/or contract application, together with Terms and Conditions are required to be counter-signed by both Blejmarc and Cessionary, in order for cession to be completed; failure of which the Agreement shall remain binding and enforceable against the Cedent, as subscriber. The subscriber, as Cedent, shall be liable to ensure that the Cessionary complies with all requirements necessary to effect cession of its obligations under this agreement. Blejmarc reserves its rights to terminate the agreement and claim early cancellation charges and/or all damages as entitled by law against the Cedent, as subscriber and signatory, in the event that cession fails.
- 15.9. Any alteration, variation, schedule, or addition to this agreement or this clause shall be of no force or effect unless reduced to writing and placed as an addendum and/or a schedule and signed by a director of Blejmarc and by a duly authorised representative of the subscriber. This document and any signed addenda and/or schedule contains the sole and entire record of the agreement between the parties.
- 15.9.1. Schedule's, quotations and/or contract applications may be signed by a duly authorised representative of Blejmarc (not only a Director) and a duly authorised representative of the subscriber.
- 15.10. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein or otherwise created by operation of law and no indulgence, leniency, or extension of time which either party ("the grantor") may grant or show to the other, shall in any way prejudice the grantor or preclude the grantor from exercising any of its rights in the future.
- 15.11. Where Blejmarc is represented by any duly authorised representative, his authority need not be proved.
- 15.12. The subscriber agrees that this agreement and any addenda and/or schedule, in particular the face page hereof, may be scanned and the paper version destroyed, and hereby agrees to the scanned version.
- 15.13. Blejmarc may change the terms of this agreement at any time and where this affects the subscriber's rights and obligations, Blejmarc will notify the subscriber with 30 (thirty) days written notice of any changes. If the subscriber does not agree with the change the subscriber must stop using the services. If the subscriber continues to use the services following notification of a change to the terms, the changed terms will apply to the subscriber and the subscriber will be deemed to have accepted such terms.
- 15.14. The parties agree that notices shall be in writing and signed by or on behalf of the party giving such notice (notices sent to Blejmarc shall be sent as described in clause 2.2). The onus of proving receipt shall rest on the party giving the notice.
- 15.15. Clause headings are inserted for convenience only and shall not be used in interpreting this agreement.
- 15.16. This agreement together with any annexures and/or schedules supersede any previously signed subscriber standard terms and conditions and/or annexures and/or schedules.
- 15.17. Blejmarc may, at its sole discretion, impose an immediate price adjustment (linked to global exchange rates) on all services and equipment that are related to foreign purchases.
- ## 16. PROTECTION OF PERSONAL INFORMATION
- 16.1. The parties agree and shall ensure that the conditions for the lawful processing of Personal information as set out in Chapter 3 of POPIA (The Protection of Personal Information Act 4 of 2013), and all the measures that give effect to such conditions, are complied with.
- 16.2. The Subscriber hereby consents to Blejmarc and its subsidiary/ies to collecting, holding, organising, storing, using, and administering personal information of the Subscriber and/or signatory for the purpose of executing this Agreement.
- 16.3. Both parties agree to process personal information lawfully and in a reasonable manner that does not infringe upon the Subscriber's rights to privacy and within the lawful bounds prescribed by the Act.
- 16.4. Blejmarc's Privacy Policy is made available on Blejmarc's website and can further be supplied to the Subscriber upon request. The Subscriber acknowledges that it has read the Policy and agreed to be bound by the terms therein as if specially incorporated herein.
- 16.5. Should either party suspect or find evidence of violation of this Privacy Policy, it shall notify the defaulting party of the data breach, investigate the data breach, and take all reasonable steps to mitigate the effects and to minimise any damage resulting therefrom.
- ## 17. SUPPORT
- 17.1. Blejmarc provides full remote support during the following times: Weekdays from 08:00 – 17:00 and limited remote support is provided on Saturday from 09:00 – 13:00. These times may vary, please review the Blejmarc website (www.blejmarc.com) to find the most updated support times.
- 17.2. 24 (twenty-four) hour support is available on request, additional charges will apply.
- 17.3. All support queries need to be sent via email to helpdesk@blejmarc.com or logged via our support call centre on 086 136 6090.
- 17.4. Onsite support is available; however, additional charges may apply for onsite support if the fault experienced was caused by the subscriber. In the event the fault was not caused by the subscriber then no charges will be applied. All charges need to be accepted upfront before a technician is dispatched.
- ## 18. FORCE MAJEURE
- 18.1. A party shall not be deemed in default of any of its obligations under this agreement, if, and to the extent that, performance of such obligation is prevented or



delayed by an event of force majeure, provided that such event is not caused by the negligence of that party, and that party has notified the other in writing of the event of force majeure. The notifying party shall use all reasonable endeavours to avoid or minimise the effects and if an event of force majeure continues for a continuous period of more than 45 (forty-five) calendar days, the other party shall be entitled to terminate this agreement.

18.2. The subscriber's failure and/or inability to continue to pay for Blejmarc's services does not amount to a force majeure event. In such circumstances, the subscriber is required to cancel the Agreement and pay early cancellation charges and/or other charges as applicable under this Agreement; failure therewith will be in breach of its obligations.

19. CONFIDENTIALITY

19.1. During the course of this agreement, each party may disclose to the other party certain proprietary information

(including trade secrets, know-how, software, techniques, product plans, marketing plans, customers, inventions, improvements and research data) ("Confidential Information") of a character regarded by the disclosing party as confidential. Each party and each of its Associates, directors, officers, employees, representatives, agents, or professional advisers to whom disclosure is made shall hold all Confidential Information and the terms of this agreement in confidence and shall not disclose such information to any third party or apply it to uses other than the recipient's performance of this agreement.

20. NON-SOLICITATION

20.1. The subscriber shall not, during the continuance of this agreement and for a period of 2 (two) years immediately following the date of termination of this agreement, directly or indirectly offer employment or solicit any other form of contract for services to Blejmarc employees, or to the employees of an Associate of another party.

Signed at _____ on the _____ day of _____ 20 _____

Full Name of the subscriber representative who warrants that he/she is duly authorised to act on behalf of the subscriber

Designation _____

Signed _____

Date _____

The Subscriber Witness _____

Signed _____

Date _____

Blejmarc Authorised Representative _____

Signed _____

Date _____

Blejmarc Witness _____

Signed _____

Date _____