

## **GENERAL TERMS & CONDITIONS**

### **DEFINITIONS**

In these General Terms & Conditions, the following words will have the following meaning unless the context otherwise requires. special definitions with regard to other Services are provided in the respective annexes relating to the particular Service:

“Agreement” means these General Terms & Conditions, the duly filled Application and where relevant the Special Terms and Conditions.

“EMTEL” means Emtel Ltd.

“Force Majeure” an event or circumstance beyond the direct control of EMTEL. Force Majeure events shall include, but not to be limited to acts of GOD, fire, floods, cyclones, earthquakes, epidemics, strikes, lockouts, riots, effects of war, civil commotion, political unrest, and governmental acts, proclamations and regulations (including export and import control regulations and foreign exchange regulations).

“Internet” means the global data network comprising interconnected networks using the TCP/IP protocol.

“Internet Standards” means the protocol and standards defined by the Internet Engineering Task Force (IETF) and any other applicable protocols and standards from time to time.

“License” means any license granted by the Regulatory Authority.

“Payer” means person elected by the Subscriber who accepts responsibility for paying the Subscriber’s charges in respect of the Subscriber’s use of EMTEL’s Service(s).

“SIM” means Subscriber Identity Module.

“System” means the telecommunication infrastructure used by EMTEL to deliver the Services and includes mobile, fixed and international telecommunications infrastructure.

“Regulatory Authority” means the Information and Communication Technologies Authority or any such authority regulating the Service.

“Service (s)” means any or all telecommunications services as made available by EMTEL and includes Value Added Services.

“Subscriber” means a licensed user of the EMTEL system and includes a person reasonably appearing to EMTEL to act with the Subscriber’s Authority.

“Subscriber Equipment” means any equipment acceptable to EMTEL in the custody of the Subscriber and capable of connecting to EMTEL System to provide a mobile or fixed service, including any/all devices, supplied and installed at the Customer’s premises.

“Supplier” means any entity with whom EMTEL directly or indirectly deals with to provide infrastructure and/or services and includes content providers.

“Value Added Services” means any additional features and services which EMTEL may offer on the service other than the standard service offered by EMTEL, such as Ring Back Tone, Cloud Service etc...

### **1. APPLICATION**

The applicant shall make an application to become a Subscriber to the Service(s) offered by EMTEL by filling in and remitting to EMTEL the printed Subscriber Agreement and/ or Customer Application Form and/or any document defining the Services provided, (“the Application”).

### **2. ACCEPTANCE OF APPLICATION**

2.1. EMTEL shall only be bound by the Agreement when it has been signed and accepted by a duly authorized representative of EMTEL. Acceptance will only take place if the Subscriber and/or Payer(s) as applicable pass amongst others a credit rating to EMTEL’s satisfaction. The Agreement constitutes the entire contract between the Subscriber and/or Payer as applicable and EMTEL and the terms of the Agreement shall apply to the exclusion of all other terms and conditions whether implied or proposed by the Subscriber and/or Payer orally or in writing unless expressly accepted in writing by EMTEL.

2.2. EMTEL reserves the right to change from time to time the terms, conditions and provisions under which the Service is offered, including but not limited to variation of any or all of its charges/tariffs and charging mechanisms for the Service, by giving reasonable prior notice whenever possible to the Subscriber and by publishing amended tariffs and /or terms and conditions which shall be available at such other place or published by the means of such other medium as may be decided by EMTEL. Such amendments and/or variations shall have immediate effect and the Agreement shall be amended and/or varied accordingly.

### **3. CONNECTION TO THE SYSTEM AND PROVISIONS OF THE SERVICE**

- 3.1. Upon acceptance of the Application by EMTEL, such acceptance being at EMTEL's absolute discretion, EMTEL shall connect the Subscriber Equipment to the system as soon as is reasonably practicable and/or technically possible. Where EMTEL decides not to accept the Application it shall return to the applicant all sums received by it from the applicant less its reasonable charges in respect of any service performed and except herein provided, EMTEL shall have no responsibility or liability to the applicant whatsoever in respect of any loss or damage suffered by the applicant howsoever arising.
- 3.2. The Service shall be activated for the use with the system within a reasonable time of the receipt of the duly completed Application with all required particulars, and after verification and acceptance by EMTEL of the Application.
- 3.3. EMTEL shall use all reasonable endeavors to maintain the connection while the Subscriber abides by the provisions of the Agreement.
- 3.4. In case the Subscriber Equipment including handset is sold at a discounted rate and is to be used with the SIM card connected solely through the network. A fee as determined by EMTEL from time to time shall be payable if it is to be adapted for use through any other network.

### **4. DURATION OF AGREEMENT**

The Agreement shall come in force from the date of commencement of the Service, and shall remain in force for an Initial Period of 12 months (hereafter called the Initial Period). By default all Services shall be for duration of 12 months unless otherwise specified in the Service Description or the Special Terms and Conditions provided in the annexes. After the Initial Period, the Agreement shall continue indefinitely until terminated in accordance with clause 7 & 8 below.

### **5. CHARGES AND PAYMENT TERMS**

- 5.1. EMTEL shall issue to the Subscriber and the Payer(s) as appropriate at the respective addresses supplied, a monthly statement of account showing the amount due by the Subscriber and/or Payer to EMTEL. The Subscriber and Payer(s) shall be bound to promptly pay to EMTEL the amounts shown against their respective names/accounts on the statement of account notwithstanding any contestation there may be in respect thereof. Any dispute relating to that statement of account shall be settled thereafter and all adjustments. The Subscriber and Payer(s) shall promptly pay fees in respect of the service as shown in EMTEL's statement of account.
- 5.2. The Subscriber remains at all times liable for all fees stated in the statement of account arising from his use of the Service including in the event the Payer(s) fails to settle amounts they have consented to pay by the due date.
- 5.3. It shall be the sole responsibility of the Subscriber to ensure that the Payer(s) settle such sums that they have contracted to settle on behalf of the Subscriber by the due date.
- 5.4. The Subscriber and/or Payer(s) shall be deemed to have received the statement of account at the appropriate time; it has been posted or delivered to their addresses as supplied to EMTEL. It is the responsibility of the Subscriber and/or Payer(s) to ensure that their addresses remain up to date with EMTEL.
- 5.5. In the event of any fees and/or charges remaining unpaid after becoming due, EMTEL reserves the right to charge interest on the overdue amount which is still outstanding at 2% above the minimum lending rate charged by the Mauritius Commercial Bank Limited or by the State Bank of Mauritius Limited, as from the date the account was overdue.
- 5.6. In the event of recovery of any unpaid amount through the medium of an attorney at law, the Subscriber and/or Payer shall be liable to indemnify EMTEL of all costs incurred by EMTEL in order to recover the unpaid amount. Such costs shall include but not be limited to the actual expenses, overheads, man-days, and any commission and VAT charged by the attorney-at-law.
- 5.7. The Subscriber and/or Payer(s) bind himself/themselves to comply with the billing and payment conditions as stipulated on the statement of account. Any query regarding fees and charges shown on the statement of account must be made in writing not later than the service restriction date shown on the statement of account, failing which the statement of account shall be deemed to have been accepted by the Subscriber. EMTEL endeavors to resolve such queries promptly. The decision of EMTEL shall be final and binding.
- 5.8. A detailed bill will be dispatched together with the statement of account upon the Subscriber's written request only to the Subscriber. Copy of same will be sent either by post or remitted personally to the Subscriber upon request on presentation of the National Identity Card of the Subscriber to EMTEL. EMTEL may charge such reasonable fees for the detailed bills as it may, in its sole discretion, determine. The Payer(s) understand and agree that any payment made whatsoever on the Subscriber's behalf does not entitle them to the Subscriber's detailed bill save and except in cases as authorised by law. The Subscriber shall be liable for all charges for the Service provided in respect of the telephone line(s) and associated numbers as per the list supplied by the Subscriber, whether the said telephone line(s) and associated numbers has been used by the Subscriber or by some other person or device.

- 5.9. The Subscriber and/or Payer(s) shall pay to EMTEL any government tax on all charges where applicable at the rate ruling at the relevant time.
- 5.10. EMTEL reserves the right to require payment for the Service or any part of it in advance or by direct debit and require the payment of any deposits it deems fit in advance of allowing International roaming calls.
- 5.11. Together with the Application for the Service, the Subscriber and/or Payer shall remit to EMTEL a deposit (the "Deposit") in an amount to be determined at the sole discretion of EMTEL. The amount of the required deposit may be varied from time to time by EMTEL. The deposit is to be used as a security in respect of all amounts which may be owed by the Subscriber under the Agreement and any balance thereof will be refunded to the Subscriber and/or Payer as appropriate upon termination of the Agreement, after deduction in respect of all amounts due to EMTEL. As and when requested to do so by EMTEL, the Subscriber and Payer(s) hereby agree and bind themselves to increase the deposit remitted to EMTEL. The Subscriber and Payer(s) acknowledge that failure to do so may result in suspension or termination of the Service.
- 5.12. EMTEL may offer, or Subscriber may request, connection for international communications (the "International Service"). As regards the International Service, EMTEL shall require the deposit of a supplementary sum to be added to the then existing deposit of the Subscriber.
- 5.13. From time to time, EMTEL may offer other facilities for the use of mobile services in one or several countries outside Mauritius (the "Roaming facilities"). Such Roaming facilities will be subject to unique tariffs and schedules of charges, which shall be published by EMTEL from time to time. If the Subscriber elects to use Roaming facilities, EMTEL shall request a supplementary sum from the Subscriber and/or Payer (s) to add the deposit. The call charges incurred through the Roaming facilities will be included in the administration of the monthly usage limit. EMTEL shall not incur liability by reason of the suspension, termination or unavailability of any specific service or the quality of communication and/or Service whilst they are roaming as these may vary from country to country and from operator to operator.
- 5.14. A monthly usage limit has been established by EMTEL who reserves the right to administer the customer's account by the assigned monthly usage limit. EMTEL has the right in its absolute discretion to unilaterally amend this monthly usage limit at any time. In the event of such amendment, the Subscriber will be informed of that fact on his statement of account.
- 5.15. EMTEL reserves the right, at its own discretion, to totally or partially disconnect the Subscriber's connection, with or without notifying the Subscriber in the case of the Subscriber exceeding the prescribed monthly usage limit for any Services offered. EMTEL is however not bound to effect such suspension or disconnection immediately upon the Subscriber reaching the monthly usage limit EMTEL has the right to predetermine and prefix the monthly usage limit for the use of EMTEL services and other Value Added Services. In the event that the Subscriber has exceeded his predetermined monthly usage limit, he will be responsible to pay for all calls made and Services obtained even beyond the stated monthly usage limit. Monthly usage limit is only an expression of intended monthly usage for the information of the Subscriber and monitoring of the account, and not a limitation of liability.
- 5.16. In the event of disconnection of Payer's Service, the Payer undertakes to settle the charges for his own usage and that of the Subscriber promptly in order for the Service to be reconnected.
- 5.17. In the event the Subscriber elects to pay for Service(s) or part of Services on behalf third party (ies), such Service shall be subject to terms of conditions of the Agreement.
- 5.18. In the event the Subscriber does not pay any and all monies owing to EMTEL by the prescribed due date, then a Late Payment Charge (LPC) of 10% of outstanding monies owing will be made payable to EMTEL without the need for any judicial or extra judicial formality.

## **6. OBLIGATIONS OF THE SUBSCRIBER**

- 6.1. The Subscriber and Payer(s) acknowledge that EMTEL operates under license(s) from the Regulatory Authority and the Subscriber hereby undertakes:
  - a) to ensure that the Service is not used for any unlawful purpose;
  - b) to ensure that the Subscriber Equipment is lawfully possessed and does not contravene any law or regulation of the Republic of Mauritius;
  - c) to ensure that the Service is not used at any time to cause irritation, annoyance, embarrassment, harassment, or nuisance of any kind whatsoever to others;
  - d) to comply with all relevant legislation, Directives and Guidance ;
  - e) to cease to utilize the Service for such periods as may be required by EMTEL;
  - f) to be liable jointly and severally with all Payer(s) of all usage and charges until such time as the loss or theft of the Subscriber's Equipment be disconnected from the Service. The liability will be until acknowledgement is obtained from EMTEL and the Subscriber Equipment is disconnected;
  - g) to continue to be liable for all fees and charges during the period of interruption or loss of Service for any cause whatsoever including if the Payer(s) fail, refuse or discontinue payments on behalf of the Subscriber;
  - h) to promptly report to EMTEL the discovery of any event of fraud, theft, loss, unauthorized usage or any other occurrence of unlawful acts/events in respect of the Services. Such report shall be supported by a statement to the Police.

- 6.2. The Subscriber acknowledges that the system and the Service may be subject to, line of sight availability, interference and high atmospheric conditions and physical feature, including (without prejudice to the generally hereof) high buildings, tunnels, lifts, trees and proximity of other air waves users.
- 6.3. The Subscriber agrees to indemnify EMTEL in respect of any claims ,costs, damages and losses (including loss of profits and legal fees)sustained by EMTEL as a result of breach of the Agreement by the Subscriber.
- 6.4. Any person signing the Agreement on behalf of an individual or a company, should produce relevant documents authorizing to do so, as a guarantor or as a responsible official of the company, but the non-production of any such documents shall not impair EMTEL’s claim against the company.
- 6.5. Subscriber Equipment is used by the Subscriber in order to gain access to EMTEL’s network. It is the Subscriber’s responsibility to keep it secure, as EMTEL is not liable for any loss or liability incurred by the Subscriber resulting from the unauthorized use of the Subscriber Equipment. The Subscriber shall be liable for any changes incurred by the unauthorized use of the Subscriber Equipment by any person until EMTEL is notified in writing and acknowledges its receipt, and that the Subscriber Equipment is disconnected from the Service.

**7. TERMINATION**

- 7.1. By the Subscriber:
  - a) the Subscriber may terminate the agreement after the initial period mentioned in clause 4, by giving EMTEL at least four (4) months prior in writing;
  - b) the Subscriber shall be liable on termination of this Agreement for all liabilities as stipulated under clause 8.
- 7.2. By EMTEL:
  - a) in the event that the conditions of use of the Subscriber Equipment or rules and regulations of the Regulatory Authority are breached, EMTEL shall be entitled to withdraw the Subscriber Equipment from the Service immediately and without prior consultation with the Subscriber;
  - b) EMTEL reserves the right to disconnect or refuse Service to a Subscriber, if directed to do so by the Regulatory Authority;
  - c) EMTEL reserves the right to summarily suspend or terminate the Agreement with the Subscriber without being bound to ascribe any reasons therefor. The Subscriber and/or Payer(s) shall be liable to make the payments stipulated in Clause 8 hereunder;
  - d) in the event EMTEL exercises its right to suspend or terminate the Service provided for herein, EMTEL shall not be liable to the Subscriber for any loss or damage which the Subscriber may sustain.
- 7.3. Termination of the Agreement either by the Subscriber or EMTEL shall not relieve the Subscriber from its responsibilities and liabilities under the Agreement which are incurred prior to and up to the effective date of termination.
- 7.4. EMTEL shall, without prejudice to any other claims or remedies which it may have against the Subscriber, have the right to terminate the Service and the Agreement without liability upon the happening of any one of the following events:
  - a) if EMTEL for whatever reason is unable to provide the service;
  - b) if the Subscriber commits a breach of this agreement or in the case of a breach capable or rectification fails to rectify the same within seven days of EMTEL giving notice of it;
  - c) if any information supplied by the Subscriber to EMTEL is inaccurate, false or misleading.

**8. SUBSCRIBERS LIABILITY ON TERMINATION**

- 8.1. In the event of termination of the Agreement, the subscriber shall be liable to EMTEL for:
  - a) all the fees and charges uncured by the Subscriber for use of the service up to and including the effective date of termination of the Agreement;
  - b) the monthly service fees and charges for the balance of the initial period plus, when applicable in case of early termination during the Initial Term.

**9. EMTEL RIGHT AND NON-LIABILITY**

- 9.1. In the event of registration/termination/transfer of subscription, the Subscriber shall provide EMTEL with a letter of authorization acceptable to EMTEL.
- 9.2. EMTEL may at any time end from time to time modify or discontinue, either temporarily or permanently, the service (or any part thereof) with or without notice if EMTEL considers such modification, discontinuation desirable, in which event, EMTEL shall not be liable for any loss or inconvenience to the Subscriber or to any third party resulting there from.
- 9.3. EMTEL reserves the right to alter the telephone number of any Subscriber at any time without being liable for any loss, damage or inconvenience or otherwise, attributable to the change of the telephone number whatever may be the cause for the change.
- 9.4. EMTEL shall not be liable for any loss or damage which may be occasioned through the interruption or loss of the service from any cause whatsoever including but not limited to loss or lack of coverage or line of sight, but

in case of such interruption or loss of the Service, EMTEL shall make every effort to restore the Service within a reasonable time.

- 9.5. EMTEL will not be liable to the Subscriber for any loss of business, profit, revenue of goodwill, anticipated savings, use or contracts or for any indirect or consequential loss however it arises.
- 9.6. EMTEL reserves the right to amend, delete and/or vary any of the clauses herein stated and the Subscriber shall be bound to observe, perform and comply with clauses herein and any amendments thereof. Such amendments, as and when made, shall be conveyed to the Subscriber by such means of communication as is deemed appropriate by EMTEL.
- 9.7. EMTEL reserves the right to bar access to the making of international calls.
- 9.8. EMTEL shall Endeavour to provide annoyance call tracing on written request under the strict condition that the Subscriber has reported the annoyance call to the police. Any report on the call tracing will be given only to the police, authorities as authorized by the Court order.
- 9.9. EMTEL shall Endeavour but not be bound to provide any feature or other Value Added Services. Value Added Services will be provided upon the Subscriber's request, at his own cost and subject to EMTEL's acceptance.
- 9.10. EMTEL shall not be liable to the Subscriber or any third party with respect to any action taken or committed to be taken by EMTEL in connection with or arising out of the Agreement. EMTEL shall not be liable to the Subscriber or any third party for indirect or unforeseeable losses. EMTEL shall in no event be liable to third parties for the execution of the service.
- 9.11. EMTEL shall not be liable for loss, damage to health and/ or property or otherwise through use of mobile cellular phones.
- 9.12. EMTEL and/or its Suppliers make no representations about the suitability, reliability, availability, timeliness, quality, variety, speed and accuracy of the information, products and service. All such information, products and service are provided "AS IS" without warranty of any kind. EMTEL and/or its Suppliers hereby disclaim all warranties and conditions with regard to the information, product and service. Notwithstanding the foregoing, EMTEL will use its best endeavors to update or cause to, make changes or cause to, regularly. Such information or Service shall however not be relied upon for personal, legal or financial decisions. EMTEL or its Suppliers shall not be liable for any loss whatsoever as a result of reliance placed on the aforesaid information or service.
- 9.13. EMTEL does not make any warranty on the availability of complete array of Services provided by EMTEL to the Subscriber using Subscriber Equipment whether directly purchased from EMTEL or not.
- 9.14. Under no circumstance shall the liability of EMTEL exceed the aggregate value of the Subscriber Equipment or of the average usage of the preceding twelve months of usage of the service (excluding charges for roaming facilities), whichever is the lesser.

#### **10. EMTEL'S REMEDY**

- 10.1. EMTEL may, without prejudice to any other right or remedy to EMTEL and notwithstanding any waiver of previous breach, suspend or disconnect the service, if:
  - a) the Subscriber and/or Payer(s) shall be adjudged bankrupt or a receiving order be made against him or if he makes any composition or arrangement with or assignment for the benefit of his creditors or becomes insolvent
  - b) the Subscriber and/or Payer(s), in the case of a company or firm, shall be wound up or have a receiver or manager appointed or becomes insolvent;
  - c) EMTEL is of the opinion that the subscriber and/or Payer(s) have failed to observe or perform any of the terms and conditions of this agreement, any provision or regulation imposed by the Regulatory Authority and/or any other relevant law in force from time to time.
- 10.2. Notwithstanding Clause 10.1 hereof, upon subsequent payment by the Subscriber and/or Payer(s) of such terms as demanded by EMTEL (including additional deposits, if any) for the continuation of the service, EMTEL, in its absolute discretion, may restore the service, and the Agreement shall continue to be in force. In the case of reconnection of the service, the subscriber and/or Payer(s) shall be liable for the reconnection charges and such other charges as deemed necessary by EMTEL.

#### **11. TRANSFER OF SUBSCRIPTION**

- 11.1. The Subscriber (hereinafter called the Transferor) may transfer the Subscription to another party (hereinafter called the Transferee) with prior written authorization of EMTEL, and if the Transferee satisfies all the requirements of the Regulatory Authority and EMTEL.
- 11.2. The date of transfer of Subscription shall be the date as prescribed by EMTEL in the written authorization of EMTEL.
- 11.3. The transferor and/or Payer shall be liable to EMTEL for fees and charges incurred in respect of the Service rendered by EMTEL up to and including the date of transfer of Subscription.
- 11.4. The Transferee shall sign an agreement with EMTEL and the Agreement shall commence from the date of transfer provided that if the transferee terminates the Agreement within the transferor's initial period provisions of Clause 7 & 8 shall apply.

**12. LAWS APPLICABLE – JURISDICTION**

The construction, validity and performance of the Agreement shall be governed by the laws of the Republic of Mauritius, and the parties irrevocably submit to the exclusive jurisdiction of the Republic of Mauritian courts for the purpose of enforcing any claim arising hereunder.

**13. FORCE MAJEURE**

- 13.1. EMTEL shall not be liable to provide the Service in the event of a Force Majeure or for acts or omissions of persons or bodies for whom EMTEL is not responsible or any other cause, whether similar or dissimilar, outside EMTEL's control.
- 13.2. No liability of any nature whatsoever shall be incurred by EMTEL on the happening of a Force Majeure or any such events as aforesaid.

**14. MISCELLANEOUS**

- 14.1. No delay, neglect or forbearance on the part of EMTEL in enforcing any provision of the Agreement shall be deemed to be a waiver or create a precedent or in any way prejudice to EMTEL's rights under the Agreement.
- 14.2. Where there is a conflict between the Agreement and any other conditions mentioned in or printed on any correspondence exchanged between the Parties, the Agreement will prevail.
- 14.3. In the event that any term, condition or provision of this agreement is held to be a violation of any applicable law, statute or regulation, the same shall be deemed to be deleted from the Agreement and shall be of no force and effect and the Agreement shall remain in full force and effect as if such term, condition or provision had not originally been contained in the Agreement.
- 14.4. The headings in this agreement shall not affect its interpretation throughout the Agreement, whenever required by context, the use of the singular number shall be construed to include the plural, and the use of the plural the singular, and the use of any gender shall include any genders.
- 14.5. The schedules and/or Annexes to this agreement constitute an integral part thereof.
- 14.6. Special Conditions in the Annexes below shall also constitute an integral part of the Agreement.

**15. SPECIAL CONDITIONS**

The terms and conditions as set out in the following Annexes shall be in relation to specific Services and shall be in addition to other provisions in the Agreement. In the event of inconsistency, the Special Terms and Conditions shall prevail.

## **ANNEX A – SPECIAL TERMS AND CONDITIONS OF ‘FIXED BROADBAND SERVICES’ SERVICE**

### **1. OBJECT**

The present and General Terms and Conditions defines the terms and conditions under which EMTEL provides the Service (hereinafter defined) to the Subscriber and under which the Subscriber accesses and uses the Service. The signature of the EMTEL Application and these Terms and Conditions constitutes the acceptance of the present Terms and Conditions by the Subscriber.

This Service allows the Subscriber to utilize Fixed Telephony, Internet Services, Cloud Storage and Email service as one Package, hereafter known as the Service. The Service components commercialized may be amended from time to time by EMTEL at its own discretion.

### **2. DEFINITIONS**

- 2.1. “1 GB” means 1 Gigabyte which is 1024 Megabytes of Data, measured as a unit of digital information. “Air Transceiver” means a device affixed to a dish that receives and sends radio signals to and from the base station.
- 2.2. “Bracket” means a mechanical device used to support and hold the dish and Air Transceiver.
- 2.3. “Client Software” means software that allows a Device to access or utilize the services or functionality provided by the Server Software.
- 2.4. “Device” means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, “smart phone”, or other electronic device.
- 2.5. “Equipment” means any or all of the equipment and/or accessories mentioned Clause in 4.2.
- 2.6. “Dish” means a parabolic antenna used to capture radio signals received and sent to and from the base station.
- 2.7. “Installation” means installation not requiring any trunking and/or piping and not exceeding 90 minutes intervention time.
- 2.8. “Line of Sight” refers to a direct, non-interrupted, visual path between the Air Transceiver and the base station.
- 2.9. “Modem” means a device used to interface between an Air Transceiver and the subscriber network equipment such as personal computer over cable or Wi-Fi.
- 2.10. “Power Injector” means an electronic device used to inject DC power onto the coaxial cable to supply the Air Transceiver.
- 2.11. “Redistribution Software” means “sample,” “redistributable” and/or software development (“SDK”) software code and tools.
- 2.12. “Server Software” means software that provides services or functionality on a computer acting as a server.
- 2.13. “Web Hosting” means the activity or business of providing storage space and access for websites.
- 2.14. “WiFi” means the wireless local area network available from the Subscriber Equipment.

### **3. DURATION OF AGREEMENT AND RENEWAL BY TACIT AGREEMENT**

- 3.1. The minimum period for subscription (Subscription Period) to the Service is twelve (12) months.
- 3.2. For the first Subscription Period only, the number of days remaining between the first day of the subscription and the last day of the calendar month during which the subscription comes into effect is added to the 12 months period.
- 3.3. Unless notice of termination is given in writing one month before the expiry date of the then current period, the subscription is automatically renewed for a further twelve (12) months. The notice of termination shall be addressed to the Customer Experience Manager, Emtel Ltd, presently at Emtelworld, 10, Ebene Cybercity, Ebene. Irrespective of the mode of payment, termination at the Subscriber’s initiative may only take place at the end of the then current Subscription Period.
- 3.4. The Subscriber may not cancel his subscription save and except in the manner provided in this Agreement.
- 3.5. If the Subscriber requests a suspension of the Agreement, then the Subscriber must advise EMTEL showrooms.

### **4. EQUIPMENT NECESSARY FOR THIS SUBSCRIPTION**

- 4.1. EMTEL will select the relevant Subscriber Equipment to be supplied to the Subscriber under this Agreement at its discretion. The Subscriber Equipment is at present only put at the disposal of the Subscriber on a loan basis for use exclusively for the purpose of this Agreement, and must be returned to EMTEL immediately at first request as more fully set out in Clause 7 “Return of Equipment”:
- 4.2. Any one of the following units of the Subscriber Equipment and/or accessories is put at the Subscriber’s disposal:
  - a) Air Transceiver;
  - b) Dish;
  - c) Bracket;
  - d) Coaxial cable;

- e) Power Injector;
- f) Power supply;
- g) Modem or Gateway for any technology;
- h) Any other equipment/device and installation material provided by EMTEL

## **5. USE OF EQUIPMENT BY SUBSCRIBER AND OBLIGATIONS OF SUBSCRIBER**

- 5.1. The Subscriber Equipment put at the Subscriber's disposal remains at all times the exclusive and non-transferable property of EMTEL.
- 5.2. The Subscriber cannot transfer the Subscriber Equipment or put it at a third person's disposal under any circumstances whatsoever.
- 5.3. EmTEL undertakes that it shall for the whole duration of the Subscription Period ensure the normal maintenance, or have the normal maintenance performed, free of charge, of the Subscriber Equipment put at the disposal of the Subscriber by EMTEL in accordance with this Agreement, and to maintain the Equipment in proper working order.
- 5.4. In case of breakdown, the defective piece(s) of Subscriber Equipment shall be handed over exclusively to EMTEL either at its place of business or at one of EMTEL's authorized showrooms so as to be replaced or repaired. The Subscriber shall ensure that a receipt is remitted to him and should keep and present the receipt as proof when required.
- 5.5. The Subscriber is strictly prohibited from opening or effecting any intervention, transformation or modification of any nature on any part of Subscriber Equipment for any reason whatsoever.
- 5.6. The Subscriber is expressly prohibited from damaging, removing or otherwise tampering with any labels fixed on a piece of the Subscriber Equipment on which the serial number or otherwise and/or the logo of EMTEL or its Suppliers is displayed.
- 5.7. The Subscriber Equipment provides separate WiFi and network connection which is a separate channel for EMTEL use and/or for other EMTEL subscribers' use. The Subscriber is strictly prohibited from tampering or carry out any modification of any nature on this WiFi channel for any reason whatsoever.
- 5.8. In the case of disappearance, damage, or destruction for any reason or by any means whatsoever of all or any part of the Subscriber Equipment put at the disposal of the Subscriber by EMTEL, the Subscriber shall inform EMTEL within 48 hours. The Subscriber shall indemnify EMTEL of the cost of replacing and/or the expense incurred for the repair of any part or all the Subscriber Equipment lost, destroyed, damaged, whatever be the cause of the loss, theft, destruction of damage may be other than fair wear and tear.
- 5.9. The Subscriber undertakes and accepts that that the Service availability and performance is dependent on Line of Sight to EMTEL base station or availability of EMTEL's fiber or copper infrastructure. Should Line of Sight change after first installation and impact Subscriber's Service, the sole remedy available to Subscriber shall be a termination of his Subscription without Subscriber being liable for Early Termination Charges.

## **6. INSTALLATION OF EQUIPMENT**

- 6.1. The date and time of supply of the Subscriber Equipment and installation is subject to the availability of the Equipment and of the technician. As far as practical and possible, EMTEL shall endeavor to keep the Subscriber informed of any delay thereby caused to the installation.
- 6.2. The technician shall advise the Subscriber of any additional installation charges to EMTEL over and above basic installation charges which are at no charge to the Subscriber.
- 6.3. The technician shall advise the Subscriber of those charges before the installation has been completed.
- 6.4. The Subscriber shall pay to EMTEL all fees and costs incurred for any additional technical intervention requested by Subscriber after installation has been completed or other in addition to that which is necessary for the delivery of the Service in the final opinion of the technician.
- 6.5. The fees charged for supply of the Subscriber Equipment, installation, are subject to change at the entire discretion of EMTEL.
- 6.6. The Subscriber is responsible for obtaining all consents required (for example, Landlord's consent) before installation and shall hold EMTEL harmless against any claims for any failure or neglect in this regard.

## **7. RETURN OF EQUIPMENT**

- 7.1. On the expiry or earlier termination of this Agreement for any reason whatsoever, the Equipment put at the disposal of the Subscriber by EMTEL shall be collected by an EMTEL representative within one month of Agreement expiry. The Subscriber shall ensure that a receipt is remitted to him by the EMTEL representative.
- 7.2. In case all the Subscriber Equipment is not collected by an EMTEL representative within one month, the Subscriber undertakes and binds himself to return the Equipment within one week thereafter failing which Subscriber shall be liable to pay to EMTEL, the commercial value of the Subscriber Equipment at the time of return.
- 7.3. In case any one piece of the Subscriber Equipment is found missing or damaged at the time of return, the Subscriber shall be charged for that piece of the Subscriber Equipment according to the commercial rates prevailing at the time:



## **8. SUBSCRIPTION TARIFFS & FEES**

- 8.1. Any amounts in this Agreement are indicative only. EMTEL reserves the right to change any tariff at any time after the first Subscription Period of 12 months by giving the Subscriber one month's notice of any change in price or tariff.
- 8.2. The Subscriber undertakes and binds himself to pay EMTEL subscription fees one month in advance.
- 8.3. Unless specifically stated otherwise, special offers may not be taken up in conjunction with any other offer(s)
- 8.4. If a Subscriber downgrades his Service to a smaller package that requires a smaller Monthly Fee, then no additional fees above and beyond the new Monthly Subscription Fee is applicable. The Agreement end date remains unchanged.
- 8.5. If a Subscriber downgrades their Service to a smaller package that requires a smaller monthly fee, two conditions must be adhered to, in order to successfully downgrade the package:
  - a) The Subscriber may only downgrade their package a maximum of one time during a 12 month subscription period;
  - b) The Subscriber may only downgrade their package to the next immediately available lowest Package.
- 8.6. If a Subscriber upgrades their Service to a larger package that requires a larger Monthly Fee, then no additional fees above and beyond the new Monthly Subscription Fee is applicable. The Agreement end date remains unchanged.
- 8.7. A Subscriber to this Service is provided with 1 Gigabyte (1GB) of Email Storage. Once the Subscriber reaches the storage limit of 1GB attached to the Service, additional charges will apply to increase the limit of the Email Storage.
- 8.8. The fees charged for the supply of Equipment, installation, are subject to change at any time at the entire discretion of EMTEL. All tariffs and fees shall be published by EMTEL from time to time and shall be available in EMTEL's showrooms.

## **9. EARLY TERMINATION CHARGES**

- 9.1. If the Subscriber terminates the Agreement with EMTEL prior to the Subscription Period completing, then the Subscriber will be liable to pay an Early Termination Charge (ETC).
- 9.2. This ETC amounts to the Subscriber's current package's Minimum Monthly Subscriber fee multiplied by the number of months remaining in the current Subscription Period.
- 9.3. Early Termination Charges will not be payable by the Subscriber if EMTEL cannot provide the Service due to Line of Sight issues (LOS). The definition of LOS can be found in Article 2, "Definition of Specific Items" and is at the sole discretion of EMTEL.
- 9.4. If the Subscriber relocates to other Premises, and Line of Sight (LOS) cannot be established by EMTEL, then the Subscriber may have the Agreement terminated without incurring Early Termination Charges on the Agreement.

## **10. TRIAL**

- 10.1 This section applies to Subscribers who have been invited to trial the Service. By doing the trial Subscribers are deemed to have accepted the General Terms and Conditions of this Service as well as relevant Specific Terms and Conditions as stated in this Annex.
- 10.2 Should the Subscriber wish to continue to use the Service after the trial, the Subscriber is deemed to have accepted the General & Specific Terms and Conditions of Service.
- 10.3 Should the Subscriber wish to continue to use the Service after the trial, the Subscriber's 12 month Subscription Agreement is deemed to commence from when the trial period began.
- 10.4 The Subscriber may terminate the trial without penalty or payment during the trial period, provided the following conditions in Articles 3, ("Use of Equipment during Subscription"), and Article 5 ("Return of Equipment") and are met, and that the Subscriber notifies EMTEL and/or an authorized EMTEL representative of his intention to opt-out of the Service in writing.
- 10.5 EMTEL reserves all its rights and remedies stated in these Terms and Conditions and in the law including during the Trial Period.

## **11. WARRANTY**

The telecommunication equipment is provided with a warranty in accordance with EMTEL's warranty policy. THE WARRANTY PROVIDED BY THE WARRANTY POLICY REPRESENTS EMTEL'S ONLY EXPRESS WARRANTY AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS AND REPRESENTATIONS, EXPRESS OR IMPLIED.

## **12. SUBSCRIBER USAGE POLICY**

The Subscriber shall at all times comply with this Clause. This Clause shall survive termination of the Agreement.

### **13. THIRD PARTY SOFTWARE USE**

The Subscriber understands and agrees that as part of the Services he may be accessing third party software which includes computer software provided by third party and may include associated media, printed materials, and “online” or electronic documentation (individually or collectively “Software Products”). EMTEL does not own the Software Products and the use thereof is subject to certain rights and limitations as detailed herein. End User’s right to use the Software Products is subject to Subscriber’s agreement, and to Subscriber’s understanding of, compliance with and consent to this Clause.

#### **12.1 OWNERSHIP OF SOFTWARE PRODUCTS**

All title and intellectual property rights in and to the Software Products (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text, and “applets” incorporated into the Software Products) are owned by third party supplier (Third Party Supplier) or its suppliers. The Software Products are protected by copyright laws and international copyright treaties. Subscriber’s possession, access, or use of the Software Products does not transfer any ownership of Software Products or any intellectual property rights to Subscriber.

#### **12.2 USE OF SOFTWARE ON SUBSCRIBER DEVICES**

Subscriber may use the Software installed on Subscriber’s Devices by EMTEL or its suppliers only in accordance with the instructions, and only in connection with the services, provided by EMTEL.

#### **12.3 USE OF REDISTRIBUTION SOFTWARE**

Subscriber may not use, modify, copy, and/or distribute any redistribution software unless Subscriber expressly agrees to and comply with certain additional terms contained in the services provider use rights (“SPUR”) applicable to third party suppliers, which terms may be provided to Subscriber by such Third Party suppliers. Third Party Supplier does not permit Subscriber to use any Redistribution Software unless Subscriber expressly agrees to and complies with such additional terms, as provided by Third Party Supplier.

#### **12.4 COPIES**

Subscriber may not make any copies of the Software Products; provided, however, that Subscriber may make copies of certain Redistribution Software in accordance with Paragraph 12.4 (Use of Redistribution). Subscriber must erase or destroy all such Software and/or Redistribution Software which is provided through EMTEL upon termination or cancellation of Subscriber’s Agreement with EMTEL or upon transfer of Subscriber’s Device to another person or entity, whichever first occurs. Subscriber may not copy any printed materials accompanying the Software Products.

#### **12.5 LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY**

Subscriber may not amend, reverse engineer, decompile, or disassemble the Software Products, except and only to the extent that applicable law, notwithstanding this limitation expressly permits such activity.

#### **12.6 NO RENTAL**

Subscriber may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute Software Products to any third party, and Subscriber may not permit any third party to have access to and/or use the functionality of the Software Products.

#### **12.7 TERMINATION**

Without prejudice to any other rights, EMTEL may terminate End User’s rights to use the Software Products if Subscriber fails to comply with these terms and conditions. In the event of termination or cancellation, Subscriber must stop using and/or accessing the Software Products, and destroy all copies of the Software Products and all of its component parts.

#### **12.8 NO WARRANTIES, LIABILITIES OR REMEDIES BY THIRD PARTY SUPPLIER**

Any warranties, liability for damages and remedies, if any, are provided solely by EMTEL and not by Third Party Supplier or its affiliates or subsidiaries.

## **12.9 PRODUCT SUPPORT**

Any product support for the Software Products is provided to Subscriber by EMTEL and is not provided by Third Party Supplier or its affiliates or subsidiaries.

## **12.10 NOT FAULT TOLERANT**

The Software Products may contain technology that is not fault tolerant and is not designed, manufactured, or intended for use in environments or applications in which the failure of the Software Products could lead to death, personal injury, or severe physical, property or environmental damage.

## **12.11 EXPORT RESTRICTIONS**

The Software Products might be of U.S. origin for purposes of U.S. export control laws. Subscriber agrees to comply with all applicable international and national laws that apply to the Software Products, including U.S. Export Administration Regulations, as well as Subscriber, Subscriber-use and destination restrictions issue by U.S. and other governments.

## **12.12 LIABILITY FOR BREACH**

In addition to any liability Subscriber may have to EMTEL, Subscriber agrees that Subscriber will also be legally responsible directly to Third Party Supplier for any breach of these terms and conditions.

## **12.13 APPROVAL ON ACCESS**

Subscriber approves that EMTEL and its authorised representatives and authorised Third Party Suppliers access its data stored for the Services in cases where:

- a) the Third Party Supplier requests EMTEL to do so;
- b) EMTEL and/or its Third Party Suppliers are required to do so by a government agency or regulatory body;
- c) when performing routine backup and restore operations, virus scan and virus removal, SPAM and content filtering; or
- d) if such access or inspection is urgent and necessary to protect personal safety, perform troubleshooting, restore systems operation in the event of a server failure, remove illegal content or prevent a server failure, service outage or other damage.

## **12.14 ACCEPTABLE USE POLICY**

Subscriber may use the Services only for lawful purposes. Subscriber may not use the Services:

- a) in any way that breaches any applicable local, national or international law or regulation;
- b) in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
- c) to send, knowingly receive, upload, download, use or re-use any material which does not comply with the legally acceptable content standards;
- d) to transmit, or procure the sending of, any unsolicited or unauthorized advertising or promotional material or any other form of similar solicitation ("SPAM");
- e) to knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware. Subscriber also agrees not to reproduce, duplicate, copy or re-sell any part of the provided licenses. Subscriber agrees not to access without authority, interfere with, damage or disrupt any part of provided licenses, any equipment or network of EMTEL and/or Third Party Suppliers.

## **12.15 NO-SPAM POLICY**

For the purpose of this Agreement SPAM is defined as, also known as Unsolicited Commercial Email ("UCE") or Unsolicited Bulk Email ("UBE"), as any email message the recipient considers unsolicited and of a commercial nature or email sent in bulk. EMTEL expressly prohibits the sending of SPAM through its network and servers and those of its Third Party Suppliers.

Prohibited SPAM includes unsolicited emails, bulk emails, SPAM response collection, SPAMvertising, mail bombing, mail harassment, letter bombing, prohibited mailing list activity, prohibited newsgroup activities, etc.

EMTEL prohibits spamming, in order to protect the integrity of the EMTEL's server and network resources and those of its suppliers. Complaints of SPAM, regardless of whether the email is actually solicited or not, are what trigger the blacklisting of Third Party Supplier networks and services. Therefore, the sending of email which results in SPAM complaints is conclusively a spamming activity in violation of EMTEL's and its Supplier's No-Spam Policy. It is exclusively End User's responsibility to prevent all SPAM complaints resulting from email activities on the hosted account.

EMTEL processes reports of SPAM activity and SPAM complaints in the manner described as following. If the email activity associated with the End User's hosted EMTEL's account realizes SPAM activity, EMTEL

reserves the right to immediately suspend, limit or disable the account, and send email notice to End User's account contact. An immediate threat includes receipt of ten or more SPAM complaints in a 72 hour period.

#### **ANNEX B - INTERNATIONAL LONG DISTANCE SERVICE**

- 1.1 The International Long Distance Service shall be provided via the International Long Distance Systems as made available by EMTEL.

- 1.2 Access to the International Long Distance Service shall be via such Carrier Access Code as allocated to EMTEL by the Regulatory Authority and for the time being the '030'.
- 1.3 The Subscriber shall ensure with its access provider that the Carrier Access Code assigned to EMTEL, currently 030 has been released by the access provider and is operational on the telephone line(s) and associated numbers as per the list supplied by the Subscriber. The Subscriber shall forthwith inform EMTEL, with all necessary information and documentation required in the event that the Carrier Access Code has not been released.
- 1.4 Subject to Clause 15, the General Terms and conditions shall apply to this Service.

#### **ANNEX C – OTHER SERVICE USAGE CONDITIONS AND FAIR USAGE POLICY**

The following Policy relates to your use of EMTEL's Home Broadband Services only. It is designed to make sure we can give you Services that are fast and reliable.

##### **Use of the Service:**

You must make sure that any use of the Services, by yourself or anyone else via your account, complies with this Policy. If you or anyone else using the Service via your account breach this Policy EMTEL may:

- a) give you a notice to stop or moderate the unacceptable use(s); or
- b) terminate or suspend the Services, with or without notice as we consider appropriate under the Terms and Conditions of the Service; or
- c) change your transmission speeds; or
- d) limit your usage ; or
- e) report any unbecoming activities or conduct to relevant authorities.

You must not use the Services for:

- a) unlawful, fraudulent, criminal or otherwise illegal activities;
- b) sending, receiving, publishing, posting, distributing, disseminating, encouraging the receipt of, uploading, downloading or using any material which is offensive, abusive, defamatory, indecent, obscene, unlawful, harassing or menacing or a breach of copyright, trademark, intellectual property, confidence, privacy or any other rights of any person;
- c) sending or uploading unsolicited emails, advertising or promotional materials, offering to sell any goods or services, or conducting or forwarding surveys, contests, chain letters, except if you are working from home as a sole proprietor in business on your own account or you are a Business Customer and in either case you are permitted to send marketing communications in accordance with the local regulations
- d) knowingly or negligently creating, transmitting, storing, publishing or uploading any electronic material which is known or likely to cause, interrupt, damage, destroy or limit the functionality of any computer software, hardware, telecommunications equipment owned by us or any other Internet user or person;
- e) activities that invade another's privacy, cause annoyance, inconvenience or needless anxiety to any person;
- f) activities that are in breach of any other third party's rights;
- g) anything that may disrupt or interfere with our network or Services or cause a host or the network to crash;
- h) launching "denial of service" attacks, "mailbombing" attacks, or "flooding" attacks against a host or network;
- i) granting access to the Services to others not located at the premises at which the Services are connected, or, in any way reselling or re-providing the Services to third parties;
- j) making excessive use of, or placing unusual burden on, the network, for example by sending or receiving large volumes of email or excessively large email attachments;
- k) circumventing the user authentications or security process of a host or network;
- l) to engage in conduct or activities that EMTEL consider could adversely affect or prejudice the EMTEL reputation or brand;
- m) sending email, or causing email to be sent, to or through EMTEL's network that hides or obscures the source of the email, that contains invalid or forged headers or domain names or deceptive addressing;
- n) engage in a manner which attempts to manipulate or bypass any limitations on a customer's service by any means.

**Security:**

- a) You are responsible for ensuring that security information remains confidential, so that the network cannot be used by any unauthorized person.
- b) You shall not disclose any security information to any third party, or use the same for any purpose connected with the improper use of the network.
- c) If you share access with others, any downloads they make will be counted as your use and count towards any monthly download allowance or excessive usage.

**Excessive Network Usage:**

- a) There is no limit on the monthly network usage. However, if we feel that your activities are so excessive that other customers are detrimentally affected, we may reduce your download and upload speed and we may or

may not give you written warning (by email other otherwise). In extreme circumstances, if the levels of activity do not immediately decrease after the warning, we may terminate or limit your services.

**I confirm having read and understood the Terms and Conditions above and agree to be bound by them.**

Name:

Signature: