

1. DEFINITIONS AND INTERPRETATION

The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of, nor modify nor amplify the terms of this Agreement nor any clause hereof. Unless a contrary intention clearly appears:

- 1.1. words importing:
 - 1.1.1. any one gender includes the other gender;
 - 1.1.2. the singular include the plural and vice versa; and
 - 1.1.3. natural persons include created entities (corporate or unincorporated), the state and vice versa;
- 1.2. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:
 - 1.2.1. **"Aggregate Usage"** means the aggregate of Services used within any defined time period;
 - 1.2.2. **"the/this Agreement"** means the agreement contained in this document together with the Application form and all schedules and addenda to or arising out of this Agreement;
 - 1.2.3. **"Application form"** means the application form signed by the Subscriber, which forms part of this Agreement, the contents of which the Subscriber warrants are true and correct;
 - 1.2.4. **"Charges"** means any and all charges payable in respect of the Services and set out in the applicable Schedule of Charges from time to time;
 - 1.2.5. **"Credit limit"** means any credit limit imposed by INTDEV on the Subscriber in the Application form, or as imposed or varied by INTDEV from time to time in accordance with the provisions of Clause 7;
 - 1.2.6. **"Commencement date"** means the commencement date of the Services;
 - 1.2.7. **"Deposit"** means any deposit payable by the Subscriber to INTDEV;
 - 1.2.8. **"Equipment"** means all hardware including but not limited to: computers, computer hardware, cellular telephones, wireless telephony equipment, fixed line telephony equipment, telemetry equipment, leased line connectivity as well as any device connected to the System.
 - 1.2.9. **"Expert Determination"** means determination by an auditor to be agreed in writing by the parties within seven (7) days of the date of a dispute being referred for expert determination, and failing such agreement, an auditor nominated by the South African Institute of Chartered Accountants (or its successor in title) who shall determine such dispute acting as an expert and not as an auditor, and whose decision, including any award as to costs, shall, save for any manifest error in calculation, be final and binding on the parties, and whose mandate it shall be to determine such as soon as possible, without allowing any party to unreasonably delay such determination;
 - 1.2.10. **"Initial period"** means the initial period set out in the Application form.
 - 1.2.11. **"INTDEV"** means INTDEV (Pty) Ltd, a company duly registered and incorporated in terms of the Companies Act of the Republic of South Africa under registration number: 2003/030511/07;
 - 1.2.12. **"Parties"** means collectively INTDEV and the Subscriber, and "party" shall mean either one of them as the context requires;
 - 1.2.13. **"Schedule of Charges"** means any schedule of Charges, including any package/tariff plan, as published by INTDEV from time to time, detailing the current Charges payable by the Subscriber to INTDEV, amendments to any such Schedule of Charges shall be at the sole discretion of INTDEV and may be made by INTDEV, from time to time, without notice to the Subscriber;
 - 1.2.14. **"the Services"** means any Services subscribed for by the Subscriber in the Application form as well as any additional and/or ancillary services as may be made available by INTDEV to the Subscriber from time to time;
 - 1.2.15. **"Signature"** means the acceptance of the terms and conditions prescribed by INTDEV for the provisioning of a service or product, be that in writing, telephonic acceptance or by way of electronic medium, such as ticking the appropriate box on the INTDEV website.
 - 1.2.16. **"SIM"** means any subscriber identification module(s) supplied or allocated by INTDEV or the System Operators to the Subscriber in terms of this Agreement, which when activated by INTDEV and/or used in conjunction with the equipment, permits the Subscriber access to the Services, and may include a physical SIM card or authorisation code;
 - 1.2.17. **"the Subscriber"** means the Subscriber whose particulars are set out in the Application form;
 - 1.2.18. **"System"** means the public telecommunication System, whether analogue, digital, fixed, wireless, cellular or otherwise and operated by the System Operators(s) through which the Services may be made available by INTDEV to the Subscriber;
 - 1.2.19. **"System operator(s)"** means those operators including cellular, mobile, fixed line, wireless or

- 1.2.20. value-added network operators and all other operators on the System from time to time;
- 1.2.21. **"Service Year"** is measured on 365 days a year.
- 1.2.21. **"Annual Uptime Percentage"** is calculated by subtracting from 100% the percentage of 5 minute periods during the Service Year in which INTDEV was in the state of **"Service Unavailable."** Annual Uptime Percentage measurements exclude downtime resulting directly or indirectly from any Exclusion of Liability and Indemnity defined in 13.3.
- 1.2.22. **"Service Unavailable"** means that more than one services you are running provided by INTDEV were "Unavailable" to you.
- 1.2.23. **"Unavailable"** means that all of your running service has no external connectivity during a five (5) minute period and you are unable to access the service.
- 1.3. When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 1.4. Expressions defined in this Agreement shall bear the same meanings in schedules, addenda or annexures to this Agreement which do not themselves contain their own definitions.
- 1.5. The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.6. The rule of construction that this Agreement shall be interpreted against the party responsible for the drafting or preparation of this Agreement, shall not apply.
- 1.7. Where an expression has been defined and such definition contains a provision conferring rights or imposing obligations on any party, effect shall be given to that provision as if it were a substantive provision contained in the body of this Agreement.

2. DURATION, TERMINATION AND RENEWAL

- 2.1. This Agreement shall commence on the commencement date, and unless terminated in accordance with any other provision of this Agreement, shall endure for the Initial period and thereafter indefinitely until terminated by either party on not less than 1 (one) calendar month prior written notice of termination to the other party.
- 2.2. The Subscriber shall have the option to renew this Agreement on the same terms as stated herein, *mutatis mutandis*, provided the Subscriber notifies INTDEV, in writing, of the Subscriber's intention to so exercise its option at least 1 (one) calendar month prior to the last day of the initial period.

3. ACKNOWLEDGMENTS

- 3.1. The Subscriber acknowledges and accepts that:
 - 3.1.1. the Subscriber has not relied on any representations or undertakings made by INTDEV;
 - 3.1.2. in entering into this Agreement the Subscriber has made its own judgment and has not relied on any view expressed by INTDEV;
 - 3.1.3. the Subscriber has consulted with its own legal and tax advisers to the extent that it deems necessary; and
 - 3.1.4. the Subscriber is entering into this Agreement with a full understanding of the terms, conditions and risks thereof and it is capable of and willing to assume those risks.
 - 3.1.5. the System is not operated by INTDEV;
 - 3.1.6. except as stated in this Agreement INTDEV has no obligation to the Subscriber in respect of the Services;
 - 3.1.7. the availability and/or quality of the Services may be affected by factors including, but not limited to: the System; the System Operators; any programs, equipment and accessories used by the Subscriber; atmospheric conditions; radio frequency disturbances; civil disturbance; war and other factors beyond the control of INTDEV;
 - 3.1.8. INTDEV is entitled to make enquiries about the Subscriber's credit history and credit records with any credit reference agency in the Republic of South Africa;
 - 3.1.9. INTDEV is entitled to provide regular reports in respect of Subscriber payment conduct to credit reference agencies in the Republic of South Africa.

4. PROVISION AND USE OF THE SERVICES

- 4.1. INTDEV undertakes to provide the Services to the Subscriber upon the terms and conditions set out in this Agreement.
 - 4.1.1. Whilst INTDEV will take all reasonable steps to ensure that the Services are provided in accordance with this Agreement, INTDEV does not warrant or guarantee the equipment or the Services in any manner whatsoever, including but not limited to the quality and/or continuity thereof.

- 4.2. INTDEV shall be entitled from time to time to issue written instructions to the Subscriber in respect of the Subscriber's use of the Services and the Subscriber shall be bound by all such written instructions which shall be deemed to form part of this Agreement.
- 4.3. In the event of any irregularity or defect in the Services, INTDEV shall attend to remedy such irregularity or defect provided the Subscriber notifies INTDEV, in writing, of such irregularity or defect within 10 (ten) days of the Subscriber becoming aware of such.
- 4.4. The Subscriber shall notify INTDEV of any:
 - 4.4.1. requirements relating to the Services;
 - 4.4.2. service levels and/or parameters relating to the Services;
 - 4.4.3. special circumstances that may affect the continuation or quality of the Services.
- 4.5. The Services are to be provided on the basis that the Subscriber –
 - 4.5.1. will not utilise the Services, or allow others to utilise the Services, for any improper, immoral, or unlawful purpose;
 - 4.5.2. will not re-sell any of the Services to any third party;
 - 4.5.3. will only use the equipment in accordance with the manufacturer's and/or INTDEV's instructions and for the purposes and in the manner for which they are intended;
 - 4.5.4. will comply with all relevant legislation and regulations and all instructions issued by any governmental authority, the System Operator(s) and/or INTDEV, regarding the use of the System, the equipment and the Services; and
 - 4.5.5. will not act omit to act, or allow others to do so, which is in any way likely to damage, disrupt or interfere with the System or to injure or damage any person or property or to cause the continuation or quality of the Services to be impaired or interrupted in any manner whatsoever.
- 4.6. The Services may not be used by the Subscriber to contravene any South African law.
- 4.7. The Subscriber will be bound to the terms and conditions of the relevant System Operator(s) relating to the System and the Services and is bound at its own risk.

5. DEPOSIT

- 5.1. The Subscriber undertakes that it shall, on the commencement date, pay to INTDEV any Deposit required by INTDEV.
- 5.2. INTDEV shall be entitled, in its sole and absolute discretion to determine the amount of the Deposit.
- 5.3. The Deposit shall be retained by INTDEV until the termination of this Agreement, free of any interest to the Subscriber and as security for the payment by the Subscriber of all amounts for which the Subscriber shall be liable to pay to INTDEV in terms of this Agreement.
- 5.4. INTDEV shall have the right to appropriate all or part of the Deposit, upon termination of the contract, towards payment of any amount owing to INTDEV.
- 5.5. Subject to the provisions of 5.3 and 5.4, INTDEV will repay the Deposit or the balance thereof to the Subscriber within fourteen days after the termination of this Agreement.

6. CHARGES AND PAYMENT

- 6.1. The Subscriber shall:
 - 6.1.1. be bound by all the terms and conditions of this Agreement;
 - 6.1.2. pay all Charges within 15 (fifteen) days after the date of INTDEV's invoice in respect thereof.
- 6.2. The timing, format and details of invoices shall be in the sole discretion of INTDEV.
- 6.3. The Charges, unless otherwise stated in the Schedule of Charges, are exclusive of value added tax, which shall be borne and paid for by the Subscriber.
- 6.4. The Subscriber shall be liable for the Charges irrespective of the Aggregate Usage.
- 6.5. Notwithstanding anything to the contrary contained in this Agreement, INTDEV is entitled to adjust the Charges in proportion with the Aggregate Usage, whether such usage is made by the Subscriber or otherwise.
- 6.6. Notwithstanding that the Services may be suspended by INTDEV the Subscriber shall remain liable for and shall pay all Charges payable in terms of this Agreement.
- 6.7. INTDEV shall be entitled, in its sole and absolute discretion, to vary the Charges from time to time. Any such variation shall be effective from the date stated in INTDEV's notice to the Subscriber of such variation.
- 6.8. Unless otherwise agreed between the parties and reduced to writing, all charges shall be paid by means of direct debit order, free of exchange and bank charges.
- 6.9. The Subscriber shall not, for any reason whatsoever, withhold payment of the Charges, or part thereof.
- 6.10. The Subscriber warrants that the banking details provided to INTDEV are at all times up to date and correct.
- 6.11. The Subscriber shall be liable and on demand shall pay all bank transaction fees incurred by INTDEV in collecting payment, including but not limited to submission fees, cash fees and rejection fees.
- 6.12. In the event the Subscriber objects to and/or disagrees with the contents, or any portion thereof, of an invoice (referred hereinafter as the "query") then the Subscriber

- shall notify INTDEV of such query within 15 (fifteen) of the date of such invoice failing which such invoice shall be deemed to be correct.
- 6.12.1. In the event that a query is received within the time period contemplated in clause 6.12 then such query shall be referred to Expert Determination.
- 6.13. Should the Subscriber fail to make payment on the due date, INTDEV shall be entitled, without detracting from its other rights in terms of this Agreement, to charge the Subscriber interest, calculated monthly, on any monies owing to INTDEV from date of non-payment to date of settlement thereof, at a rate equal to 2 % (or such other maximum rate as may be prescribed by the National Credit Act, 2005 from time to time).
- 6.14. All payments made by the Subscriber shall be appropriated firstly towards the payment of legal costs incurred in the recovery thereof, thereafter towards the payment of interest accruing thereon and lastly in reduction of the capital sum due.
- 6.15. INTDEV may at any time instruct the Subscriber to furnish such security as INTDEV may deem appropriate for the payment of the Charges, which security shall be furnished by the Subscriber to INTDEV within 14 (fourteen) days after the date of such instruction.
- 6.16. Should the Subscriber be placed under administration, sequestration or liquidation, or suffer any other legal disability which will affect the Subscriber's ability to make payment to INTDEV, the Subscriber is required to immediately notify INTDEV, in writing.
- 7. CREDIT LIMITS**
- 7.1. INTDEV reserves the right to include and activate credit limits in respect of any Service, Subscriber and/or SIM in accordance with INTDEV's credit vetting policies and/or the Subscriber's credit profile. INTDEV will make all reasonable endeavours to notify the Subscriber of such credit limit and may review such credit limit from time to time in INTDEV's sole discretion.
- 7.2. INTDEV shall be entitled, in its sole and absolute discretion to determine the credit limit applicable to the Subscriber and/or to vary the credit limit from time to time.
- 7.3. The Subscriber shall be deemed to have knowledge that a credit limit has been imposed upon the Subscriber after 14 (fourteen) days of such being imposed.
- 8. CERTIFICATE**
- A certificate signed by any director of INTDEV (whose appointment and authority it shall not be necessary to prove) as to the existence of any facts and, in particular, without limiting the generality of the foregoing, as to the amount of any indebtedness of the Subscriber to INTDEV in terms of and pursuant to this Agreement, shall constitute *prime facie* proof of such facts for any purpose and, more particularly, for the purposes of obtaining provisional sentence, default judgment or summary judgment or their equivalent in any court of competent jurisdiction.
- 9. THE SIM**
- 9.1. Notwithstanding delivery of the SIM to the Subscriber, ownership of the SIM, telephone numbers, codes and other identification numbers allocated to the Subscriber, including any software incorporated in each SIM and all intellectual property rights in and to such software, shall not pass to the Subscriber who shall have no proprietary interest therein.
- 9.2. All risk in and liability in respect of each SIM shall pass to the Subscriber on delivery or allocation, as the case may be, of such SIM to the Subscriber.
- 9.3. The Subscriber shall not dispose of or otherwise transfer any SIM to any third party without the prior written consent of INTDEV, which consent, if granted, shall be subject to such terms and conditions as INTDEV may deem fit. Until such time as INTDEV grants its written consent, the Subscriber shall remain liable for and shall continue to pay all the Charges payable in terms of this Agreement, including all charges incurred in respect of or through the use of such SIM.
- 9.4. If any SIM is lost, stolen or damaged, the Subscriber shall immediately notify INTDEV thereof, in writing, and the Subscriber shall remain liable to INTDEV for all charges incurred in respect of or through the use of such SIM until INTDEV deactivates such SIM.
- 9.5. INTDEV will, as soon as is reasonably possible, replace any SIM that is lost, stolen or damaged at INTDEV's then applicable charge for the replacement of SIMs.
- 9.6. The Subscriber shall not modify or permit the modification of any SIM or any such numbers or codes without the prior written consent of INTDEV.
- 9.7. Save as otherwise provided by legislation to the contrary, INTDEV shall be entitled to withdraw or change any SIM allocated to the Subscriber in terms of this Agreement.
- 10. EQUIPMENT**
- 10.1. The Subscriber shall ensure that any equipment used by the Subscriber:
- 10.1.1. is suited to and compatible with the Services;
- 10.1.2. meets the Subscriber's requirements whether such requirements are private, commercial, technical, or otherwise; and
- 10.1.3. complies with all applicable standards prescribed by the relevant governmental authority.
- 10.2. Equipment detailed in the Application form (if any) shall be provided to the Subscriber, on the conditions stated in this Agreement (referred hereinafter as "rented equipment").
- 10.3. Notwithstanding delivery of the rented equipment to Subscriber, ownership shall not pass to the Subscriber who shall have no proprietary interest therein.
- 10.4. All risk in and liability in respect of the rental equipment shall pass to the Subscriber upon delivery to the Subscriber.
- 10.5. The Subscriber shall be obligated to maintain the rental equipment in good working order and will not modify or permit the modification of the rental equipment without the prior written consent of INTDEV.
- 10.6. In the event that the rental equipment is lost, stolen or damaged beyond repair or is disposed of to a third party, the Subscriber will immediately notify INTDEV thereof in writing, and the Subscriber shall remain liable to INTDEV for all charges incurred in respect of or through the use of the rental equipment and/or the Services used in conjunction with the rental equipment.
- 10.7. If the Subscriber at any time during the currency of this Agreement recovers rental equipment that has been lost, stolen or disposed of, or has replaced rental equipment, whether pursuant to the loss, theft, damage or disposal thereof or otherwise, INTDEV will, at the request of the Subscriber and provided that the Subscriber is not in any breach of any term of this Agreement, connect such equipment to the Services.
- 10.8. The Subscriber accepts and acknowledges that INTDEV is not the manufacturer of rental equipment and all rental equipment will be subject to the relevant manufacturer's standard warranty, terms and/or conditions, if applicable.
- 10.9. The rental equipment will be returned to INTDEV on termination of this Agreement, unless otherwise provided in writing and signed by both parties.
- 10.10. The Subscriber will advise INTDEV of the full name and address of its landlord and hereby authorises INTDEV to advise the Subscriber's landlord that the ownership of the rental equipment vests in INTDEV.
- 11. BLACKLISTING OF EQUIPMENT**
- 11.1. In terms of the Blacklisting Agreement entered into by the System Operators, INTDEV accepts blacklisting instructions in good faith and will not be liable to the Subscriber or any third party for any loss or damage of any nature whatsoever and howsoever arising from the blacklisting of equipment.
- 11.2. The Subscriber must report and provide INTDEV with particulars from the South African Police Services relating to the loss, theft or damage of the blacklisted equipment within 24 (twenty-four) hours, failing which INTDEV reserves the right to disregard the blacklisting instruction previously received.
- 12. DISCLAIMERS**
- 12.1. INTDEV has made no representations or warranties and disclaims liability in respect of the System, the Services, the equipment, the availability and/or accuracy of the System, the Services or the equipment or the fitness of the Services or the equipment for a particular purpose.
- 12.2. The Subscriber accepts all liability arising from any claims arising from the Subscriber's use of the Services, *inter alia* claims relating to:
- 12.2.1. any intellectual property infringement including copyright infringement (whether digital or otherwise), trade mark infringement, infringement of trade secrets and/or databases;
- 12.2.2. the distribution of any defamatory, discriminatory or obscene material, whether unacceptable or illegal; the distribution of any sexually explicit messages, images, cartoons or jokes, whether unacceptable or illegal; the distribution of offensive, disruptive, harmful or insulting material; the distribution of computer viruses; the distribution and/or disclosure of private information; and the Subscriber's breach of contract to a third party.
- 12.2.3. non-compliance with any legislation and/or regulations, including but not limited to, regulations issued by the South African Revenue Services from time to time.
- 12.3. INTDEV will take reasonable endeavours to ensure the integrity and confidentiality of the Subscriber's information furnished to INTDEV.
- 13. RISK, EXCLUSION OF LIABILITY AND INDEMNITY**
- 13.1. INTDEV shall not be liable to the Subscriber in any circumstances whatsoever for any loss, injury or damage of any nature whatsoever or howsoever arising and whether in contract or in delict, including loss of profit or any other special damages, indirect or consequential loss or damages which the Subscriber or any other person may sustain, whether as a result of any negligence, non-compliance and/or breach of this Agreement by INTDEV or the System Operators(s), or their respective employees and contractors, or whether caused directly or indirectly by the equipment, the System, and/or the Services, or the use thereof, and the Subscriber hereby indemnifies INTDEV and holds it harmless against any such claim by any other person.
- 13.2. Any known or unknown risk attached to the use of the equipment and/or the Services shall be deemed to have passed to the Subscriber on the commencement date, and the Subscriber hereby indemnifies INTDEV and holds it harmless against any claim by any other person relating to the use of the equipment and/or the Services.
- 13.3. The Service does not apply to any unavailability, suspension or termination, or any other performance issues: (i) that result from Suspension Of Services described in Section 14; (ii) caused by factors outside of INTDEV's reasonable control, including any force majeure event or Internet access or related problems beyond the demarcation point of control; (iii) that result from any actions or inactions of you or any third party; (iv) that result from your equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within our direct control); or (v) that result from failures of individual servers not attributable to network connectivity.
- 14. SUSPENSION OF SERVICES**
- 14.1. INTDEV may at any time suspend the Services, in whole or in part, without notice to the Subscriber and without incurring any liability whatsoever should:
- 14.1.1. INTDEV be unable to provide the Services, in whole or in part, whether due to *force majeure* or otherwise through no fault of its own;
- 14.1.2. an agreement in terms of which INTDEV derives its rights to provide the Services, be suspended, cancelled or terminated;
- 14.1.3. such suspension be necessary to facilitate any repairs, modification, maintenance, improvements or remedial works in respect of the Services and/or the System;
- 14.1.4. the Subscriber fail to make payment as contemplated in clause 6;
- 14.1.5. the Subscriber exceeds its credit limit as contemplated in clause 7;
- 14.1.6. the Subscriber dies or any of the events contemplated in clause 6.16 occur;
- 14.1.7. the Subscriber fails to comply with and/or breach any term of this Agreement; and/or
- 14.1.8. the Subscriber infringes on or is alleged to have infringed the intellectual property rights of INTDEV or any third party.
- 14.2. Should the Services be suspended pursuant to 14.1.1 or 14.1.2, INTDEV may in its sole discretion provide an alternative Service to the Subscriber.
- 14.3. Should the Services be suspended by reason of default of the Subscriber, the Subscriber shall be liable to INTDEV for any additional Charges accruing from the cessation of such suspension.
- 15. COSTS**
- The Subscriber shall on demand pay all expenses incurred by INTDEV either on behalf of the Subscriber or as a result of the Subscriber's failure to comply with any provision of this Agreement, including tracing costs and all legal costs calculated on the scale as between attorney and own client
- 16. BREACH AND ACCELERATION**
- 16.1. Should the Subscriber breach any term of this Agreement, all of which are material, and fail to remedy such breach within 10 (ten) days after despatch of written notice calling upon the Subscriber to do so, INTDEV shall be entitled, but not obliged and without detracting from any other rights that INTDEV may have in law or in terms of this Agreement, to -
- 16.1.1. cancel this agreement;
- 16.1.2. suspend the Services, in whole or in part, and to disconnect the equipment (if applicable);
- 16.1.3. claim the immediate return of the rental equipment; and/or
- 16.1.4. blacklist and/or deactivate the equipment;
- 16.1.5. blacklist and/or deactivate the SIM;
- 16.1.6. notify any credit reference agencies in the Republic of South Africa;
- 16.1.7. terminate this Agreement and recover from the Subscriber as liquidated damages, the aggregate of the Charges for the unexpired portion (if any) of the initial period plus all amounts payable under any agreement between INTDEV and the System Operators in respect of this Agreement;
- 16.1.8. claim specific performance of all of the Subscriber's obligations in terms of this Agreement, and/or
- 16.1.9. claim any damages INTDEV may have suffered as a result of such breach
- 16.2. Notwithstanding anything to the contrary stated in this agreement, should this Agreement terminate prior to the expiry of the initial period INTDEV shall be entitled to claim immediate payment of all amounts payable in respect of this Agreement as if this Agreement had terminated on the expiry of the initial period, whether or not such amounts are due at the time of the Subscriber's breach.
- 17. MAGISTRATES' COURT JURISDICTION**
- For the purpose of all or any proceedings hereunder the parties consent to the jurisdiction of the magistrates' court, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said court pursuant to section 45 of

the Magistrates' Court Act, 1944, provided, nevertheless, that any party shall have the right at its sole option and discretion to institute proceedings in any other competent court. This Agreement shall be interpreted in accordance with the laws of South Africa and, where relevant, the Electronic Communications and Transactions Act, 25 of 2002.

18. DOMICILIUM AND NOTICES

18.1. The parties choose as their *domicilia citandi et executandi* for all purposes this Agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (referred to hereinafter jointly as "notices"), including invoices and the exercise of any option, the following addresses:

18.1.1. INTDEV – P.O. Box 414055 Craighall Park 2024;

18.1.2. the Subscriber: at the Subscriber's physical address, email and telefax number set out in the Application form;

18.2. Any notice required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give notice by telefax, email.

18.3. Any party may by notice to any other party change its *domicilium citandi et executandi vis-à-vis* that party to another address provided that in the event the Subscriber changes such *domicilium citandi et executandi* to another physical address, further provided that the change shall become effective *vis-à-vis* that addressee on the 10th business day after receipt of the notice by the addressee.

18.4. Any notice to a party –

18.4.1. delivered by hand to during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or

18.4.2. transmitted by email and/or telefax to the email or telefax number stipulated in clause 18.1.2, shall be deemed to have been received on the date of transmission (unless the contrary is proved).

18.5. Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

19. CESSION

19.1. INTDEV shall be entitled to cede, assign and delegate all or any of its rights and obligations in terms of this Agreement to a third party, in which event INTDEV shall give the Subscriber written notice thereof.

19.2. The Subscriber shall not be entitled to cede, assign or delegate any of its rights or obligations in terms of this Agreement without the prior written consent of INTDEV.

19.3. Should the Subscriber be a company, the transfer of more than 25 % (twenty five percent) of its issued share capital, and/or the issue of any of its unissued shares or any future increase in its share capital which results in a change in the effective control of the Subscriber, shall be deemed to be a cession, assignment and/or delegation of the Subscriber's rights and/or obligations (as the case may be) which shall require INTDEV's prior written consent.

19.4. The provisions of 19.3 shall apply *mutatis mutandis* if the Subscriber is a close corporation.

19.5. INTDEV shall be entitled, without prejudice to any of its other rights, to terminate this Agreement on 7 (seven) days written notice to the Subscriber in the event that the Subscriber shall purport to cede, assign or delegate any of its rights or obligations in terms of this Agreement without the prior written consent of INTDEV.

20. INSURANCE AND ADDITIONAL SERVICES

20.1. Should the Subscriber request insurance cover or any additional services in the Application form or in any schedules or addenda to this Agreement then INTDEV shall be authorised to arrange the necessary insurance cover and/or additional services and recover from the Subscriber the cost of such insurance and all charges from time to time in respect of the additional services subscribed for by the Subscriber.

20.2. The Subscriber will be responsible to request and ensure that it understands and acknowledges all terms and conditions of such insurance or additional services prior to accepting such insurance or additional services. INTDEV accepts, in good faith, that the Subscriber requesting such insurance or additional services is aware of and accepts all applicable terms and conditions.

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

21.1. If the Subscriber is any entity with a juristic personality (including trusts), then the signatory hereto who signs on behalf of the Subscriber ("the signatory") warrants that he is duly authorised to enter into this Agreement and sign the debit authorisation on the Subscriber's bank account.

21.2. By his signature, the signatory hereby binds himself as co-principal debtor for the Subscriber unto and in favour of INTDEV for the due and punctual fulfilment of all the Subscriber's obligations to INTDEV arising out of this Agreement including the payment of all charges, fees, penalties, and liquidated damages.

21.3. The signatory as co-principal debtor hereby renounces and waives the benefits of the legal defences of:

21.3.1. excussion; and

21.3.2. division of cession of actions and hereby acknowledges that he understands the full meaning of such defences and the effect of such renunciation and waiver.

OVERRIDING PROVISIONS

The terms and conditions herein contained shall supersede and prevail over any terms and conditions contained in any other document(s) signed or submitted by the Subscriber.

WHOLE AGREEMENT

23.1. No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against any party in respect of its rights in this Agreement, nor shall it operate so as to preclude such party thereafter from exercising its rights strictly in accordance with this Agreement.

23.2. To the extent permissible by law no party shall be bound by any term, representation, warranty, promise or the like not recorded herein, whether or not it induced the contract.

23.3. This Agreement together with the Application form, addenda and schedules signed by the parties constitutes the entire agreement between the parties.

23.4. Save as may be otherwise expressly provided in this Agreement, no alteration, variation or consensual cancellation of this Agreement and no addition to this Agreement shall be of any force or effect unless reduced to writing and signed by the parties or their duly authorised representatives.

23.5. No failure, delay, relaxation or indulgence on the part of INTDEV in exercising any power or right conferred upon it in terms of this Agreement shall operate as a waiver of such power or right, nor shall any such failure, delay, relaxation or indulgence be deemed to be a novation of any of the terms and conditions of this Agreement. The acceptance by INTDEV of any payment by the Subscriber after the termination of this contract shall not be deemed to be a waiver of INTDEV's rights or be deemed to constitute a novation of this Agreement.

23.6. Each provision or part thereof of this Agreement is independent and severable from the remaining provisions and enforceable accordingly. If any provision of this Agreement shall be unenforceable for any reason but would if part of the wording thereof were deleted, it shall apply with such deletions as may be necessary to make it enforceable.