

VAS SERVICES AGREEMENT



A. Customer Details

Company Name	
Business Type	Corp <input type="checkbox"/> SMME <input type="checkbox"/> NGO <input type="checkbox"/> OTHER <input type="checkbox"/>
	REG # TIN:
Postal Address	
Authorised Contact	
Contact Number	
Email	
Physical Address	

B. Services

Select the Services Applied for

1. Enterprise Messaging	
Portal Based <input type="checkbox"/>	Sender ID:
A2P Integrated via SMPP Account <input type="checkbox"/>	Sender ID:
P2A Integrated via SMPP Account <input type="checkbox"/>	Sender ID:
SMS Tagging	7 days <input type="checkbox"/> 14 days <input type="checkbox"/> 1 calendar month <input type="checkbox"/>

2. Enterprise Short Codes	
USSD <input type="checkbox"/>	USSD String: (e.g. *123#):

3. Enterprise Voice Services	
Toll Free <input type="checkbox"/>	SIP Trunking <input type="checkbox"/>

4. Connectivity	
Private APN <input type="checkbox"/>	VPN <input type="checkbox"/>

P. O. Box 2150 Mbabane | 2nd Sibekelo Building | Mhlambanyatsi Road | Mbabane, Eswatini

Contact: 34011000 / 79011000 | info@eswatini-mobile.co.sz | www.eswatini-mobile.co.sz

C. Payments and Account Information

Company Name	T/A
Account Contact	
Contact Number	
Email	

Select Payment Method: EFT Debit Order

Preferred Debit Order Date	22 <input type="checkbox"/>	25 <input type="checkbox"/>	Last day <input type="checkbox"/>
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Bank Name	
Account Number	
Branch Name	
Period Active	

D. Details of Directors / Proprietors / Partners / Promoters

	Director 1	Director 2
Full Name		
Designation		
ID #		
Contact #		
Place of Residence		

E. Declaration By Authorised Representatives

The Customer has requested, and Eswatini Mobile has agreed to provide, the products and services specified in the agreement in accordance with the Terms and Conditions detailed in Annexure A which forms an integral part of this Agreement. Customer has received and read, understands, and willingly accepts all clauses of this Agreement.

<i>For Customer</i>	<i>For Eswatini Mobile</i>
<i>Date</i>	<i>Date</i>
<i>Designation</i>	<i>Designation</i>

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F. Pricing

1. Enterprise Messaging

i) Portal Based

Monthly Service Fee	Bulk Rate (On Net)	Bulk rate (Off Net)
E750.00	E0.10	E0.15

ii) A2P Integrated SMS via SMPP

Once Off Setup Fee	Monthly Service Fee	Bulk Rate (On Net)	Bulk rate (Off Net)
E3,500.00	E2,500.00	E0.10	E0.15

iii) P2A Integrated SMS via SMPP (No Revenue Sharing)

Once Off Setup Fee	Monthly Service Fee	Rate
E2,300.00	E750.00	E0.25

iv) P2A Integrated SMS via SMPP (No Revenue Sharing)

Premium Charge	Sharable Revenue	ESM Share	Client Share
E1.20	E0.90	E0.45	E 0.45
E2.00	E1.50	E0.75	E 0.75
E2.50	E1.94	E0.94	E0.94
E3.00	E2.25	E1.13	E1.12
E3.50	E2.62	E1.31	E1.31
E4.00	E3.00	E1.50	E1.50
E5.00	E3.75	E1.88	E1.87
E7.00	E5.25	E2.63	E2.62
E10.00	E7.50	E3.75	E3.75
E15.00	E11.25	E5.63	E5.62
E17.00	E12.75	E6.38	E6.37

v) SMS Tagging

Price available on enquiry. It will depend on whether the service is required for 1 week, 2 weeks or 1 calendar month.

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2. Enterprise Short Code (USSD)

Once Off Setup Fee	Monthly Service	Usage
E2300.00	E1150.00	E0.15 per 20 seconds session

3. Enterprise Voice Communications

i) Toll Free

Once Off Setup Fee	Monthly Service	Usage
None	E450.00	E1.15 per minute for first minute then E0.45 per minute for subsequent minutes

ii) SIP Trunking

Once Off Setup Fee	Monthly Service	Usage
E5000.00	E1000	E0.33 per minute

4. Connectivity

i) Private APN and VPN

Once Off Setup Fee	Monthly Service	Usage
E4995.00	E150 per SIM for Non-Static IP E250 per SIM for Static IP	10GB E150 20GB E250 50GB E400 Unlimited E595

G: Attach

Form J, Certificate of Incorporation, Trading Licence, Copy of IDs of Directors, Proof of Residence and Proof of Banking.

Our VAS services contracts are 12 months except connectivity services which are 24 months.

Contact us: email vas.services@eswatinimobile.co.sz for more information.

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1. Background Parties

This Mobile Telephony agreement is between:

1.1 Eswatini Mobile Limited a company incorporated under the laws of the Kingdom of Eswatini, located at PSPF Office Park, 2nd Floor, Sibekelo Building, Mhlambanyatsi Road and P.O. Box 2150, Mbabane, H100 (hereinafter referred to as ESWATINI MOBILE) of the one part

1.2 _____

_____ its registered office first above written (hereinafter called Customer) of the other part and collectively referred to as the parties.

Whereas

1.3 Eswatini Mobile is a Mobile Operator in Eswatini engaged in the provision of national and international telecommunication services including mobile phones, data packages, connectivity services and other value added services in Eswatini.

1.4 The Customer is desirous of obtaining and using the services provided by Eswatini Mobile subject to the terms and conditions contained in this agreement.

1.5 By subscribing for any service, the Customer authorizes ESWATINI MOBILE to perform a background check to identify the Customer's credit worthiness.

1.6 ESWATINI MOBILE is hereby authorized by the Customer to obtain a credit report for such service connection.

1.7 The Parties have agreed for ESWATINI MOBILE to provide the services on the terms and conditions stated herein.

2. Definitions

2.1 In this agreement, the following words shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings and other words derived from the same origins as such words (that is, cognate words) shall bear corresponding meanings:

2.1.1 "This Agreement" means this Agreement including customer data form and appendices hereto which shall be read with and interpreted as an integral part hereof;

2.1.2 "Effective Billing Date" means the service activation date;

2.1.3 "Agreement Effective Date" means the date of signature by Customer

and/or activation of the service whichever comes first;

2.1.4 The Customer means the party referred to in 1.2, which operates within Eswatini;

2.1.5 "Day" means any period from one midnight to the next midnight of any weekday of the typical Gregorian Calendar seven-day week, other than a Saturday, Sunday or any official public holiday within the Kingdom of Eswatini;

2.1.6 "This contract", "contract", "agreement", "this agreement" or "the contract" which terms and lor phrases are herein used interchangeable, mean this agreement entered into by the "Customer" and Eswatini Mobile and the annexes thereto;

2.1.7 "License" means a License, including any amendment to, renewal or replacement of such License, granted to Eswatini Mobile in terms of the laws of the Kingdom of Eswatini;

2.1.8 "Services" shall mean the telecommunications services provided. In this case, SMS or text message or USSD carried on the ESWATINI MOBILE Network and enabling targeted recipients to receive messages sent by the Customer.

2.1.9 "Tariff" shall mean the rate which shall apply to the service provided by Eswatini Mobile;

2.1.10 "Cost per Hit" shall mean the amount per traffic on the USSD, for the time being agreed in writing by the Parties, to be post paid by the Client for the service provided by ESWATINI MOBILE;

2.1.11 "Cost per SMS" shall mean the amount per text message, for the time being agreed in writing by the Parties, to be post paid by the Client for the service provided by ESWATINI MOBILE;

2.1.12 "SMPP" shall mean Short Messaging Peer to Peer;

2.1.13 "SMSC" shall mean short message service centre;

2.1.14 "GSM" means Global System for Mobile communications;

2.1.15 "Signed" or "Signature" means a hand-written signature, excluding signature appended by electronic communications; where "electronic communication" has the meaning assigned to it in the Electronic Records (Evidence) Act of 2009;

2.1.16 "Order" shall mean Customer's official customized written purchase and/or procurement order;

2.1.17 "GPRS" means General Packet Radio Service

- 2.1.18 "SMS" means a short messaging system;
- 2.1.19 "Short code" means a numbering facility that will be used for sending SMS;
- 2.1.20 "USSD": shall mean Unstructured Supplementary Service Data available on mobile Client networks and devices as a value-added service for the transmission of limited text/data content;
- 2.1.21 "Third Party" means any person or entity other than the parties;
- 2.1.22 "Network" means the ESWATINI MOBILE Telecommunications network.
- 2.1.23 "In writing" shall mean written, printed, and other modes of representing or producing words in a visible form, includes any, typewritten or facsimile communications but excludes any communication by way of a data message, unless use of a data message has been expressly authorized herein. The term "data" has the meaning as defined in the Electronic Records (Evidence) Act of 2009, which is law in Eswatini; "written", "writing" shall have corresponding meanings.
- 2.2 If any provision in this clause is a provision imposing rights or obligations on any person or entity, then, notwithstanding that it is contained in this clause, effect shall be given to it as if it were a substantive provision in the body of the agreement.
- 2.3 In the agreement, unless inconsistent with or otherwise indicated in the context, defined words shall have the meaning ascribed to them in the agreement.
- 2.4 Any reference to an enactment is to that enactment as at date of signature, as amended or re-enacted from time to time.
- 2.5 If reference is made in this agreement to any other document for the purpose of defining words or phrases used in this agreement, the applicable definition or description in such document shall be read and interpreted in terms of this agreement as if specifically incorporated.
- 2.6 A reference to natural persons shall include created entities (incorporated or unincorporated) and *vice versa*; If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of this agreement, notwithstanding that it is only in the definition clause;
- 2.7 Wherever in this agreement any number of days (whether simply "days" or business days or working days or calendar days) is prescribed in this agreement, that number of days shall be reckoned exclusively of the first and inclusively of the last day, unless the last day, in the case of calendar days, falls on a Saturday, Sunday or official public holiday in the Kingdom of Eswatini, in which event the last day shall be the next succeeding business day.
- 2.8 Reference to months or years shall be construed as months or years on the Gregorian calendar and a reference to a month or year means a calendar month or calendar year.
- 2.9 Expressions or words defined in this agreement shall bear the same meaning in the annexure to this agreement.
- 2.10 The headings in this agreement have been inserted for convenience only and shall not be used for nor assist or affect its interpretation;
- 2.11 If any provision and any expression defined herein is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of this agreement.
- 2.12 Where figures are referred to in numbers and then in words, and if there is any conflict between the two, the words shall prevail. If any provision and any expression defined herein is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of this agreement.
- 2.13 When any number of days is prescribed in the Agreement same shall be reckoned exclusive of the first and inclusive of the last day unless the last day falls on a Saturday, Sunday or public holiday in Eswatini, in which case the last day shall be the next succeeding business day.
- 2.14 Appendices and/or Annexures to the Agreement shall be deemed to be incorporated into and to form part of the Agreement. Provided that in the event there is a conflict between a particular provision of the main body of this agreement and any annexure thereof, the provisions in the main body of the agreement prevail and shall be deemed to state the final intention of the parties in that regard.
- 3. Scope of the Service**
- This agreement makes provision for two or one of below services depending on which is being requested for by the Customer under the Agreement
- 3.1 Eswatini Mobile shall provide the requested Bulk SMS and/or USSD service to the Customer on condition that Customer would abide by this agreement and Eswatini Mobile operational procedures of the services including (a) The Customer cannot transfer the service from

- one Account to another or any other third party without prior written consent of Eswatini Mobile. In the event of such transfer, Eswatini Mobile shall only effect the change upon the Customer paying the appropriate fees and ensuring that all outstanding balances are fully settled.
- 3.2 For Bulk SMS Service: "Successfully Delivered" messages occur where an SMS originating from Customer's network is routed through the ESWATINI MOBILE Network and is finally delivered to the mobile handset of the intended recipient; and
 - 3.3 For USSD service; (a) Customer shall, at its own cost, design, develop, supply, install, manage and support the USSD services to be carried on ESWATINI MOBILE's network to recipients and
(b) Customer shall provide the required technical design and system application services that will be carried on the ESWATINI MOBILE network at its own cost.
 - 3.4 The Parties may, by mutual agreement, add additional USSD or BULK SMS services by executing additional Service Orders by official letter or email to Eswatini Mobile which shall be incorporated into this Agreement.
- 4. Obligations of Eswatini Mobile**
- 4.1 ESWATINI MOBILE agrees to provide the requested service to the Customer.
 - 4.2 ESWATINI MOBILE agrees to operate and maintain the services in accordance with this agreement.
 - 4.3 ESWATINI MOBILE shall ensure enough capacity on the SMSC;
 - 4.4 ESWATINI MOBILE shall ensure at least 98.5% (ninety-eight point five percent) up-time of the SMSC;
 - 4.5 ESWATINI MOBILE shall produce monthly or regular SMS hits and/or USSD units to Customer;
 - 4.6 ESWATINI MOBILE shall invoice the Customer monthly on one account for all services subscribed unless otherwise agreed;
 - 4.7 Eswatini Mobile shall timeously communicate any technical errors and glitches which affect the services as soon as these have come to the attention of Eswatini Mobile to allow the Customer to make contingency plans hereto;
 - 4.8 ESWATINI MOBILE shall timeously inform the Customer of any planned outages;
 - 4.9 ESWATINI MOBILE shall not be liable for any damages/losses which may be incurred by the Customer resulting from any technical errors and/or glitches arising from malfunction or failure of its equipment to function;
- 5. Obligations of the Customer**
- 5.1. Customer undertakes to ensure prompt payment of all sums due on a monthly basis.
 - 5.2. Customer shall obtain ESWATINI MOBILE's approval of all communication that will feature the ESWATINI MOBILE name, marks and logos;
 - 5.3. Customer shall ensure that technical support is available to ensure a positive experience of the services by the customer;
 - 5.4. ESWATINI MOBILE reserves the right to disconnect the service if the Customer defaults in the payment of bills. In the event that the Customer's service is disconnected as described above, ESWATINI MOBILE shall not be liable in damages for any loss suffered as a result of the said action;
 - 5.5. Customer agrees not to indulge in anything that would damage the good name of ESWATINI MOBILE and to protect the good name and reputation of ESWATINI MOBILE in fulfilment of its obligations under this Agreement;
 - 5.6. Customer agrees to enable the termination of USSD messages or SMS messages to only registered recipients on Customer's database.
 - 5.7. Customer agrees to send electronic communications only within the approved time lines as directed by the Regulator from time to time.
 - 5.8. Customer agrees to include the opt-out option for customers in each bulk SMS Message.
 - 5.9. Customer agrees not to use this service for the transmission of any material which is of a defamatory, offensive, abusive, obscene, or menacing character or nature.
 - 5.10. Customer agrees not to use or permit this service to be used for any improper, fraudulent, immoral or unlawful purpose.
- 6. Commercial Terms: Tariffs and Payment:**
- 6.1 All amounts payable under this Agreement shall include Value Added Tax (VAT) as prescribed by law.
 - 6.2 Customer shall make monthly payments to Eswatini Mobile for the services provided to it within thirty (30) Days from date of invoice.
 - 6.3 The Customer shall pay all bills and any other charges that may accrue from the utilization of the services provided by Eswatini Mobile, payment of which shall be in cash, cheque, bank transfer, debit note or ESWATINI MOBILE e-Mali. The Customer shall pay all fees levied for any cheque returned unpaid.
 - 6.4 In case of debit note, the Customer agrees for the Customer's account to be debited in favour of Eswatini Mobile with the total amount owing each month.
 - 6.5 Setup cost and/or deposit where required shall be settled before activation.
 - 6.6 Eswatini Mobile reserves the right to connect the provision of its Services to the Customer for non-payment and to take any action deemed necessary to recover the outstanding balance.
 - 6.7 In the event that the Customer disputes an invoice provided by Eswatini Mobile the Customer shall, in respect of the undisputed portion of the invoice, pay such amount in accordance with the provisions of clause 6.2 above, pending resolution of the issue in respect of the disputed amount.
 - 6.8 Where, under the provisions of any laws, regulations or directives for the time being in force in Eswatini, Eswatini Mobile is required to charge any amount, whether as tax or howsoever called, Eswatini Mobile shall without further assurance to the Customer charge the specified amount or rate in addition to the

amount payable by the Customer. Eswatini Mobile shall pay over or deal with any amount so charged in accordance with the provisions of the relevant laws or regulations providing for the charge.

6.9 In case the rate of any Tax is increased, decreased, or the Tax abolished, or a new Tax in force which shall be included into the prices, or any change in interpretation or application of such Tax occurs in the course of the performance of this Contract, an equitable adjustment of the price shall be made to address such change, if any.

6.10 Bills and invoices shall be delivered by electronic mail or other methods at the option of ESWATINI MOBILE to the address supplied by the Customer above. Invoices delivered by electronic mail shall be deemed to have been received on the Business Day following the sending. On the other hand invoices mailed by prepaid first-class post or other means shall be deemed to have been received on the fifth (5th) Business Day after the post-marked date thereof. ESWATINI MOBILE shall endeavour to deliver all electronic invoices before the 5th Day of the following month. In the event of non-receipt of invoices by the said date, the Customer is responsible to notify ESWATINI MOBILE to deliver same.

6.11 In the event of receipt of an incorrect bill by the Customer, ESWATINI MOBILE reserves the right to recover the correct amount(s) due, when the error is detected.

6.12 Where the Customer is in breach of this Agreement and this Agreement is terminated as a result thereof, the balance of the total amounts payable to ESWATINI MOBILE as provided in charges section, shall become due and payable, without prejudice to ESWATINI MOBILE's rights to all other relief as it may be entitled to at law or in terms hereof.

6.13 Right to Set-Off:

Where Eswatini Mobile is indebted to the Customer it shall have a right to offset any amount due from the Customer against its indebtedness.

7. Commencement

7.1 Notwithstanding the date of its signature, this Agreement shall commence on the Agreement Effective date or the date of activation of service whichever comes first and continue for an initial period of twenty- four (24) months and thereafter shall renew automatically and continue for one additional period in full force and effect as provided herein or by agreement between the parties, unless terminated earlier as set out in this Agreement.

7.2 ESWATINI MOBILE shall issue a written communication to the Customer and the Customer shall

confirm by same means certifying the activation of the services concerned.

8. Breach

8.1 Either one of the parties shall be entitled after giving the other seven (7) days' notice in writing, to terminate this agreement. In the event of breach of any term(s); where the party in breach fails to remedy such breach when called upon to do so within seven (7) days' notice; the claiming party shall have the option to claim damages from the party in breach. In the event of either Party being in breach of a material provision of this Agreement and failing to remedy such breach within a period of 7 (seven) days of being advised in writing of such breach by the aggrieved party, the aggrieved party shall be entitled to:

8.1.1 Claim specific performance;

8.1.2 Cancel this Agreement without further notice; and/or

8.1.3 Claim such damages as it may prove to have suffered.

9. Force Majeure

9.1 Where either party is prevented by "force majeure" that is to say, an act of God, act of war, warlike operations, civil commotion, strikes or any industrial action whatsoever, fire, tempest or any other cause or happening beyond its control from executing their mutual obligations; neither party shall be held liable under this Agreement.

9.2 If conditions of "force majeure" persist for a period in excess of fourteen (14) days and such conditions have a material adverse effect on the other party, and the parties are within such period unable to reach written agreement on amendments to the relevant provisions of this agreement to take into account such conditions, the other party may terminate this agreement with immediate effect on written notice.

9.3 It is a specific term of this agreement that Customer shall not be entitled to deduct any amounts whatsoever from normal payments in terms hereof in the event of the Eswatini Mobile not providing the services recorded herein as a result of "force majeure" as set out in this clause or any eventuality and payments shall be effected in full without deduction on due date.

10. Limitation of Liability

10.1 Customer hereby indemnifies Eswatini Mobile and holds Eswatini Mobile harmless from and against any loss, claim, action, damage or expense suffered or sustained by either party (including any third parties) pursuant to or arising out of any wilful or negligent act or omission of the Customer, its servants or agents; or arising from the non- fulfilment or breach by Customer of its obligations under this Agreement howsoever arising.

10.2 Eswatini Mobile hereby indemnifies Customer and holds Customer harmless from and against any loss, claim, action, damage or expense suffered or sustained by either party (including any third parties) pursuant to or arising out of any wilful or negligent act or omission of Eswatini Mobile, its servants or agents: arising from the non-fulfilment or breach by Eswatini Mobile of its obligations under this agreement howsoever caused.

10.3 The Parties shall, however, not be liable for any consequential, exemplary, extrinsic, indirect, incidental, punitive, pure economic or special loss or damage of any kind whatsoever or howsoever caused.

11. Duty of Care

11.1 The parties profess to have within their human and other resources the expert professional and technical knowledge and skills to execute their obligations and/or undertakings in terms of this agreement to a particularly high degree of competence to fully and effectively meet and discharge all of the parties' obligations arising from this agreement.

11.2 The parties warrant that they shall exercise reasonable skill, care and diligence in the performance of their obligations under the agreement.

11.3 The parties shall discharge all of their legal obligations and carry out all their operations in terms of the agreement and in accordance with the specifications and objectives of the provision of clauses 3, 4 and 5 of this agreement, without any overt or covert, subtle, express and/or implied, exhibition of any prejudice on racial, sexual or religious lines towards either party, its employees, representatives and agents;

11.4 The parties undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary to give effect to the terms and purpose of this agreement;

11.5 The parties shall at all times during the subsistence of this agreement observe the principles of good faith towards one another in the performance of their obligations and will accordingly:

- a. Act reasonably, honestly and in good faith;
- b. Perform their obligations with the necessary skill, care and diligence required, and make full disclosure to each other of any matter that may affect the implementation of this agreement.

12. Variation

Any additions, variations, cancellation or novation of this Contract shall be of no force

or effect unless reduced to writing and signed for by the duly authorized representatives of the parties. Provided that either one of the parties shall initiate negotiations with a view to reaching such said agreement

13. Language and Applicable Law

13.1 The language of the Agreement shall be English. The Agreement shall be deemed to be an Eswatini Agreement and shall accordingly be governed and construed according to the laws for the time being in force in the Kingdom of Eswatini. The parties submit to the jurisdiction of the Eswatini Courts for the purposes of any action and proceedings in connection with any legal proceedings whatsoever that may be occasioned and/or brought by one of the parties against the other one of the parties in respect of the agreement. The parties so consent to the jurisdiction of the Eswatini Courts, whether any such said legal proceedings shall be occasioned by a cause of action arising within or without the area of jurisdiction of the Eswatini courts and notwithstanding that any other courts outside Eswatini might ordinarily (or otherwise) have competent jurisdiction over any such legal matter and/or proceedings. Provided that any judgment entered in favour of Eswatini Mobile and against the Customer in connection with this agreement by the Eswatini Courts, shall be binding upon the Customer and may irrevocably be enforced against the Customer in any other jurisdiction, besides that of the Eswatini Courts.

14. Domicilium

14.1 The parties hereto choose *Domicilium Citandi et Executandi* for all purposes of and in connection with this Agreement as follows:

14.2 Eswatini Mobile: Physical Address:
PSPF Office Park, 2nd Floors, Sibekelo Building
Postal Address:
P.O. Box 2150 Mbabane H100
Telephone No: 3401 1000
Attention: Chief Executive Officer

14.3 In the case of Customer, first written above.

14.4 The parties hereby select the physical address respectively set out below its name as its address at which all legal notices, legal processes and other related communications must be delivered to it for the purposes of this Agreement.

14.5 Either party hereto shall be entitled to change its *Domicilium* from time to time, and any such change shall only be effective upon receipt of notice in writing by the other parties of such change.

14.6 All notices, demands, communications or payments intended for either party shall be made or given at such party's *domicilium* for the time being.

14.7 A notice sent by one party to another party shall be deemed to be received:

- a. on the same day, if delivered by hand or telefax;
- b. on the fifth day after posting, if sent by prepaid registered mail.

14.8 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*.

15. Confidentiality

15.1 The parties hereby undertake that they will not, either during the term of this contract or thereafter, disclose any information of whatsoever nature regarding the matters referred to in or arising out of this contract to any person or themselves utilise the abovementioned knowledge and information in competing with each other.

15.2 The parties hereby undertake to keep confidential and protect confidential information, which they acquire during the term of this contract, including in particular but without prejudice to the generality of the foregoing, any information relating to the business of the other party.

Dispute Resolution

16.1 Any dispute arising out of or in connection with this Contract, which cannot be amicably resolved, shall unless otherwise stated below, be decided by way of litigation as set out below

- a. The parties consent to the jurisdiction of the High Court of Eswatini at Mbabane in respect of all proceedings which may arise out of or in connection with this Contract.
- b. Provided that in the event of a dispute arising in relation to payment of any sums due payment of the undisputed amount shall not be withheld.
- c. Where the amount in dispute is less than 5% of the invoice the parties shall compare each party's relevant data and reach agreement;
- d. Should the parties fail to agree an independent auditor shall be appointed to investigate and produce findings which shall be binding on the parties;

e. The cost of the audit shall be for the account of the unsuccessful party.

16. Termination

16.1 Notwithstanding the provisions of clause t, either party ("the aggrieved party") may terminate this Agreement forthwith by notice in writing to the other party if: -

- a. the other party commits a breach of any of the terms of this Agreement and fails to remedy such breach within (7) seven days of written notice from the aggrieved party specifying the nature of the breach and requiring its remedy; or
- b. the other party commits a second (2nd) or subsequent breach of this Agreement after having remedied an earlier breach during the preceding (6) months' duration after written notice to do; or
- c. there is a change of ownership (meaning a change of ownership of more than (50%) fifty per centum of the entire issued share capital of the other party) of the other party or if the other party is placed under provisional or final liquidation or under provisional or final receivership or judicial management, or if the other party becomes insolvent or compromises or attempts to compromise with creditors; or
- d. the other party commits an act which would be an act of insolvency (as defined in the Insolvency Act from time to time) if committed by a natural person; or
- e. the other party, after the Effective Date disposes of the whole or a material part of its business other than for purposes of internal reconstruction.

16.2 Notwithstanding the provisions of Clause 7 ESWATINI MOBILE may terminate this Agreement forthwith by notice in writing to Customer, if ESWATINI MOBILE's license is terminated for any reason whatsoever irrespective of whether or not such cancellation occurs by virtue of the fault of Eswatini Mobile

license is terminated for any reason whatsoever irrespective of whether or not such cancellation occurs by virtue of the fault of ESWATINI MOBILE.

16.3 Notwithstanding the provisions of clause 7, this Agreement can also be terminated by either party giving thirty (30) days' notice in writing to the other party.

16.4 The parties' rights to terminate this agreement in terms of this clause it shall not be construed as a limitation on any other rights which they may have in law arising out of a breach or anticipated breach of the terms of this Agreement, and are additional to any other such rights.

16.5 On termination of this agreement, through the normal effluxion of time or by whatever other mechanism, the provisions thereof in respect to already accrued rights of the parties shall not be affected by such termination.

18. Cession and Assignment

Neither Party may cede or assign its rights and/or obligations hereunder to any third party without the prior written consent of the other Party.

17. Regulatory Requirement

17.1 Customer undertakes that should it, during the subsistence of this agreement, decide to use the short code for gaming purposes, it

shall seek and be granted the relevant gaming license and/ or authorization by the Gaming Board, being the relevant Regulatory Body responsible for gaming in Eswatini, prior to engaging in any gaming activities.

17.2 Customer hereby indemnifies and holds ESWATINI MOBILE harmless from and against any loss, claim, action, damage or expense suffered or sustained by ESWATINI MOBILE pursuant to or arising out of any wilful or negligent act or omission by the Customer, its servants or agents, or arising from the non-fulfilment or breach by the Customer of its obligations under this Clause 19, howsoever arising.

18. Whole Contract

This Contract constitutes the whole agreement between the Parties as to the subject matter hereof and no agreement, representation or warranties between the Parties other than those set out herein are binding on the Parties.

19. Relaxation

No latitude, extension of time or other indulgence which may be given or allowed by any Party to any other Party in respect of the performance of any obligation hereunder or enforcement of any right arising from this Contract and no single or partial exercise of any right by any Party shall under any circumstances be construed to be an implied consent by such Party or operate as a waiver or a novation of, or otherwise affect any of that Party's rights in terms of or arising from this Contract or stop such Party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

20. Business Ethics

20.1 ESWATINI MOBILE is committed to a policy of openness and integrity in the conduct of its business. The Parties shall therefore conduct this transaction honestly and fairly; and shall comply with all applicable laws, or other act of any applicable governmental authority, (collectively, "Laws") that are applicable to this Agreement and the performance of their obligations herein, including those pertaining to labour, tax, health, safety, and the environment.

20.2 Each Party represents and warrants to ensure that prior to the performance of their respective obligations herein, its subcontractors, and their respective employees and agents will be familiar with and

knowledgeable about the applicable Laws. Each Party shall at all times retain exclusive control over and shall be solely responsible for evaluation, implementation, and all other decisions relating to applicable Laws as they pertain to performance of their obligations herein.

20.3 Political Neutrality:

The Parties shall further conduct their business in a completely ethical and transparent manner; and shall not directly or indirectly offer, promise or

deliver anything of value to government officials in order to improperly influence governmental acts or so as not to derive any unfair advantage in each other's institution and shall function in a manner which can contribute to the moral regeneration of the community while ensuring maintenance of acceptable standards of both personal and corporate governance so as to benefit all associated entities. The Customer shall neither say nor do anything to bring the name of ESWATINI MOBILE into disrepute and shall among other things, ensure that it does not jeopardize the politically neutral status of ESWATINI MOBILE. The Customer in engaging its representatives and other assigns shall ensure by Agreement that such representatives and other assign do not do or say anything that shall bring the name of ESWATINI MOBILE into disrepute or to jeopardize the politically neutral status of ESWATINI MOBILE.

20.4 ESWATINI MOBILE Anti-Bribery and Corruption:

22.4.1 ESWATINI MOBILE has a zero tolerance for bribery and corruption. ESWATINI MOBILE therefore enjoins each Business Partner to ensure compliance with this policy.

22.4.2 ESWATINI MOBILE requires the Customer as well as its subcontractors, directors and officers to observe the highest standard of ethics during the procurement and performance of this Agreement.

22.4.3 Under the zero tolerance policy, ESWATINI MOBILE charges both ESWATINI MOBILE and the Customer's employees to report any knowledge or awareness of improper and unethical conduct that breaches ESWATINI MOBILE's Anti-Bribery and Anti-Corruption Policy which is available on ESWATINI MOBILE's website (www.EswatiniMobile.co.sz).