



TERMS AND CONDITIONS

1. INTERPRETATION AND PRELIMINARY.

1.1. Unless a contrary intention is clear –

1.2. The following terms have the following meanings :

1.2.1. "Activation" means the enabling of a service to the Client's site on one or more networks.

1.2.2. "Addendum" means a supplementary agreement signed by both the provider and the Client that grow or change an existing agreement, and that for the duration of the current agreement.

1.2.3. "Agreement" means the general terms and conditions, the product-specific terms and conditions, the proposal, the subscriber agreement and all addenda, if applicable, by the Client and implemented in terms hereof, including, a written instruction to the Supplier to commence or cancel additional services.

1.2.4. "Charges" or "rates" or "fees" mean installation charges, monthly service charges, usage and other charges relating to the provision of services by the Supplier to the Client.

1.2.5. "Commissioned" means the date on which the services are operational.

1.2.6. "CPA" means the Consumer Protection Act, 2008.

1.2.7. "CPA Regulations" means regulations announced under the CPA from time to time.

1.2.8. "Client" means any person who has entered into an agreement with the Supplier for the provision of services and/or use of the equipment, or who has applied to the Supplier for the provision of services and/or use of the equipment and is used interchangeably with the term "subscriber".

1.2.9. "Client Premises" shall mean the location or locations occupied by the Client to which the Services are delivered.

1.2.10. "Degradation" means the presence of anomalies or defects in the absence of a fault.

1.2.11. "Degraded Service" means the presence of anomalies or defects that cause a degradation in QoS, but not result in total failure of the service.

1.2.12. "Equipment" means all devices including software provided by the Supplier to the Client to enable the provider to provide the services.

1.2.13. "Force Majeure" means any circumstances beyond the Parties' reasonable control including, without limitation, war, national emergency, civil disturbance, theft, fire, flood, explosion, natural disaster, unusually severe weather conditions, prohibitive legislation or regulations and failure of power or utility supplies (including electronic communications).

1.2.14. "FTTB" means Fibre to the Business

1.2.15. "FTTH" means Fibre to the Home

1.2.16. "General Terms and Conditions" means this document excluding all proposals carried out in terms hereof.

1.2.17. "Incident" means a fault that directly affects the Service Levels by substantially or completely reducing them. This excludes any faulty Client equipment.

1.2.18. "Initial period" means the period of the first agreement signed by the Client in respect of the services, as reflected in the subscriber agreement. The period will commence on the commissioned date.

1.2.19. "Initial services" means the first services provided by the Supplier to the Client in terms of the first agreement signed by the client in respect of the services.

1.2.20. "Installation" means the installation of equipment at the Client's premises or at any other location as may be specified by the Client.

1.2.21. "Management" means the on-going management and provision of services by the Supplier in exchange for a monthly payment by the Client.

1.2.22. "MEN" means Metro Ethernet Networks

1.2.23. "TITC AFRICA and TITC" means TITC Africa Business (Proprietary) Limited, registration number 2020/448094 / 07, a limited liability private company duly incorporated in the Republic of South Africa.

1.2.24. "Month" means a calendar month beginning at 0h00 on the first day of the calendar month in question.

1.2.25. "Monthly Recurring Charge" means the fixed, recurring charge invoiced by the Supplier to the Client on a monthly basis for the Service exclusive of any variable charges.

1.2.26. "MTRS" (Mean Time to Restore Service) means average time from the first detection or reporting of Service interruption to TITC AFRICA NOC by the Client until the time when the service is restored.

1.2.27. "Network provider" means any authorized provider of telecommunication facilities.

1.2.28. "Network services" means any services provided by any of the networks, including but not limited to fixed line operators, mobile operators, wireless operators, or any other operator that provides access and network services (including value added services) accessible to the Client by the Supplier in terms of this agreement.

1.2.29. "Network Unavailability" means the time where the service is unavailable or degraded to such an extent that it is unusable, measured from the first detection or reporting of service interruption to TITC AFRICA NOC by the Client until the time when the service is restored and excluding any service interruption outside of TITC AFRICA's contracted services supplied to the Client. Network Unavailability will not include Scheduled Maintenance/Emergency Maintenance or any unavailability resulting from (a) any local loop provider, (b) Client's applications, equipment or facilities, (c) acts or omissions of Client or any use of the service authorised by Client, (d) reasons of Force Majeure, or (e) power loss and/or interruptions at the Client Premises.

1.2.30. "NNI" means Network to Network Interface between distinct MEN operated by one or more carriers.

1.2.31. "Off-Net Services" means those Services provided at any Client premises that are not on TITC AFRICA's electronic communications network and where an infrastructure build will be required to connect the Client to TITC AFRICA's electronic communications network.

1.2.32. "On-Net Services" means those Services provided at Client or End User premises that are on TITC AFRICA's electronic communications network.

1.2.33. "OLT" means Optical Line Terminal located at TITC AFRICA's Aggregation Sites and is TITC AFRICA's endpoint of a Passive Optical Network

1.2.34. "ONT" means the consumer end equipment in a Passive Optical Network. The ONT receives downstream data from the OLT through the passive optical splitters and provides video, voice, and broadband services to the consumer.

1.2.35. "Parties", means the Parties to this Agreement and "Party" shall mean either one of them.

1.2.36. "Product" means any combination of equipment and services provided by the Supplier to the Client.

1.2.37. "Product-specific terms and conditions" means the specific terms and conditions applicable to the particular product or service as reflected in the proposal.

1.2.38. "Proposal" means the order form or proposal document submitted by the Supplier to the Client and signed by the client in respect of the provision of services and which incorporates the subscriber agreement, the product-specific terms and conditions and the terms of this Agreement.

1.2.39. "Renewal Period" means, unless otherwise specified in the product-specific terms and conditions or subscriber agreement:

1.2.39.1. if the Client is a juristic person, a period ending on the day immediately after the expiration of the initial term or any subsequent renewal period;

1.2.39.2. if the Client is a natural person, the period specified in clause 3.3.3;

1.2.40. "Republic" means the Republic of South Africa.

1.2.41. "Services" means the services, managed or otherwise, and/or products provided by the Supplier to the Client, as set out in the proposal.

1.2.42. "Service Provider" means any Electronic Communications Network Licensee or Electronics Communications Licensee licensed under the Electronic Communications Act, 2005, or any provider of an Electronic Communications Network Licensee or Electronics Communications Licensee.

1.2.43. "SLA" means Service Level Agreement

1.2.44. "Software" means any computer programme that either included or provided as a stand-alone application, or accessible via the Internet or other web browsing method.

1.2.45. "Subscriber Agreement" means the summary of the agreement signed by the Client for the delivery of services by the Supplier to the Client.

1.2.46. "Supplier" means TITC AFRICA.

1.2.47. "Traffic type" any particular type of calls carried out by the Supplier on the networks.

1.2.48. "UNI" means the physical interface or port that is the demarcation between the Client and the Supplier.

1.2.49. "Uptime" means the total number of available minutes in a calendar month.

1.2.50. "Use charges" means the costs charged by the Supplier to the Client for recorded use of network services.

1.3. When any number of days specified in this agreement, are the same excluding the first and including the last day is not counted unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day will be the next succeeding day which is not a Saturday, Sunday or public holiday.

1.4. The terms of the agreement shall apply in the event of a conflict between the proposal and this agreement; and

1.5. In circumstances when the CPA applies to the agreement, the provisions of the CPA will prevail in the event of a conflict between any provision of the agreement and the provisions of the CPA.

2. APPOINTMENT AND AUTHORISATION

2.1. The Client appoints the Supplier to supply services to the Client for the initial period in accordance with the terms and conditions set forth in the agreement. The Parties will be bound by the terms and conditions of this agreement as of the date of signature.

2.2. The Client hereby authorises (in so far as may be required and permitted by law) the Supplier to:

2.2.1. Communicate with other service providers to enable the Supplier to obtain all information that may be necessary in order for the Supplier to render the services. If the Supplier requires it, the Client will receive a separate letter authorising the Supplier to approach the service providers to request such information as aforesaid that may be furnished as proof that the Supplier has a mandate from the Client to the service providers for the purposes closer to request signed set out in clause 2.2; and/or

2.2.2. Enter, in its own capacity and for its own account, into agreements and arrangements with third parties as may be necessary for the Supplier to deliver the services.

3. TERM

3.1. The Supplier undertakes to provide the services to the Client, subject to the further provisions of this agreement, for the duration of the initial period, provided that in the event that the initial services become commissioned as a result of the actions or omissions of the Client, the Supplier has the right to recover from the Client, the minimum monthly charge as set out in the proposal (or pro rata portion thereof) payable by the Client for the period of delay, together with any reasonable wasted costs incurred by the Supplier and the Client hereby indemnifies the Supplier accordingly.

3.2. Notwithstanding the foregoing, for any automatic renewal period the discounts applicable to the services provided for in the agreement will not be available for the Client after 3 months from the expiry of the initial period, or until the Client concludes a new written agreement with the Supplier in respect of the services provided by the Supplier for the term of the renewal period.

3.3. Unless the CPA applies to this agreement, either Party shall be entitled to terminate this agreement at any time by giving three months written notice to the other Party, if the provision of any of the products or services by the

Supplier on the basis of this agreement is declared unlawful by an Act of Parliament, any regulatory body or court of law, the Supplier shall be entitled to cancel this agreement upon written notice to the Client.

- 3.4. If the Client terminates this agreement prior to the expiration of the initial period or any renewal period for any purpose other than expressly provided for in this agreement, the Client will be liable for all amounts due to the Supplier until the date of termination and the Supplier shall be entitled (unless the Client is entitled to terminate the agreement without penalty in accordance with the provisions of the CPA, if applicable), to a cancellation / early settlement fee provided for in the proposal, provided that where the Client is a natural person, shall restrict such cancellation/early settlement fee to a reasonable fee determined to be in accordance with the guidelines set out in the CPA and, if applicable, the CPA Regulations.
- 3.5. Unless otherwise expressly stated in the agreement, at the expiration of the initial period or any renewal period, the Supplier, in its sole discretion, but subject to clauses 3.3 and 3.4, can remove or change any discounts that applied during the initial period or renewal period, as the case may be.
- 3.6. Any new or additional services or extension of the initial services provided by the Supplier to the Client from time to time is subject to the terms contained in the proposal or required to be agreed to by the Parties in writing in a new agreement (or in an addendum to the existing proposal), and such new services will begin on the date on which such new services are commissioned.
- 3.7. The Supplier may, in its sole and absolute discretion, change the routing of any traffic at any time in the pursuit of the provision of services, such as routing changes will not affect the validity of the agreement.
- 3.8. The services provided by the Supplier is subject to the government or relevant authority regulated limitations and transmission constraints, and may be temporarily and/or permanently interrupted or curtailed as necessary or appropriate for the proper functioning of the services.
- 3.9. If the conclusion of the agreement is the result of direct marketing and the provisions of the CPA is applicable hereto, the Client has the right to terminate the agreement without reason or penalty to the Supplier within 5 business days after the later of the date on which the agreement was entered into or the services or equipment were delivered to the client. If the client has the original packaging of the products opened for the return of the same to the Supplier on cancellation of this agreement, the Supplier is entitled to deduct from any reimbursement or refund to the Client in return, a reasonable amount for the use and/or depletion of the products.

4. SERVICES AND EQUIPMENT: DELIVERY AND INSTALLATION

- 4.1. The Supplier must deliver the equipment and services to the Client at the address specified by the Client on the subscriber agreement. The Client will be obliged to pay the costs, agreed to in writing, incurred by paying the Supplier for the delivery of the equipment. If the Supplier cannot deliver the equipment to such address through no fault of the Supplier, the Client will be required to pay all reasonable costs incurred by the Supplier in making the effort to delivery. Subject always to the provisions of clause 11, the Supplier will use its reasonable efforts to comply with the stipulated dates and times for the delivery of equipment and services. The Supplier will not be liable in any manner whatsoever the Client for any loss arising out of any failure or delay in performance or the provision of services and/or equipment arising from any of the force majeure events referred to in clause 11 and not for any other reason, unless such failure or delay is directly attributable to the gross negligence or fraudulent intent of the Supplier.
- 4.2. Unless the Client proves otherwise, and without limiting the rights of the Client under the CPA, if applicable, signed by the Client on any acceptance certificate by the Supplier and/or its service providers to install the equipment or at the request of a commissioned service, will be deemed an admission by the Client that it fully inspected and approved the equipment and all its components, and that, the equipment and components have been received to the full satisfaction of the Client. Subject to the Client's rights to return defective products, repair or fees paid in respect thereof shall be refunded pursuant to the CPA, as far as the CPA is applicable to the agreement, the Client shall have no claim against the Supplier of any nature whatsoever should, after such acceptance by the Client, it transpire that the equipment and/or any component thereof is unacceptable to the Client for any reason.
- 4.3. The Client shall, at its own cost and expense, be responsible for:
 - 4.3.1. ensuring that the communication services and facilities, including, without limitation, telephone facilities and lines, installation area/s, electrical outlet/s, connection requirements and access way/s suitable for the installation, passage and electrical connection of the equipment and services when they are delivered for installation and thereafter;
 - 4.3.2. obtaining all the necessary approvals and authorities imposed by any competent authority and which is necessary for the purposes of the supply, delivery and/or installation of the equipment and services, including land owners consent, where the Client is not the property owner. The client indemnifies the Supplier against any claim or liability incurred by the Supplier as a result of such approval and authorities not been obtained.
- 4.4. The installation may be subject to feasibility to be confirmed by a physical site survey, only to be performed after the signing of the contract:
 - 4.4.1. Additional installation charges may apply, subject to the results of the physical site survey. In such a case, the Client will be informed before the service is installed.

4.4.2. If a last mile access medium is not feasible, the Supplier has the right to cancel the Client order.

4.5. After installation is complete, any subsequent callouts of engineers will be billed at the engineer's charge out rate agreed to in writing, with a minimum charge of one hour plus travel expenses.

5. SOFTWARE

- 5.1. The Client will use any software provided to it by the Supplier, only for the purposes for which it was intended and licensed hereunder.
- 5.2. The Client will not, or allow anyone else to reverse engineer, decompile, modify, tamper with, enhance, copy, sell, lease, license, sub-license or otherwise deal with the software or any part, variation, modification, release or improvement thereof, or any software or any program written or developed for it based on the software.
- 5.3. All rights of any kind in and to the software and all upgrades, updates, modifications and variations thereto from time to time, rests with the Supplier, and no rights in and to the software, its upgrades, updates, modifications, and variations thereto are granted or assigned to the Client. The Client will not, at any time in any way, question or dispute the ownership of the software and undertakes not to infringe or prejudice any rights of the Supplier in and to the software.
- 5.4. The Supplier must upgrade any software provided to the Client in line with industry standards and best practice and will not be obligated to perform such upgrades at any time should such upgrades negatively impact on the provision of the Services, unless a specific provision is included in the agreement that requires the Supplier to perform such upgrades.
- 5.5. It is the Client's responsibility to notify the Supplier of its requirement to renew or upgrade any applicable software licenses.

6. USE AND STORAGE OF INFORMATION

- 6.1. The Client acknowledges that the Supplier establish general practices and limits concerning use of the services (which it will be entitled to change from time to time in accordance with industry standards), including the period of time that the Client's email messages and other content uploaded on the Suppliers server is retained, the quantity and size of the content that may be sent from or received by the Client and the available space on the hard drive to the Suppliers servers on behalf of the Client.
- 6.2. The Supplier shall not be obliged to delete, any way, any messages and/or other electronic communication or exchange that the Supplier maintains or transmits.
- 6.3. The Supplier shall furthermore be entitled on written notice to the Client to terminate the provision of the services should the Client fail to use the services for a continuous period of more than 12 months, or at the termination of the contract.

7. CLIENT'S OBLIGATIONS IN RESPECT OF EQUIPMENT

- 7.1. The Client agrees to use the equipment only for the purpose for which it is intended and to ensure that its employees, agents and/or sub-contractors comply with the instructions and recommendations of the Supplier.
- 7.2. At delivery or collection of the equipment as the case may be, risk of the equipment shall pass to the Client who will be responsible for:
 - 7.2.1. keeping the equipment in its possession and control, protected against any material loss and damage from whatsoever cause; free from any judicial attachment, hypothec or any other legal process or charge and will not encumber the equipment;
 - 7.2.2. providing clean power to the equipment;
 - 7.2.3. exercise due care and diligence in respect of the equipment;
 - 7.2.4. protect all equipment against any form of lightning through the installation of a lightning protection, unless expressly provided by the Supplier to the Client, and
 - 7.2.5. obtaining adequate insurance for the equipment for the full replacement value.
- 7.3. The Client furthermore agrees to ensure that the equipment is maintained in a clean, serviceable and good working order. At the expiration of this agreement, the Client will return all the equipment in good working order and in the same condition as at the date of installation, fair wear and tear expected.
- 7.4. The Client agrees that any equipment provided by the Supplier and/or its service providers under this agreement is moveable property and that despite any installation on the Client's premises, unless the Client has bought the

equipment outright and paid in full for such equipment, the equipment must at all times remain the property of the Supplier and/or its service providers, as the case may be, who will have the right to inspect the equipment at all reasonable times during the term of this agreement and to remove the equipment on termination of the agreement for any reason. Accordingly, the Client agrees that upon installation of the equipment, to notify the owner of the premises where the equipment is installed of the Suppliers and/or service provider's ownership of the equipment.

7.5. The Client will provide:

- 7.5.1. the Supplier with access to its premises, equipment, software, phone ports and/or a network for the purposes of monitoring and connecting the equipment and/or software and monitoring the performance of the Client's obligations hereunder;
- 7.5.2. the Supplier with plans, organizational charts, structural, architectural and block diagrams, user lists, company procedures and any other form of information that the Supplier considers necessary for the proper provision of services, only in the event of the Client being in possession of such information;
- 7.5.3. its own security procedures so as to ensure the integrity of its systems, it being specifically noted that, notwithstanding the provisions of 7.6 and 7.7, which the Supplier will not be liable for any loss suffered in writing by the Client to the loss of the integrity of its systems unless such loss is directly attributable to the gross negligence or fraudulent intent of the Supplier.

7.6. In respect of any equipment supplied to the Client by the Supplier under a managed services agreement and in respect of equipment supplied by the Supplier at the Supplier's cost to the Client, where such equipment is covered by the Supplier insurance:

- 7.6.1. the client agrees to fully comply with the terms and conditions of the insurance obtained by the Supplier for all the equipment to him by the Supplier;
- 7.6.2. if the equipment or any part thereof is lost, stolen or damaged for any reason whatsoever and howsoever arise, the Client shall immediately inform the Supplier in writing of such loss, theft or damage;
- 7.6.3. In the case of the equipment that is damaged, and until such notice is received by the Supplier, the Client will be fully liable for all costs and expenses related to such equipment and to the services.

7.7. The Supplier shall, as soon as possible, after receipt of written notice of the theft, loss or damage to equipment provided under a managed services agreement:

- 7.7.1. repair or replace equipment (other than equipment that has not been provided by the Supplier, repair and/or replacement of which will be to the Client's full responsibility);
- 7.7.2. bear the cost of such repairs or replacement unless such repair or replacement is needed as a result of an accident or force majeure event (as contemplated in clause 11) or by improper, malicious or negligent use by the Client of the equipment or use in breach of the terms and conditions hereof. The Supplier shall, in its sole discretion, using reasonable test methods, determine whether such equipment has been subjected to improper, malicious or negligent use.

7.8. In respect of any theft, loss or damage of equipment purchased outright by the Client from the Supplier, and notwithstanding the provisions of clause 8.10, the Client will be fully liable for all costs and expenses related to the replacement of such equipment. Such loss, theft or damage and/or the issue of replacement equipment shall in no way be considered a termination of the agreement and will continue to be to in full force and effect.

7.9. The Client will be required to ensure that the equipment and all its components thereof remain on the site of the installation at all times. If the Client wants to relocate any fixed or movable component(s) of the equipment to alternative premises, the Client shall be precluded from doing so unless it has applied in writing to 3 months' notice to the Supplier to such effect and the Supplier approved as relocation in writing. The Client will be charged for any site relocation requirement (whether within the Client's existing premises or to alternative premises) at the relevant prices stipulated by the Supplier and/or its service providers at the time of such site re-location.

7.10. The Supplier may at any time reconfigure, upgrade and/or exchange any equipment at its sole and absolute discretion to meet its obligations to provide the services. The Supplier shall not be obliged to make any upgrades or improvements unless it determines to do so, in its sole and absolute discretion.

7.11. The Client will not itself be entitled to, nor allow any other Party to repair, maintain, modify, alter or add to the equipment in any manner whatsoever without the Supplier's prior written consent.

7.12. Without the prior written consent of the Supplier being obtained, the Client will ensure that only equipment and services marketed and sold by the Supplier can be installed on or attached to the equipment. Any component or accessory installed or added to the equipment during the period of this agreement shall become the property of the Supplier without compensation or reimbursement to the Client.

8. **FEES AND PAYMENT**

- 8.1. Unless the Supplier agreed in writing or provided for in the proposal or in the product-specific terms and conditions, subject to the provision of the services and equipment by the Supplier to the Client, the Client shall effect payment to the Supplier, in full, without deduction or set off and free of bank charges, on date of invoice:

- 8.1.1. for the supply and delivery of services, equipment and installation;
- 8.1.2. for the monthly service fee and/or all other maintenance charges and insurance, if applicable, and any other relevant periodic charges (including monthly and annual charges) in advance, as specified in the proposal;
- 8.1.3. for the usage charges, in arrears, as specified in the proposal;
- 8.1.4. at the Supplier's premises or at the Supplier's banker's premises.

8.2. It is expressly noted and agreed that the Supplier will be entitled to 30 days' written notice to the Client, to increase the charges payable by the Client in circumstances of either such increases being specifically provided for in the proposal or the direct costs to the Supplier in providing the services (including, without limitation, the costs charged by the network service provider(s) in respect of such services) is increased. In such a case, the increases to the charges will be commensurate with the increased costs of providing the services. Furthermore, the Supplier shall be entitled to vary any savings and/or rates guaranteed or implied to the Client in the event of a change in network rates or the regulatory environment which impacts on the services by giving 30 days written notice thereof to the Client.

8.3. Should termination of the agreement be required by the client after signing up for service, a 3-month minimum commitment period will apply and cancellation will only be processed thereafter.

8.4. Cancellation of the agreement can only be requested and/or processed, by sending a signed cancellation form to TITC AFRICA at cancel@TITC.co.za and the client's account being paid in full. The account billing will continue until all relevant cancellation documents have been submitted and all payments have been received.

8.5. Suspension of an account does not cancel the account or agreement. The account billing will continue until all relevant cancellation documents have been submitted and all payments have been received. If an account is suspended due to non-payment, a suspension and re-activation fee will be levied on the account but will not be deemed as cancellation of the agreement.

8.6. Unless the Client notifies the Supplier in writing within 7 days of receipt of an invoice to the contrary, the content of such invoice shall be deemed to be correct.

Unless stated otherwise, all amounts payable by the Client to the Supplier in terms of this agreement are exclusive of VAT and any other statutory levies, taxes and imposts as may be charged from time to time. The Client must accordingly be liable for VAT and all taxes, government or statutory levies be imposed in respect of the services from time to time.

- 8.7. A certificate signed by a director of the Supplier as to the amount owing by the Client to the Supplier at any time shall be sufficient proof for provisional sentence or summary judgment.
- 8.8. In the case of an outright purchase of equipment, if such equipment is delivered to the Client's premises and then subsequently lost or stolen from the Client's premises prior to it having been paid for, either in part or in full, the Client will be responsible for the full payment of such equipment to the Supplier.
- 8.9. Unless otherwise specified in the agreement, in the event of an outright purchase of equipment, the Client will pay the full amount of the total transaction value on delivery of the equipment to the Client's premises.
- 8.10. Unless otherwise specified in the agreement, in the event of an outright purchase of the equipment by the Client, where the Client cancels the order after the Supplier has ordered the equipment from its Suppliers, the Supplier shall be entitled charge to the Client an amount equal to 7% of the value of the ordered equipment to the Supplier, which the Parties acknowledge and agree constitutes a reasonable charge within the meaning of Section 17 of the CPA.
- 8.11. Where it is the Client's responsibility to install lightning protection equipment, and the equipment was damaged by lightning, it is the Client's responsibility for the full amount of such repairs or replacement of the Supplier.

9. Debit Order Facility

9.1. MANDATE

- 9.1.1. I / we acknowledge that all payment instructions issued by the Stratcol User TITC AFRICA shall be treated by my / our abovementioned bank as if the instructions had been issued by me / us personally.

9.2. CANCELLATION

- 9.2.1. I / we agree that although this authority and mandate may be cancelled by me / us, such cancellation will not cancel the Agreement. I / we also understand that I / we cannot reclaim amounts, which have been withdrawn from my / our account (paid) in terms of this authority and mandate if such amounts were legally owing to the Stratcol User / TITC AFRICA.

- 9.2.2. If I/we reclaim amounts owed to TITC AFRICA or have insufficient funds in my account on the payment instruction date, I understand that the account will be suspended, and a penalty amount and a suspension and reconnection fee levied.
- 9.2.3. Should termination of the agreement be required by the client after signing up for service, a 3-month minimum commitment period will apply and cancellation will only be processed thereafter."
- 9.2.4. Cancellation of the agreement can only be requested and/or processed, by sending a signed cancellation form to TITC AFRICA at Accounts@TITC.co.za and the client's account being paid in full. The account billing will continue until all relevant cancellation documents have been submitted and all payments have been received.
- 9.2.5. Suspension of an account does not cancel the account or agreement. The account billing will continue until all relevant cancellation documents have been submitted and all payments have been received. If an account is suspended due to non-payment, a suspension and re-activation fee will be levied on the account but will not be deemed as cancellation of the agreement.

9.3. ASSIGNMENT

- 9.3.1. I / we acknowledge that this authority may be ceded or assigned to a third party if the Agreement is also ceded or assigned to that third party.

10. SUSPENSION

- 10.1. The Supplier may upon written notice to the Client, suspend the Client's use of services in the case:
 - 10.1.1.any alteration, maintenance or remedial work is required to be undertaken in relation to the services; and/or
 - 10.1.2.the Client fails to perform any of its obligations or breaches any term/s of this agreement; and/or
 - 10.1.3.the Client at any time exceeds the credit limit of the Supplier, in its sole discretion, will set and notify the client from time to time.
- 10.2. The Supplier may require the Client to effect payment of any applicable reconnection charges based on the recovery of the services suspended in the circumstances contemplated in clause 9.1.
- 10.3. The Client remains liable for the applicable fees payable in terms of this agreement during any period of suspension in the circumstances contemplated in clause 9.1.

11. DEFAULT

- 11.1. Except where otherwise provided in the proposal or elsewhere herein, either Party ("the defaulting Party")
 - 11.1.1.fail to pay any amount due under this agreement within 10 days after receipt of a written demand requiring such payment;
 - 11.1.2.commit a breach of any provision (other than a payment obligation) of this agreement, and if such breach is capable of remedy, fails to remedy such breach within 14 days after receipt of a written demand from the other Party requiring it to do so;
 - 11.1.3.become the subject of business rescue proceedings, is placed under liquidation, judicial management or similar disabilities, whether provisional or final, and whether voluntary or compulsory;
 - 11.1.4.commit any act which if committed by a natural person would constitute an act of insolvency or become insolvent;
 - 11.1.5.compromise or attempt to compromise generally with any of its creditors;
 - 11.1.6.a final judgment taken against it that is not satisfied within 30 days after the granting of such a judgement, then the other Party ("the aggrieved Party") shall be entitled, without prejudice to any of its other rights under this agreement and/or in law and by giving written notice, cancel this agreement immediately or demand specific performance of all the defaulting Party's obligations whether or not due for performance, or in the case without prejudice to the aggrieved Party's right to claim damages.

12. FORCE MAJEURE

- 12.1. If any Party is prevented or restricted from carrying out all or any of its obligations under this agreement as a result of any event constituting force majeure (which any cause beyond the reasonable control of one of the Parties, including

without limitation adverse weather conditions, unpredictable delays caused by traffic congestion, diversion or road works, the unavailability of raw materials, strikes, power failures, industrial disputes, regulatory interference or the unavailability of any communication lines and/or network operator facilities), then that Party will be relieved of its obligations under this agreement during the period that such event continues, and will not be liable for any delay and/or failure in the performance of such obligations during such period, provided that if the force majeure event continues for a period longer than 14 days, either Party may cancel this agreement by written notice.

13. MISUSE OF SERVICES

13.1. The Client warrants and undertakes in favour of the Supplier that the Client:

- 13.1.1. shall not use or permit the services to be used for any improper, immoral or unlawful purpose, including, without limitation, trying to use the service to route (or help another Party to the route) transit traffic from other networks to the Supplier, nor in any way which may cause injury or damage to persons or property or cause impairment or interruption of the services;
- 13.1.2. must comply with all applicable legislation and regulations by a competent authority and all directives issued by the Supplier with regard to the service, including its Fair Access Policy available on the Supplier's website, and indemnify the Supplier for any losses, expenses, damages, harm or amount for which the Supplier is liable arising from or relating to the use of the services in any manner whatsoever to be in contravention of the terms of this agreement, the Supplier's Fair Access Policy or any law, legislation or regulations; and/or any claims by any third party arising out of the Client's use of the services, unless such losses, expenses, damages, harm or liability directly attributable to the gross negligence or fraudulent intent of the Supplier.

14. OBLIGATIONS OF TERMINATION and/or SUSPENSION

- 14.1. The Client is responsible for any liability accrued on the date of termination or suspension of the service, including the payment of any costs or expenses incurred in connection with such termination or suspension (including, without limitation, the cancellation fees referred to in clause 3.6) or suspension, and the payment of all outstanding fees for the use of the services prior to said termination or suspension.
- 14.2. The payment obligations of the Client under this agreement are not suspended, stayed, delayed or otherwise affected by any suspension of access to the services if such suspension results from the Client's failure to comply with, or violation of, the terms and conditions of this agreement or of any law or legal obligation of the Client.
- 14.3. The Supplier is entitled to immediately deactivate the service on date of termination or cancellation, and further, has no obligation to the Client after any termination or cancellation of this agreement.

15. GUARANTEES EXCLUSION AND LIMITATION OF LIABILITY

- 15.1. The Supplier shall make all reasonable efforts to ensure that the equipment provided by it and/or its service providers are in accordance with the agreement and are correct in terms of the Client's requirements. Subject to any warranties that may be implied by the CPA to the extent that the CPA applies to the agreement, the Supplier, does not, however make any representations nor, unless explicitly granted in writing, give any guarantee or warranty of any nature whatsoever, either express or implied, in respect of the services or the equipment, including but not limited to the implied warranties of merchantability and fitness or suitability for any intended purpose.
- 15.2. Subject to the provisions of the CPA to the extent that the CPA is applicable to the agreement, the Supplier will not be liable to the Client or any third party for any loss or damage which the Client or a third party may suffer or incur as a consequence of utilising the services and/or software and/or equipment, whether such loss or damage is direct, special, incidental, consequential or otherwise, unless such loss or damage was directly attributable to the gross negligence or fraudulent intent of the Supplier.
- 15.3. Without limiting the generality of the foregoing, the Supplier (except in circumstances of the Supplier's gross negligence or fraudulent intent) be liable for any damages or losses incurred by the Client caused by and/or due to:
 - 15.3.1. the services interrupted, suspended or terminated, for whatsoever reason; and/or
 - 15.3.2. the Supplier's failure to suspend the services to the Client in terms of an agreement between the Supplier and the Client has specifically requested the Supplier to do so in order to limit the applicable fees; and/or
- 15.4. communications not being sent and/or received and/or on time or for any reason whatsoever; and/or
 - 15.4.1. circumstances which constitute a force majeure event (as in 11); and/or
 - 15.4.2. the Client's failure to perform its obligations under this agreement; and/or
 - 15.4.3. changes to the Client's operating environment that is not communicated to the Supplier; and/or

- 15.4.4. power failure or power interruptions at any site where the services or any component of the services are rendered; and/or
- 15.4.5. any failure or delay by Client to report problems or queries to the Supplier's call center; and/or
- 15.4.6. the server and/or equipment of any recipient Party being non-functioning for any reason whatsoever; and/or
- 15.4.7. the failure of any hardware, software, operating system, application/s, networks, telecommunication lines and/or any other computer system (or any component thereof) of any third party to whom the Supplier and/or the Client relies (whether directly or indirectly) to provide and/or receive, as the case may be for the services;
- 15.4.8. the unavailability of the Supplier's website for any reason whatsoever; and/or
- 15.4.9. the Client using the service for any illegal, improper or immoral purpose; and/or
- 15.4.10. illegal or fraudulent accessing by a third party of the Client's telecommunications lines, PBX or other telecommunications equipment. In such circumstances, the client will remain liable for all charges incurred pursuant to such illegal or fraudulent access and indemnifies the Supplier against any loss, liability, damage or expense which the Supplier may suffer as a result.

- 15.5. Notwithstanding any other provisions of this agreement, either Party's liability to the other Party and/or any third party for any loss or damage of any kind whatsoever, including, without limitation, any damage or loss caused by the negligence (but excluding gross negligence) of the Supplier or the Client, as the case may be, or that of its servants, agents and subcontractors, will be limited in any case and under all circumstances to an amount equal to the fixed monthly costs by the Client payable during the initial period.

16. UNSOLICITED COMMERCIAL COMMUNICATIONS

- 16.1. The Client indemnifies the Supplier and its directors against any loss, liability, damage or expense (whether actual, contingent or otherwise and whether or not in the contemplation of the Parties, and including but not limited to loss of data, profits or goodwill) that the Supplier or its directors may suffer as a result of or which may be attributed to the sending of unsolicited commercial communications ("SPAM").
- 16.2. The Client is solely responsible for compliance with all laws and regulations from time to time regulating SPAM including but not limited to the Electronic Communications and Transactions Act of 2002 ("ECTA") and the Independent Communications Authority of South Africa (ICASA) Code of Conduct.

17. ASSIGNMENT, SUB-CONTRACTING AND CONTRACTING ON BEHALF OF THE CLIENT

- 17.1. The Client may not assign any of its rights or obligations under this agreement, nor pass any equipment to any third party, or permit any third party to use the equipment without the Supplier's prior written consent.
- 17.2. The Supplier shall, during the existence of the agreement at any time be entitled to cede and/or assign and/or subcontract any of its rights and obligations under the agreement to any other Party, provided that it has obtained the Client's prior written consent, which consent shall not be unreasonably withheld or delayed, or if the Client is a consumer, as contemplated in regulation 44 (1) of the CPA Regulations assignment of obligations is not to the Client's disadvantage.
- 17.3. Subject to the restriction in clause 16.1 this agreement shall be binding on the successors-in-title of the respective Parties.

18. NOTICES

- 18.1. The Client and the Supplier choose the addresses set out in the agreement as their chosen address ("domicilium") for all purposes under this agreement, whether in respect of court process, notices or other documents or communication of any kind whatsoever.
- 18.2. Either Party may change its domicilium by written notice to the other.
- 18.3. Any notice required or permitted to be given in terms of this agreement shall be valid and effective only if given in writing, excluding notice in the form, either in whole or in part, of a data message as defined in the ECTA.

19. LAWS AND JURISDICTION

- 19.1. This agreement are be governed by the laws of the Republic of South Africa.
- 19.2. The Parties, by their signature hereto and in accordance with the provisions of Section 45 of the Magistrates Courts Act No. 32 of 1944, as amended, consents to the jurisdiction of the Magistrates Courts in connection with any action or proceeding instituted against the Client in terms of, or arising out of the provisions of this agreement, provided that any Party in its sole and absolute discretion be entitled to any such action or proceedings to establish, in any division of the High Court of South Africa has the necessary jurisdiction.

19.3. In the case of any Party taking legal action against the other ("defaulting Party") to recover amounts due to or any other legal proceedings arising out of this agreement, the guilty Party will be liable for the legal costs on the scale as between attorney and own Client.

20. DISCLOSURE

20.1. The Client hereby authorizes the Supplier to disclose Client information to a third party where the Supplier may reasonably deem necessary to enable it to properly perform his functions or protect its interests (including, without limitation, for the purposes credit vetting the Client), for the purpose of enabling the provision of emergency services or directory or repair services to the Client.

20.2. In addition to revealing the provider of the Client's details if required to do so by any regulatory authorities or any court of law.

20.3. The Supplier undertakes not to disclose to any third party details of the Client's name, address, or any third party ("Client details"), except as set out in this clause 19.

21. AUTHORITY AND ACKNOWLEDGEMENTS

21.1. The Client warrants that it has the necessary legal powers and authority to enter into this agreement.

21.2. The signature and/or digital acceptance of the Client warrants that he/she is authorized to act for the Client.

21.3. Client acknowledges that:

21.3.1. it has been given sufficient opportunity to read and has read and understand the agreement together with the Supplier's Fair Access Policy, and any product-specific terms and conditions, where applicable; and

21.3.2. has read and is aware of all terms and conditions contained herein that are printed in bold and initialled by the Client as confirmation of this.

21.4. Where the physical installation of equipment is needed, the Client warrants that it has obtained all necessary permissions from the owner, as the case may be.

22. AMENDMENTS TO THE GENERAL TERMS AND CONDITIONS

22.1. This agreement, and any product-specific terms and conditions applicable, constitutes the whole agreement between the Parties relating to the subject matter hereof, and shall not be modified except as expressly set out in this clause 21.

22.2. Subject always to the right of the Client to terminate this agreement in accordance with the provisions of clause 3, the Supplier frequently change and seeks to improve the services it offers to improve its Clients, and such changes may occasionally require the Supplier to amend this agreement. The Supplier shall in its sole discretion, have the right to amend this agreement and to modify and/or discontinue any function or component of the services, as it deems necessary. Any use by the Client of the services after any such amendment implemented and notified to the client in writing by the Supplier shall be deemed to be acceptance to the Client of such amendment.

23. NON-RECRUITMENT

23.1. For the duration of this agreement and for a period of 12 months thereafter, the Client may not, without the prior written consent of the Supplier, directly or indirectly, employ, cause or recruit the employment of an employee of the Supplier's personnel nor persuade him/her to terminate service with the Supplier.

23.2. As a penalty, if the Client breaches clause 22.1 it will pay to the Supplier an amount equal to the remuneration paid to that employee in the previous 24 months as a recruitment fee. Such amount is payable on 3 days' notice of the Supplier.

24. GENERAL

24.1. Subject to clause 21 and any other provision herein to the contrary, any termination of this agreement, and no settlement of disputes arising under this agreement and no extension of time, waiver or relaxation or suspension of any of the provisions of this agreement shall be binding, unless be in writing and signed by the Parties. Any such extension, release, relaxation or suspension, if given, will be strictly interpreted as only relating to the matter in respect of which it is made or given.

24.2. To the extent permitted by law and subject always to the provisions of the CPA, if the CPA is applicable to the agreement, neither Party will be bound by any express or implied term, representation, warranty, promise not contained herein.

- 24.3. If any part of this agreement is found invalid, the balance of the provisions shall remain enforceable. The rule of construction that, in case of ambiguity, the agreement shall be interpreted against the Party responsible for the preparation thereof shall not be applicable.
- 24.4. The Client is entitled to refer any dispute between itself and the Supplier with regard to the availability of services to the Independent Communications Authority of South Africa (ICASA) or any successor thereof or to refer any other regulatory body or consumer protection body.

25. SERVICE LEVEL AGREEMENT

25.1. Overview

25.1.1. This Clause constitutes a Service Level Agreement ("SLA" or "Agreement") between TITC AFRICA and the Client for the support and maintenance of the Services provided by TITC AFRICA to the Client.

25.1.2. This Agreement outlines the parameters of all services covered as they are mutually understood by both Parties. This Agreement does not supersede current processes and procedures unless explicitly stated herein.

25.2. Purpose & Objectives

25.2.1. The purpose of this Agreement is to ensure that the proper elements and commitments are in place to provide consistent service support and delivery to the Client by TITC AFRICA.

25.2.2. The objectives of this Agreement are to:

25.2.2.1. Provide clear reference to service ownership, accountability, roles and/or responsibilities.

25.2.2.2. Present a clear, concise and measurable description of service provision to the Client.

25.2.2.3. Match perceptions of expected service provision with actual service support & delivery.

25.3. Duration & Validity

25.3.1. This SLA shall commence on the date of this agreement and continue for the duration of the Agreement, unless terminated in accordance with the terms of this Agreement.

25.3.2. This SLA shall remain valid until superseded by a revised SLA mutually agreed in writing between the Parties. The SLA shall be reviewed annually, or earlier as circumstances dictate.

25.4. Scope

25.4.1. This SLA covers the availability and support of the Services as described in clause 25.5.

25.5. Services and Service Level Definition

25.5.1. Commitment

25.5.1.1. TITC AFRICA will provide the Client with a comprehensive warranty for contracted services provided by TITC AFRICA to the Client. This Service Level Agreement (SLA) defines specific representations and guarantees provided to the Client for individual services. The SLA clearly identifies available recourse to Client for any specific breaches of the SLA by TITC AFRICA.

25.5.1.2. TITC AFRICA is committed to providing a reliable, high quality network to support its Fibre, Fibre Broadband, FTTH and FTTB services to the Client. Accordingly, TITC AFRICA offers the following guarantees:

- a) Network Availability Guarantee
- b) Network Latency Guarantee
- c) Packet Delivery Guarantee

25.5.2. Network Availability & Response Times

GOLD PREMIUM SERVICE - 4 hours response time with 99.90% uptime.

SILVER PREMIUM SERVICE - 8 hours response time with 99.55% uptime.

BRONZE PREMIUM SERVICE - 10 hours response time with 98.00% uptime.

STANDARD SERVICE - 12 hour response time with no uptime guarantee.

FTTH AND FTTB BEST EFFORT SERVICE – 48 Hours MTRS, Monday to Friday (excluding Public Holidays) from 8:00am to 5:00pm - 98% yearly uptime guarantee.

25.5.2.1. Network Availability scope provides that the TITC AFRICA network (as defined in the applicable Service Confirmation Schedule) will be available for the specified percentage of the time, dependant on the type of Service taken.

25.5.2.2. "Network Unavailability" consists of the number of minutes that the TITC AFRICA Network is not available to the Client, and includes unavailability associated with any maintenance at the TITC AFRICA hub to which Client's circuit is connected other than Scheduled Maintenance. Outages will be counted as Network Unavailability only if Client opens a trouble ticket with TITC AFRICA Client Support.

25.5.2.3. Network Availability Process. To receive credit for Network Availability non-compliance, Client must request such credit within 7 business days from the date of the non-compliance.

25.5.2.4. Network Availability Remedy. For each cumulative hour of Network Unavailability or fraction thereof in any calendar month, at Clients request, Client's account shall be credited for the pro-rated charges for one day of TITC AFRICA's Monthly Recurring Charge with respect to which a Network Availability has been non-compliant. The maximum credits for Network Availability shall not exceed 20% of Client's Monthly Recurring Charge for the affected Service.

25.5.2.5. Response Time – this is the time taken for TITC AFRICA to respond (acknowledge) that there is a fault on the Network. TITC AFRICA will inform the Client of the Network failure and give estimated times for the Network to be restored.

25.5.3. Network Latency

Real Time – 10 milliseconds or less

Priority Data – 10 milliseconds or less

Basic – 100 milliseconds or less

25.5.3.1. Latency is the average time for a packet to make a trip between network terminations on the TITC AFRICA Network (Gauteng only). Aggregate latency will be monitored by monitoring trip times between NNI to UNI and/or UNI to UNI on an ongoing basis.

25.5.3.2. After notification of Network Latency being in excess of rates applicable as stated above, TITC AFRICA will use commercially reasonable efforts to determine the source of such excessive latency and to correct such problem. If TITC AFRICA fails to remedy such Network Latency within two (2) hours of being notified of any excessive Network Latency and average Network Latency for the preceding 30 days has exceeded the rates specified above, Client will receive, at Client's request, a Service Credit for the period from the time of notification by the Client until the average Network Latency for the preceding 30 days is less than the rates specified above. Client may obtain no more than 20% of one (1) month Service Credit for any given month.

25.5.4. Packet Delivery

Real Time - Monthly packet loss no greater than 0.01%

Priority Data - Monthly packet loss no greater than 0.01%

Basic Services - Monthly packet loss no greater than 0.5%

25.5.4.1. Packet Loss is defined as the percentage of packets that are dropped between NNI to UNI and/or UNI to UNI on the TITC AFRICA Network (Gauteng only). TITC AFRICA monitors this aggregate packet loss and compiles the collected data into a monthly average packet loss measurement for the Network.

25.5.4.2. After being notified by Client of Packet Loss in excess of rates applicable as stated above, TITC AFRICA will use commercially reasonable efforts to determine the source of such excess Packet Loss and to correct such problem to the extent that the source of the problem is on the Network. If TITC AFRICA fails to remedy such excess Packet Loss within two (2) hours of being notified of any excessive Packet Loss on the Network and average Packet Loss for the preceding 30 days exceeds rates applicable as stated above, Client will receive, at Client's request, a Service Credit for the period from the time of notification by the Client until the average Packet Loss for the preceding 30 days is less than those applicable rates as stated above. Client may obtain no more than 20% of one (1) month Service Credit for any given month.

25.5.4.3. TITC AFRICA reserves the right to disconnect a Client's port on TITC AFRICA's Core devices should it be proven by TITC AFRICA that the Clients traffic causes any disruption of normal services or performance issues on TITC AFRICA's network including but not limited to broadcast storms, L2 loops etc.

TITC AFRICA will at its discretion, shut down the offending Client ports until such a time that the Client has resolved the issue to TITC AFRICA's satisfaction and that a re-occurrence will not occur.

25.6. Service Credit Claim Process

25.6.1. In order to initiate a claim for Service Credit, Client must contact TITC AFRICA's Client service group within seven (7) business days after the end of the month for which credit is requested. The Service Credit request must include:

- the Client/End User name and contact information;
- the date and beginning/end time of the claimed outage or failed metric; and
- a brief description of the characteristics of the claimed outage or failed metric.

25.6.2. Client will be notified via e-mail upon resolution of the request. If rejected, the notification will specify the basis for rejection. If approved, TITC AFRICA will issue Service Credit to Client's account, appearing on the next invoice issued. Multiple Service Credits will not be given for the same period of time, i.e., failure to meet multiple criteria during a period of time generates only a single Service Credit. The total number of all Service Credits for all failures to meet Guarantees occurring in a given month may not exceed 20% of the total Monthly Recurring charge actually paid by Client for Service during that month. Service Credits will be credited against Client's monthly payment for Monthly Recurring Charges and will not be received in the form of a refund.

25.6.3. The Guarantees and Service Credits provided for in this SLA assume compliance by Client with the terms and conditions of its Sales Agreement with TITC AFRICA, and the failure of Client to comply with those terms and conditions may invalidate TITC AFRICA's guarantees provided herein. No credit is available for a Client that:

- restricts TITC AFRICA from monitoring Client's premises router;
- does not provide the necessary reasonable access to personnel and facilities at the Client's premises to enable TITC AFRICA to perform comprehensive troubleshooting; or
- whose account is not in good financial standing with TITC AFRICA.

25.6.4. TITC AFRICA is not liable for failure to fulfill its obligations hereunder if such failure is due to Client's tampering with any equipment, or due to acts beyond TITC AFRICA's reasonable control, such as Force Majeure.

25.7. Client Support

25.7.1. The Supplier will establish at its own cost and expense, a NOC and equipped with the necessary infrastructure to facilitate efficient communication in order to manage and support all user and or network-related issues reported by the Client.

25.7.2. The Supplier, in its capacity as first line support for its Clients, will escalate to TITC AFRICA all issues, only after the necessary steps set out in clause 24.7 below, have been thoroughly checked and verified.

25.7.3. The TITC AFRICA NOC will be available to attend to all Trouble Ticket, Whatsapp, Telephonic and e-mail queries.

25.7.4. The Client will supply TITC AFRICA with an email address to be used for access to TITC AFRICA's Trouble Ticketing Portal. All queries logged on the system will fall within the repair times set out above in clause 24.5.2.

25.7.5. The NOC can be contacted by email at support@TITC.Africa for Premium Clients 24x7 and for Best Effort Clients during working hours .

25.7.6. If for any reason the NOC cannot be reached via email, the Client shall follow the agreed escalation procedure.

25.7.7. All e-mail requests to the TITC AFRICA NOC (support@TITC.Africa) will be answered within an estimated 24 hours as a tertiary support medium.

25.8. Repairs & Maintenance

25.8.1. Scheduled maintenance of the TITC AFRICA network (or portion thereof) will not normally result in Service interruption or outage. However, in the event scheduled maintenance should require a Service interruption or outage, TITC AFRICA will exercise commercially reasonable efforts to,

25.8.1.1. provide the Client with seven (7) days' prior written notice of such scheduled maintenance,

25.8.1.2. work with the Client in good faith to attempt to minimise any disruption to the Service that may be caused by such scheduled maintenance, and

25.8.1.3. to perform such schedule maintenance during the non-peak hours of 0:00 (midnight) until 06:00 local time.

25.8.2. Emergency Maintenance of the network (or portion thereof) might result in Service interruption or outage. Depending on the severity of the fault, TITC AFRICA will perform the service affecting repair, and will attempt, at best effort, to contact the Client of the imminent impending outage and expected times to repair.

25.8.3. TITC AFRICA will arrange for the necessary repairs arising in terms of this Agreement. TITC AFRICA will carry the costs for faults arising in/from TITC AFRICA's equipment. For faults arising in/from the Client's equipment, the Client shall be liable for all costs incurred in effecting repairs.

25.9. Escalation Procedure

25.9.1. Should the Client wish to escalate a problem, either because of the urgency of the problem, or because the Client does not feel it is being given the priority it deserves, the Client may contact the TITC AFRICA NOC with the reference number and request that the problem be escalated.

25.9.2. The TITC AFRICA NOC/Service Manager will take the necessary steps to ensure that the call receives the appropriate priority and/or attention.

25.10. Change Management Procedure

25.10.1. All planned changes or maintenance schedules posted on the TITC AFRICA General Bulletin Board will be accessible to the Client.

25.10.2. TITC AFRICA NOC shall inform the Client of any change or scheduled maintenance that will affect service at least seven (7) calendar days before the planned implementation date.

25.10.3. If the Client requires that the planned changes or maintenance to be stalled, postponed or rescheduled because of business-affecting reasons, these reasons must be reported to the TITC AFRICA NOC within 24 hours of receiving notification from TITC AFRICA. TITC AFRICA will endeavor to accommodate the request, however retains the prerogative to continue with the planned maintenance if deemed necessary within the bigger scope of the planned maintenance window.

25.10.4. Neither Party shall make changes to the network design or service, without prior approval of the other, which approval shall be in writing.

25.10.5. All changes are managed by the NOC. The start of the change is logged, the change is implemented by trained technical personnel and overseen by a TITC AFRICA supervisor. The end of the change is logged and the success thereof logged and recorded.

26. FAIR ACCESS POLICY

26.1. The purpose of this section is to provide an understanding of the TITC AFRICA Acceptable Fair Access Policy. This policy serves to define the accepted behaviour of users on TITC AFRICA (TITC AFRICA) network. This allows TITC AFRICA to:

26.1.1. Maintain the integrity and quality of their service.

26.1.2. Protect their Clients and infrastructure from abuse

26.1.3. Adhere to the current laws and regulations governing organizations and service providers in the countries that they operate in.

26.1.4. Co-exist within the global Internet community as a responsible service provider.

26.2. The Network

26.2.1. The user acknowledges that TITC AFRICA is unable to exercise control over the data passing over the infrastructure and the Internet, including but not limited to any websites, electronic mail transmissions, news groups or other material created or accessible over its infrastructure. Therefore, TITC AFRICA is not responsible for data transmitted over its infrastructure

26.2.2. TITC AFRICA infrastructure may be used to link into other networks worldwide and the user agrees to conform to the acceptable use policies of these networks.

26.2.3. Users of the TITC AFRICA network include not only the TITC AFRICA Clients, but in the case of resellers of the TITC AFRICA services, the Clients of the resellers too. Resellers of TITC AFRICA services are responsible for the activities of their Clients.

26.2.4. The user may obtain and download any materials marked as available for download off the Internet, but is not permitted to use their Internet access to distribute any copyrighted materials unless the owner of the materials grants permission for such distribution to the user.

26.2.5. The user is prohibited from obtaining, disseminating or facilitating over TITC AFRICA network any unlawful materials, including but not limited to:

26.2.5.1. Copying or dealing in intellectual property without authorisation

26.2.5.2. Child pornography, and/or

26.2.5.3. Any unlawful hate-speech materials

26.2.6. To help ensure that all Clients have fair and equal use of the service and to protect the integrity of the network, TITC AFRICA reserves the right, and will take necessary steps, to prevent improper or excessive usage thereof.

26.2.7. The action that TITC AFRICA may take includes, but is not limited to:

26.2.7.1. This policy applies to and will be enforced for intended and unintended (e.g., viruses, worms, malicious code, or otherwise unknown causes) prohibited usage.

26.2.7.2. Limiting throughput

26.2.7.3. Preventing or limiting service through specific ports or communication protocols; and/or

26.2.7.4. Complete termination of service to Clients who grossly abuse the network through improper or excessive usage.

26.2.8. Online activity will be subject to the available bandwidth, data storage and other limitations of the service provided, which TITC AFRICA may, from time to time, revise at its own discretion and without prior notice to the Client.

26.3. System and Network security

26.3.1. All references to systems and networks under this section include the Internet (and all those systems and/or networks to which user are granted access through TITC AFRICA and include but is not limited to the infrastructure of TITC AFRICA itself).

26.3.2. The user may not circumvent user authentication or security of any host, device, network, or account (referred to as "cracking" or "hacking"), nor interfere with service to any user, host, device, or network (referred to as "denial of service attacks"). The host, device, network or account shall also not be used for any illegal purpose, including phishing.

26.3.3. Violations of system or network security by the user are prohibited, and may result in civil or criminal liability. TITC AFRICA will investigate incidents involving such violations and will involve and co-operate with law enforcement officials if a criminal violation is suspected. Examples of system or network security violations include, without limitation, the following:

26.3.4. Unauthorised access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of any system or network or to breach security or authentication measures without the express authorisation of TITC AFRICA

26.3.5. Unauthorised monitoring of data or traffic on the network or systems without express authorisation of TITC AFRICA

26.3.6. Interference with service to any user, device, host or network including, without limitation, mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks

26.3.7. Forging of any TCP-IP packet header (spoofing) or any part of the header information in an email or a newsgroup posting

26.4. Usenet News

26.4.1. Users should, before using the service, familiarise themselves with the contents of the following newsgroups: news.newusers.questions, news.announce.newusers, news.answers.

26.4.2. Excessive cross-posting (i.e. posting the same article to a large numbers of newsgroups) is forbidden.

26.4.3. Posting of irrelevant (off-topic) material to newsgroups (also known as USENET spam) is forbidden.

26.4.4. Posting binaries to a non-binary newsgroup is forbidden.

26.4.5. TITC AFRICA reserves the right to delete and/or cancel posts, which violate the above conditions.

26.5. Interception

26.5.1. The User acknowledges that TITC AFRICA is lawfully required to intercept communications in accordance with the provisions of the Regulation of Interception and Provision of Communication-related Information Act 70 of 2003 ("the Act"). Any interception of communications shall be strictly in accordance with the requirements of the Act, as and when required under the Act.

26.6. Managing Abuse

26.6.1. Upon receipt of a complaint, or having become aware of an incident, TITC AFRICA reserves the right to:

26.6.1.1. Inform the user's network administrator of the incident and require the network administrator or network owner to deal with the incident according to this Acceptable Fair Use Policy.

26.6.1.2. In the case of individual users suspend the user's account and withdraw the user's network access privileges completely.

26.6.1.3. Charge the offending Parties for administrative costs as well as for machine and human time lost due to the incident

26.6.1.4. In severe cases suspend access of the user's entire network until abuse can be prevented by appropriate means

26.6.1.5. Take such action as may be necessary to protect the integrity of the system, including, but not being limited to, system monitoring, as well as protocol management and shutting down of ports affected by viruses, worms or other malicious code.

26.6.1.6. Implement appropriate technical mechanisms in order to prevent usage patterns that violate this AUP

26.6.1.7. Share information concerning the incident with other Internet access providers, or publish the information, and/or make available the users' details to law enforcement agencies.

26.6.1.8. TITC AFRICA may take any one or more of the steps listed above, insofar as TITC AFRICA deems them necessary in its absolute and sole discretion, against the offending Party.

26.7. Laws and Legislation

26.7.1. TITC AFRICA's infrastructure may be used only for lawful purposes. Users may not violate any applicable laws or regulations of South Africa within the territory of South Africa. Should the user reside outside of South Africa, the laws of the country in which the user resides shall apply.

26.7.2. Transmission, distribution or storage of any material on or through the infrastructure in violation of any applicable law or regulation is prohibited. This includes, without limitation, material protected by copyright, trademark, trade secret or other intellectual property right used without proper authorisation, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws.

26.7.3. The User undertakes to use TITC AFRICA services in accordance with any restrictions imposed under the following legislation:

26.7.3.1. Electronic Communications and Transactions Act 25 of 2002

26.7.3.2. Electronic Communications Act 36 of 2005

26.7.3.3. Films and Publications Act 65 of 1996 (as amended)

26.7.3.4. Regulation of Interception and Provision of Communication-related Information Act 70 of 2003

26.8. Legal Rights

26.8.1. Nothing contained in this policy shall be construed to limit TITC AFRICA rights or remedies in any way with respect to any of the aforementioned activities, and TITC AFRICA reserves the right to take any action that it may deem appropriate with respect to such activities, including without limitation:

26.8.1.1. Investigating suspected violations of this AUP

26.8.1.2. Taking action to recover costs and expenses incurred in identifying and resolving abuse

26.8.1.3. Terminating users' access to and use of the TITC AFRICA service

26.8.1.4. Levying cancellation charges to cover TITC AFRICA costs in the event of termination of the TITC AFRICA service.

26.8.2. In addition, TITC AFRICA reserves all available rights and remedies with respect to such activities at law or in equity.

26.9. General

26.9.1. This policy forms part of TITC AFRICA standard terms and conditions of service.

26.9.2. All cases of violation of the above Acceptable Fair Use Policy should be reported to abuse@TITC.Africa