

New Customer
Existing Customer
Pensioner
TN Employee

Account/Telephone nr: _____

Pension card nr: _____

Account/Telephone nr: _____

Personal Details

Title The Hon _____ Prof _____ Miss _____ Mrs _____ Mr _____ Dr _____ Rev _____ Other _____

Surname _____

Full Name(s) _____

Date of Birth dd-mm-yy _____ Occupation _____

Identity/Passport Number _____

Citizenship _____

Postal Address _____ Post Office _____ Town _____

Contact Details: Home _____ E-mail _____

Mobile _____ Fax _____ Office _____

Company Details

Registered Name of Company _____

Registration Certificate Number _____

Type of Business _____

Sole Proprietor _____ Trading as _____

Private _____ Public _____ Partnership _____

Close Corporation _____

Physical Address _____ Postal Address _____

Post Office _____ Town _____

Telephone Number _____

Employers Details

Name of Employer's _____

Postal Address _____

Post Office _____ Town _____

Physical Address _____

Telephone Number _____

Type of Service Required

FAX2EMAIL

Please indicate full email address(es) on which service(s) should be activated

Email Address 1 _____ (eg. jacksonk@tway.na)

Email Address 2 _____

Attachment type TIF _____ PDF _____

Prepaid Email2Fax _____ Post-paid Email2Fax _____ (Fax2Email pre-requisite)

Directory Listing

Should information be printed in the directory? Yes No

List information to be printed: Surname / Company Name _____ Initials / First Name _____

Telephone number(s) to be listed: Cell _____ Fax _____ E-mail Postal Address _____ Post Office _____

Town _____ Physical Address _____ Suburb _____ Town/City _____

Indicate additional entry required: _____

Marketing Material

Would you like to receive marketing material and information regarding special promotions and offerings?

Yes No

If yes, select your preferred methods of communication:

E-mail Post SMS Telephone

Payment Undertaking

Payment undertaking (personal), I / We, _____ the undersigned,

1. Declare that the information provided in this application and copies of attachments are true and correct.

2. Understand that the telephone service required will be subject to the "Post and Telecommunications Act, 19 of 1992".

3. Do hereby accept and agree to the terms and conditions of this contract.

Signature _____ Date _____ / _____ / _____ Spouse* /

Legal Guardian Name _____ Surname _____ Signature (Spouse*) /

Legal Guardian _____ Date _____ / _____ / _____

Marriage in Community of Property / Power of Attorney Signature is required

Sanction of owner / agent: I hereby agree to the installation of the telephone(s) services as requested,

Signature _____ Date _____ / _____ / _____

TELECOM NAMIBIA'S STANDARD TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1. In this Agreement, the words hereunder will have the meanings assigned to them below:-
- 1.1. "Agreement" means these Standard Terms and Conditions, any Application Form and Annexure A Outbound Call Charges;
- 1.2. "Application Form" means a Customer Service Order Form in Telecom Namibia's standard form from time-to-time, completed and signed by the Customer and accepted and counter-signed by Telecom Namibia;
- 1.3. "Customer" means the party specified as the Customer on the Application Form to which these Standard Terms and Conditions are attached;
- 1.4. "Effective Date" means, notwithstanding the date of signature of this Agreement, the date on which the Service is first made available by Telecom Namibia to the Customer;
- 1.5. "Event of insolvency" means in relation to a party: (a) a liquidator, provisional liquidator, receiver, administrative receiver, administrator or similar officer is appointed over any of the assets or businesses of that party; (b) any reorganisation, moratorium or other administration with or for the benefit of that party's creditors generally or any class of its creditors; (c) that party adopts a resolution or proposes to adopt a resolution to wind itself up or becomes unable to pay its debts as and when they fall due or become deemed to become unable to pay its debts as and when they fall due within the meaning of section 123 of the Insolvency Act 1986; (d) any similar or analogous event happens under the national, state or local laws of any other country.
- 1.6. "IVT" means Integrated Virtual Telecommunications (Pty) Ltd, with registration number 2009/0019, who operates the value added rate services in Namibia by means of connections provided by Telecom Namibia;
- 1.7. "Telecom Namibia" means the company established in terms of the Post and Telecommunications Companies Establishment Act, No. 17 of 1992, registration number 92/282, with its registered address at 9 Ludertiz Street, Windhoek. Proprietary information means any and all trade secrets and data/information of a proprietary and/or confidential nature, including data/information that the parties should reasonably have known to be proprietary or confidential;
- 1.8. "Service" means the "E-mail to Fax" (ama2fax) service provided by Telecom Namibia and IVT to the Customer in terms of this Agreement;
- 1.9. "Service Providers" means Telecom Namibia and IVT jointly;
- 1.10. "VAT" means Value-Added Tax.
- 1.11. The clause headings contained in this Agreement are for reference purposes only and shall not be used in the interpretation of this Agreement. Words importing any one gender include the other gender, the singular includes the plural and vice versa. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

2. COMMENCEMENT AND DURATION

- 2.1. The Agreement shall commence upon the Effective Date and shall continue for an initial period of three months ("the initial period"). The Customer agrees to utilize the email2fax Service on a regular basis and if not utilized for a period of three continuous months, the users number will be reallocated to another subscriber.
- 2.2. Subject to Clause 8, either party shall be entitled to terminate this Agreement on not less than three months written notice to the other, provided that no such notice of termination may be given during the initial period so as to result in the termination of this Agreement taking effect prior to the expiry of the initial period. Should this Agreement not be terminated on the expiry of the initial period, it shall continue indefinitely thereafter unless cancelled by either party on not less than three months written notice to the other.

3. CUSTOMER'S OBLIGATIONS

- 3.1. The Customer is prohibited from selling, reselling or otherwise dealing with the Service/s in any manner whatsoever other than as contemplated herein. Without limitation to the foregoing, any consideration which the Customer may receive whilst acting in breach of this prohibition shall be forfeited to Telecom Namibia and the Customer shall account to Telecom Namibia for any such monies.
- 3.2. The Customer is prohibited from allowing any person other than its employees or other authorized parties, access to the Service.
- 3.3. The Customer may not at any time (and shall not at any time permit others to) use the Service in contravention of any applicable law, in any way which infringes the rights of any third party or in any which causes or (in Telecom Namibia reasonable opinion) risks causing liability to Telecom Namibia.
- 3.4. The Customer warrants that it shall not (and shall not at any time permit others to) use the Service to produce, host or present any content in contravention of any person's intellectual property rights, and in particular warrants that it shall recognize, acknowledge and use any content in accordance with any third party's intellectual property rights. The Customer furthermore warrants that it has received all necessary permissions to make use of any intellectual property relating to third parties.
- 3.5. The Customer shall indemnify Telecom Namibia for any and all costs, damages, liabilities and expenses which may be suffered or incurred by Telecom Namibia arising out of or relating to any breach of Clause 3.3 or 3.4 or by the Customer.

4. CHARGES

- 4.1. The Customer will be invoiced on a monthly basis for Charges due under this Agreement for outbound charges only. All Charges shall be due upon the Customer's receipt of Telecom Namibia invoice and payable within 30 (thirty) days of the invoice date. The Customer shall pay all amounts due to Telecom Namibia under this Agreement without deduction or set-off for any reason.
- 4.2. If payment is not made in accordance with this Agreement, Telecom Namibia may charge interest on the outstanding sum at the rate of 4% (four percent) above the base lending rate of the Act banking information from time to time for the period beginning on the date payment is due until the date payment is actually made (whether before or after judgment). Telecom Namibia shall also be entitled to compensation from the Customer for its debt recovery costs up to the maximum amount allowed by law from time to time.
- 4.3. The Customer may, acting in good faith, dispute any portion of an invoice provided that the Customer: (a) pays the full undisputed portion of the invoice by the due date; (b) provides Telecom Namibia with a written statement and supporting documentation regarding the dispute within 30 days from the date of the relevant invoice and (c) negotiates in good faith with Telecom Namibia to resolve the dispute. If the dispute has not been resolved within 30 days from the Customer's original written claim then either party may pursue its available rights or remedies.
- 4.4. The Customer acknowledges that in the event of any dispute on Charges relating to usage, Telecom Namibia records shall be presumed to be accurate unless proved otherwise by an independent auditor.
- 4.5. Telecom Namibia may change the level of its CHARGES after giving the Customer at least 60 (sixty) days' prior written notice of its intention to do so.

5. WARRANTIES

- 5.1. Telecom Namibia warrants that it shall use reasonable care and skill in providing the Service and that the Service shall conform to all material respects with its description.
- 5.2. In the course of an Agreement, the Customer may transfer Personal Data to Telecom Namibia. Where Personal Data is processed in the course of performance of an Agreement, the parties intend that the Customer will be the Data Controller and Telecom Namibia will be a Data Processor in relation to such Personal Data. Telecom Namibia agrees that it shall only process such Personal Data received from the Customer as may be reasonably necessary for the purposes of the Agreement or as otherwise required by law or to comply with legal obligations. Telecom Namibia warrants that it shall take such technical and organisational measures as it believes to be reasonable and appropriate to protect such Personal Data from unauthorised or unlawful processing and against accidental loss, destruction or damage. Capitalised terms used in this clause and not defined elsewhere in the Agreement shall have the meanings given in the Data Protection Act 1998 (as may be amended from time to time).

- 5.3. Telecom Namibia does not warrant or guarantee that the information transmitted by or available to the Customer by way of the Service:
 - 5.3.1. will be preserved or sustained in its entirety;
 - 5.3.2. will be delivered to any or all of the intended recipients or will be delivered within a particular time;
 - 5.3.3. will be suitable for any purpose;
 - 5.3.4. will be free of inaccuracies or defects or bugs or viruses of any kind; or
 - 5.3.5. will be secured against intrusion by unauthorised third parties;
 - 5.3.6. and Telecom Namibia assumes no liability, responsibility or obligations in regard to any of the exclusions set forth in this clause 5.3.

- 5.4. Except where expressly set out in the Agreement, or where the Services are provided to a person dealing as a consumer, all warranties, conditions or other terms implied by statute, common law or otherwise howsoever excluded to the fullest extent permitted by applicable law.

6. LIMITATION OF LIABILITY

- 6.1. Subject to Clause 6.2:
 - 6.1.1. Telecom Namibia shall not be liable to the Customer by reason of any representation, or any implied warranty, condition or other term, or any duty, common law or under the expressed terms of the Agreement, for any loss of revenue, profit, goodwill, anticipated savings, data or wasted expenditure or any indirect, incidental or consequential losses, liabilities or damages whatsoever arising from, or relating to the Agreement or the performance or non-performance of its obligations hereunder (irrespective of whether such losses, liabilities or damages are foreseeable or within the parties' reasonable contemplation); and

- 6.1.2. In any event, Telecom Namibia aggregate liability in connection with the Agreement during each 12 month period calculated from the Effective Date (whether such liability arises in contract, tort, negligence or otherwise howsoever) through indemnification or otherwise, shall not exceed 160% of the total amount paid by the Customer to Telecom Namibia under the Agreement during that period.
- 6.2. Telecom Namibia does not limit or exclude its liability for fraud or deceit, personal injury or death arising from its negligence, for breach of any condition as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 or for any other liability that cannot validly be excluded or limited by law.
- 6.3. Telecom Namibia shall have no liability to any of the Customer's customers and end-users in relation to the Agreement, and the Customer shall indemnify Telecom Namibia for any and all costs, damages, liabilities and expenses arising out of or relating to any claim made by such party.
- 6.4. Because of the need to conduct maintenance, repair and/or improvement work from time to time on the technical infrastructure by means of which the Service is provided, the provision of the Services may be suspended from time to time, and all liability on the part of Telecom Namibia of any loss or damage (whether direct or consequential) thereby incurred or for any costs, claims, or demands of any nature arising therefrom, is excluded. In the event of any such suspension, Telecom Namibia shall provide the Customer with 5 (five) days' prior written notice in respect of such planned maintenance. Telecom Namibia reserves the right to suspend the Services to carry out emergency maintenance on shorter notice.

7. DOCUMENTATION

7. Any specifications, descriptive matter, drawings and other documents which may be furnished by Telecom Namibia to the Customer from time to time:
 - 7.1. do not form part of this Agreement and may not be relied upon, unless they are agreed in writing by both parties hereto to form part of this Agreement;
 - 7.2. shall remain the property of Telecom Namibia and shall be deemed to have been imparted by it in trust to the Customer for the sole use of the Customer. All copyright in such documents vests in Telecom Namibia. Such documents shall be returned to Telecom Namibia on demand.

8. TERMINATION AND SUSPENSION

- 8.1. Telecom Namibia may terminate the Agreement or, at Telecom Namibia discretion, cease or suspend the provision of Services upon written notice to the Customer if: (a) the Customer fails to pay any Charges when due and does not cure the failure within 7 (seven) days of a notice requiring payment; (b) if the Customer commits a breach of Clause 3.3; (c) the Customer commits a breach of the Agreement (other than as described in Clauses 8.1(a) and (b) above) and does not cure such breach within 30 (thirty) days of written notice from Telecom; or (d) the CUSTOMER suffers or undergoes an Event of insolvency or (e) Telecom Namibia is obliged to comply with an order, instruction or request of a court, government agency, emergency service organisation or other administrative or regulatory authority or otherwise ceases to have a licence to provide the Service.
- 8.2. The Customer may terminate the Agreement if: (a) Telecom Namibia commits a material breach of the Agreement and, in the case of a breach capable of remedy has not cured such breach within 30 (thirty) days of receipt of written notice from the Customer setting out the details of the breach and requiring its remedy; or (b) Telecom Namibia suffers or undergoes an Event of insolvency.
- 8.3. Termination is without prejudice to the accrued rights and remedies of either party.

9. PROPRIETARY INFORMATION

- 9.1. The parties will keep in strict confidence all Proprietary information obtained (whether directly or indirectly) from the other party under or in connection with any Agreement. Each party agrees not to disclose the other party's Proprietary information to any person (other than their employees who need to know the information for the purpose of the Agreement and who are under an equivalent duty of confidentiality) without the prior written consent of the other party. Each party shall: (a) use the other party's Proprietary information only for the performance of its obligations under the Agreement; (b) treat all Proprietary information of the other party in the same manner as it treats its own, but in no case with less than reasonable care; and (c) not make copies of the other party's Proprietary information.
- 9.2. Clause 9.1 will not apply to information which: (a) is publicly available other than through a breach of contract; (b) is lawfully in the possession of the recipient before disclosure by the other party and is not otherwise subject to a confidentiality undertaking; (c) is obtained through a third party who is free to disclose it; (d) is required by law to be disclosed (and then, to the extent legally permissible, only after reasonable advance notice to the disclosing party); (e) is disclosed to professional advisers for the purpose of taking advice or for other legitimate business purposes.

10. FORCE MAJEURE

- 10.1. Telecom Namibia shall not be liable for non-performance under this Agreement to the extent that the non-performance is caused by events or conditions beyond the reasonable control of Telecom Namibia.
- 10.2. It is expressly recorded that for purposes of this clause the following shall be regarded as events or conditions beyond Telecom Namibia reasonable control:
 - 10.2.1. a Service Provider fault that affects the Service; and/or
 - 10.2.2. the non-performance, inability to perform or delay in performance by the Service Provider relating to the provisioning of equipment, services and/or facilities to Telecom Namibia that affects the Service; and/or
 - 10.2.3. (a) acts of God or nature, explosion, flood, tempest, other atmospheric conditions, fire or any accident; (b) war, threat of war, terrorist acts or threat of terrorist acts, sabotage, insurrection, civil disturbance or requisition; (c) acts, restrictions, regulations, byelaws, prohibitions, orders or measures of any kind on the part of any governmental, parliamentary, regulatory, local, judicial or equivalent authority; (d) acts or omissions of any supplier, agent, sub-contractor or other third party; (e) failure of any telecommunications network not under the control of Telecom Namibia; (f) import or export regulations or embargoes; (g) strikes, lock-outs or other industrial actions or trade disputes (whether involving its employees or those of a third party) (h) difficulties in obtaining raw materials, labour, fuel, parts or machinery; (i) computer viruses or worms, denial of service attacks, spoofing and/or other hacking attacks; or (j) power failures or interruptions or other utility services or a breakdown in machinery.

11. GOVERNING LAW AND JURISDICTION

11. This Agreement will be governed by and construed in accordance with the laws of Namibia and the courts of Namibia shall have exclusive jurisdiction over all disputes, actions and other matters relating thereto.

12. GENERAL

- 12.1. The Customer may not assign or otherwise transfer any of its rights under the Agreement without Telecom Namibia prior written consent, which shall not be unreasonably withheld. No permitted assignment or transfer shall relieve the Customer of its obligations hereunder. Telecom Namibia may assign or transfer its obligations under this Agreement to any third party on written notice to the Customer.
- 12.2. All notices or other communications under the Agreement (including without limitation any notices of breach or termination) shall be delivered in writing in one of the ways set out in this Clause 12.2. and in the absence of evidence of earlier delivery any shall be deemed to have been delivered: (a) on the delivery date if delivered by hand; or (b) 3 (three) days after deposit in the mail by registered post. Notices sent to the Customer will be delivered to the Customer's address set out on the order form signed by the Customer. Notices to Telecom Namibia shall be sent as follows:

Telecom Namibia
Tel. 201 2211
Fax: 239844
Attn: Managing Director
- 12.3. The Agreement sets forth the entire understanding of the parties and supersedes any and all prior agreements, arrangements or understandings relating to the subject matter of the Agreement. The parties acknowledge that: (a) they have not entered into the Agreement in reliance of any representations, terms or other assurances not expressly set out in the Agreement; (b) their sole remedies in relation to the Agreement are those for breach of contract; and (c) that this Clause does not apply in respect of any fraudulent representations or other assurances.
- 12.4. Except as expressly provided by this Agreement, the Agreement may only be amended or modified by a written document signed by both parties.
- 12.5. All terms and conditions of the Agreement which by their nature are intended to survive termination of the Agreement shall so survive. This includes, without limitation Clauses 3.5, 6, 7, 9, 10 and 12.
- 12.6. If any term, condition, clause or provision of the Agreement is held to be legal or unenforceable, the validity or enforceability of the remainder of the Agreement shall not be affected thereby.
- 12.7. Failure by Telecom Namibia to enforce any of its rights under the Agreement will not act as a waiver of that right unless Telecom Namibia acknowledges the waiver in writing. No single waiver shall be deemed a continuous waiver.
- 12.8. A person who is not a party to this Agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- 12.9. Except where expressly stated otherwise, the rights and remedies available under this Agreement are cumulative.
- 12.10. This Agreement relates to the provision of the Service only. Should the Customer require Telecom Namibia to provide any additional services, such services shall be provided in terms of a separate agreement to be concluded between Telecom Namibia and the Customer. The Customer hereby agrees to accept any information that Telecom Namibia may send regarding future value added services via the Customers e-mail address.