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**DATED THIS …………. OF ……….. 202..**

**BETWEEN**

**HOMELAND TEQ SOLUTIONS LTD**

**- AND -**

## XXXXXXXXXXXXXXXXXXXX

**AGREEMENT FOR THE PROVISION OF BULK SMS**

**SERVICES**

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**THIS AGREEMENT** is made on 21st February 2022 **(“Commencement Date”) BETWEEN**:

1. **HOMELAND TEQ SOLUTIONS LTD** a company incorporated in the Republic of Kenya with its registered office at Golf View Office Suites, Muthaiga and of P.O. Box 2424900100 Nairobi, Kenya (**“Homeland”**), and
2. **XXXXXXXXXXXXXXXXXXXXX** a company incorporated in the Republic of Kenya with its principal office at ………………………………………………….and of P.O. Box ………………………., Nairobi (hereinafter referred to as “**Client**”);

Homeland and the Client are hereinafter individually referred to as the “Party” and collectively as the “Parties”.

**WHEREAS**:

1. Homeland is the leading provider of integrated communications solutions in the Republic of Kenya and it is duly licensed to operate and maintain a mobile cellular network in the Republic of Kenya;
2. The Client has been granted a license by the Communications Authority of Kenya

(hereinafter referred to as the “CA”) to provide Content Services within the aforementioned Republic in accordance with the terms of their license and is now desirous of using Homeland’s Network as a means to provide such Content Services to the public;

1. In consideration of the proposed revenue share and other rates agreed upon between the Parties, Homeland has agreed for the Client to have limited connection to its Network for the provision of the Services (*a term defined below*) in accordance with the terms and conditions set out in this Agreement.

**THEREFORE**, in consideration of mutual promises, representations, covenants and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree to the following terms and conditions and to be bound thereby:

## 1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

1. **“Agreement”** means this Agreement, its Schedules and the Pricing Booklet;
2. **“CA”** means the Communications Authority of Kenya, formerly the Communications Commission of Kenya (its successors and permitted assigns) which is the Government body charged with the regulation of the telecommunications sector within the Republic of Kenya;
3. **“Code of Ethics”** means the Homeland Supplier Code of Conduct as set out in Schedule 4 to this Agreement;
4. **“Gaming/Lottery”** means any promotional activity based on chance and or skill and or with a guaranteed win carried out by the Client on the Homeland Network using any of the Homeland Services, channels, portals whether for its gain/benefit or for the benefit of a third party and includes games, lotteries, prize competitions and any other categories that may be introduced by any law at any time and whether for commercial purposes or charity or otherwise, with or without permit or licence as may be required any law;
5. **“Liquidated Damages”** a sum to be due from the Client when in breach of the Client Agreement and its amendments as more particularly defined in this Agreement
6. “**Mobile Originated SMS**” means an SMS that is successfully charged for at the Originating Point;
7. “**Mobile Terminated SMS**” means an SMS that is charged for at the

Termination Point;

1. **“Month”** means a calendar month;

1. **“Normal PRS or Client Business”** means any activity or business carried out by the Client which is not a Gaming/Lottery as defined herein;

1. “**Network**” means Homeland’s mobile cellular network;
2. **“Offending Material”** means any content transmitted by the Client that is:
   * 1. in breach of any law, regulation or code of practice invoked by Homeland or industry regulator or any policy adopted by Homeland with regard to the acceptable use of the Services; or
     2. abusive, indecent, defamatory, obscene, offensive or menacing (or that has the effect (as may be contemplated by a reasonable person) of causing the recipient to feel so harassed, abused or offended); or
     3. in breach of confidence, intellectual property rights, privacy or any right of a third party.
3. “**Originating Point**” means the point at which the Subscriber shall send an

SMS from his mobile handset to Homeland’s SDP and at which point the Subscriber shall be charged for the SMS based on the information requested by the Subscriber and this payment shall be confirmed by an originating report from Homeland’s SDP;

1. **"Parties' Representatives"** means the person or persons who is duly

authorized by the Party in writing to act on its behalf;

1. **"Content Service Charges"** means the tariff, rate or charge prescribed in the Pricing Booklet which charge is over and above the ordinary cost and is to be paid by every Subscriber who accesses the Content Service Provider Services;
2. **“Pricing Booklet”** means the variable Service pricing and revenue share schedule which includes details of all the applicable charges for the Services and the agreed revenue shares between the Parties and which together with any variations from time to time form part of this Agreement;
3. “**Revenue**” means the cost charged by Homeland to its Subscriber for a Mobile Originated SMS or a Mobile Terminated SMS inclusive of all applicable taxes;
4. **“SDP”** means Homeland’s Service Delivery Platform;
5. “**Services**” means the SMS based content services or other services set out in the Client’s proposal, approved by Homeland, to be provided by the Client through the Network;
6. “**Service Revenue Report”** means the statistics generated from the Homeland service delivery Platform reflecting the traffic of Mobile Originated and Mobile Terminated SMS;
7. **“Short Code”** means a short numeric code issued by Homeland and through

which the Services will be provided. “**SC”** where used will have a corresponding meaning;

1. “**SMS**” means Short Message Service;
2. “**SMSC**” means Homeland’s Short Message Service Centre;
3. “**Subscribers**” mean customers who receive the Services;
4. “**Termination Point**” shall mean the point at which the Subscriber shall receive an SMS from Homeland’s SMSC based on the information requested by the Subscriber and at which point of receipt the Subscriber shall be charged for the SMS and this payment shall be confirmed by a delivery report from the Homeland’s SMSC; and
5. **“Transmission Link”** means a telecommunication transmission line leased from a licensed data carrier.

1.2 In this Agreement, unless the context otherwise requires, any reference to:

* + 1. the singular includes the plural and vice versa;
    2. a person includes reference to a body corporate or other legal entity;
    3. any written law includes that law as amended or re-enacted from time to time;
    4. any agreement or other document includes that agreement or other document as varied or replaced by the Parties in writing from time to time;
    5. a clause is to the relevant clause of this Agreement;
    6. any Party includes that Party’s successors and assigns.
  1. Clause headings are inserted for convenience only and shall be ignored in construing this Agreement.
  2. The identification of certain breaches in this Agreement as being “Material” does not indicate that only those breaches are material.
  3. Where the Agreement provides for the giving or issue of any notice, consent, approval certificate or determination, it shall be in writing and the words notify, certify or determine shall be construed accordingly.

## 2. APPLICATION OF TERMS AND Client UNDERSTANDING

1. Save as may otherwise be provided in this Agreement the terms and conditions set out in this Agreement are the only terms on which Homeland is prepared to deal with the Client and they shall govern the relationship between the Parties to the entire exclusion of all other agreements entered into with the Client in relation to the provision of the Services.
2. Notwithstanding any provisions in this Agreement, the Client shall not introduce or provide any services on the Network without the prior approval of Homeland. Further, the Client shall not deploy on the Network any services using technologies or software that interferes with or in any way disrupts the provision of other services on the Network. In this regard, the Client shall under no circumstances whatsoever deploy services using binary messaging. **A breach of this clause shall constitute material breach of this Agreement entitling Homeland to immediately terminate this Agreement without prejudice to its other rights whether under this Agreement, law or equity.**

## 3. COMMENCEMENT AND DURATION

This Agreement shall come into force on 21st February 2022 (**“Commencement Date”**) and shall remain in force for a period of **one (1) year** from the Commencement

Date (**“Agreement Duration”**) and shall thereafter renew automatically from year to year (subject however to the Client complying with the terms of this Agreement and providing Homeland with a valid content service provider licence or certificate) unless earlier terminated in accordance with clause 22 (*Termination*) of this Agreement.

## 4. REPRESENTATIONS AND WARRANTIES

The Client warrants to Homeland as follows:

1. That at all times during the subsistence of this Agreement all the information it shall furnish to Homeland in relation to any of the Services will to the best of its knowledge be true and accurate in all material respects and that such information will not omit any material information which might reasonably be expected to affect the decision of Homeland to maintain this Agreement.
2. There are no proceedings pending or, to its knowledge, threatened, and there is no existing basis for any such proceedings, against or affecting it by or before any court, arbitrator, or other governmental authority which, if adversely determined, individually or in the aggregate might be reasonably expected to materially and adversely affect its properties, business, prospects, profits or condition or adversely affect its ability to perform its obligations under this Agreement.
3. It validly exists under the laws of Kenya and has all the necessary power and authority to enter into this Agreement and has in addition obtained all necessary permits, licences and consents from the necessary regulatory authorities including the CA.
4. That the particulars regarding its corporate status, directors, shareholders and other corporate information given to Homeland are complete and accurate and it shall notify Homeland immediately in writing of any change therein. In the event that any information is not complete and accurate then Homeland may terminate this Agreement immediately by written notice to the Client without prejudice to any rights or remedies it may be entitled to at law.
5. That its execution, delivery and performance of this Agreement will not be in conflict with or breach any other agreement or obligation to which it is a party or is bound.
6. That no third party, officer or employee of Homeland has received or will receive any material or other benefit for the purpose of influencing the action of a Homeland officer or employee in the execution, retention or amendment of this Agreement or securing any determination in respect to the Client’s performance. The **Client recognises that a breach of this clause will be deemed to be a material breach of this Agreement and will result in the immediate termination of this Agreement without liability to Homeland.**

## 5 INTERCONNECTION AND TESTING

### 5.1 Client Obligations

The Client shall:

1. obtain all the necessary licences and approvals from any relevant authorities for the provision of the Services and shall ensure that such licenses and approvals are updated and valid throughout the Agreement Duration.
2. obtain and maintain at its own cost compatible system being all such equipment, software and communications lines (including any public lines) as notified to the Client by Homeland to access and/or make use of the Network (the "**Client’s Equipment**").

Homeland is not responsible for nor has any liability in respect of the Client’s Equipment.

1. obtain and maintain at its own cost the Transmission Link between Homeland and Client.
2. meet the technical requirements as defined in Schedule 1 to be allowed to connect on Homeland’s network.
3. at its own cost install the Transmission Link between Homeland’s Network and the Client’s Equipment.
4. maintain its equipment in good working order at all times during the Term of this Agreement.
5. at its own cost provide an appropriate back-up system in case of power failure, which shall for the purposes of this Agreement be PV 2400 Inverter with batteries providing power back up for up to eight (8) hours after power failure or conforming to such other specifications as shall be communicated by Homeland from time to time.
6. implement and maintain appropriate security procedures to prevent damage to the Network, including any security procedures notified by Homeland to the Client from time to time.

### 5.2 Joint Obligations

1. The Parties shall ensure that the interconnection between the Homeland Network and the Client’s Equipment is carried out by fully competent and authorised employees properly appointed by the Client.
2. Immediately after the installation of the connection is complete the Parties shall carry out a testing phase to establish the suitability of the connection, it’s functioning, the availability and efficacy of the Services using the SDP as well as the billing and collection of the applicable charges.
3. The testing shall be carried out for a period of at least seven (7) days or such other period as shall be communicated by Homeland and shall be carried out in accordance with such parameters as may be prescribed by Homeland from time to time provided that the testing period may be extended by mutual agreement between the parties.
4. The testing as above described shall only commence once the Transmission Link is up and running and the Short Code is configured on the Homeland Network, and after all contracts are signed.
5. Before testing begins Homeland shall be supplied with a project plan that it shall at its discretion, amend or vary.
6. At the end of the testing period the Parties shall evaluate the results of the tests and the rest of this Agreement shall only become operational after both Parties have signed an acceptance certificate specifying that the interconnection is functioning satisfactorily and that the Content Services can be provided by both Parties effectively as per schedule 1 (*Technical Requirements*).
7. After signing of the acceptance certificate, the Client will be liable to pay the relevant short code fee as has been specified by Homeland.

## 6 SHORT CODE ALLOCATION PROCESS AND NEW SERVICES

### 6.1 Allocation Process

1. Homeland shall allocate the Client Short Codes in accordance with the Short Code allocation procedure as set out in Schedule 5 to this Agreement or as amended from time to time.
2. Homeland reserves the right to refuse a short code allocation request on reasonable grounds including if the name of the service is the same or close to an existing service.

### 6.2 Ownership of Short Codes

The Client acknowledges that:

1. it shall have no ownership in the Short Codes allocated to it;
2. the allocation of Short Codes does not constitute transfer of any goodwill or property in the Short Code whatsoever;
3. any Subscriber data collected and retained by Homeland as a consequence of the provision of the Services shall remain the property of Homeland.

### 6.3 Withdrawal of Short Codes

1. Homeland reserves the right, in the normal course of business, to suspend, withdraw, re-number or re-allocate the Short Codes allocated to the Client including where:
   1. the allocated Short Code has been inactive or has not been put into effective use for a period of three (3) months or such other period as Homeland may communicate;
   2. the Client is in breach of this Agreement;
   3. this Agreement is terminated for any reason;
   4. such action is necessary to comply with any legal requirement or re-numbering plan or as directed by the CA or other competent Governmental body;
2. Homeland shall not be liable to compensate the Client in the event of Short Code withdrawal for any of the reasons set out in clause 6.3 (a) above.
3. the Client acknowledges and agrees to use the Short Code in an efficient manner. In the event that the Client fails to comply with this obligation, Homeland may suspend, withdraw or re-allocate the Short Codes without incurring any liability whatsoever to the Client.

### 6.4 New Services

1. Any subsequent changes or additions to the Content Services to be offered and/or number accesses shall be notified to Homeland by the Client by notice in writing at least forty-eight (48) hours before the effective date of such changes.
2. The Client shall submit to Homeland for review and appraisal its detailed proposal in respect of such new services and Homeland reserves the right at its sole discretion to reject any such proposed services based on *inter alia*, ethics, commercial viability, strategic objectives, Network capacity/availability.
3. Subject to the foregoing, the terms of the any such new services shall be agreed upon by the Parties and annexed to this Agreement at Schedule 7 (*Service Schedules*). Where no further agreement is requisite, the Proposal of such new service shall automatically form part of this Agreement as a service schedule and the terms of this Agreement shall apply to and govern the said service.

### 6.5 Political Messaging Services

1. The Client **shall NOT** under any circumstance launch or engage in any political messaging services on the Homeland Network without the prior written consent of Homeland. Homeland reserves the right in its sole discretion to reject requests for such services or to accept the same on terms.
2. All Political Messaging Services shall adhere to the law applicable and shall in addition be governed by the Political Messaging Guidelines incorporated in Schedule 4 (*Code of Ethics*) as may be published varied by Homeland from time to time.
3. It shall be the responsibility of the Client to carry out legal due diligence on the Political Parties or any individual sponsoring political messages.
4. The Client shall take full responsibility, legal or otherwise, of the Political Messages and shall fully indemnify Homeland against any claims that may arise out of the same. In this regard, Homeland reserves the right to require the Client to back this indemnity with a suitable security.
5. Any breach of this clause 6.5 shall be considered a material Breach of this Agreement entitling Homeland to terminate this Agreement with immediate effect without prejudice to all other remedies it may have under this Agreement, in law and equity.

### 6.6 Commercial Requirements

Homeland may give the Client revenue targets that will be communicated and agreed upon with the Commercial Partnerships Manager or their official designate from time to time. The Client will be required to achieve the revenue targets communicated by Homeland.

## 7 GENERAL OBLIGATIONS AND RESPONSIBILITIES OF HOMELAND AND THE Client

### 7.1 Exclusion of Liability

Homeland shall not incur any liability to the Client or any other person by reason of any failure on the part of the Client to honour any contract entered into with any third party including but not limited to its content providers, employees or other third party nor a failure to ensure compliance with any law including but not limited to any CA regulations.

### 7.2 Quality of the Network and Connection

7.2.1 Although Homeland will use all reasonable endeavours to ensure consistent provision of the Services through its Network it cannot due to the nature of telecommunications services guarantee a fault free service.

7.2.2 In the event that Homeland sets a limit on the number of messages or the volume of Messages that can be sent via the Network it shall use its reasonable endeavours to notify the Client of any limitation.

### 7.3 Appointment of Contact Person for Communication with Homeland

1. In order to facilitate a smooth flow of information and instructions between Homeland and the Client; Homeland’s **Commercial Partnerships Manager** will serve as a liaison and point of contact for the Client in relation to this Agreement. The Client shall give the Commercial Partnerships Manager or his designate such co-operation as the Commercial Partnerships Manager reasonably requests. The Client shall channel its requirements including requests for assistance through the Commercial Partnerships Manager.
2. For the avoidance of doubt, the Commercial Partnerships Manager is appointed to serve only as a liaison and first point of contact for the Client and does not have the power to commit Homeland.
3. All communication to the Commercial Partnerships Manager will be in writing or reduced to writing as soon as possible thereafter.

### 7.4 Client’S GENERAL OBLIGATIONS

#### 7.4.1 Client General Undertaking and Understanding

During the subsistence of this Agreement, the Client undertakes that it will comply with all of its obligations under this Agreement and will observe the best business practices.

Furthermore, the Client, its officers, employee’s, representatives, agents and content providers will at all times promote and uphold the good name of Homeland.

#### 7.4.2 Content Ethic

1. The Client shall be responsible for ensuring that the content transmitted through the Network and all associated marketing materials comply with the provisions of this Agreement and all applicable laws and regulations and any Code of Ethics implemented by Homeland from time to time. For the avoidance of doubt the provisions of this Agreement will not in any way limit or qualify the Client’s obligations under any applicable laws or regulations.
2. The Client shall ensure that the Services and the content therein shall not be used:
   1. for the transmission of Offending Material;
   2. for the transmission of any message or communication which is illegal, unacceptable or calculated to annoy or injure any person or which is in contravention of the license issued to Homeland or the Client by the CA or is contrary to the Kenya Communications Act (or any subsequent amendments thereto) or any other law or statutory enactment in force at any time during the currency of this Agreement;
   3. to convey to Homeland’s Subscribers any content, message or any transmission whatsoever that is in the sole and reasonable opinion of Homeland considered to be morally repugnant and/or pornographic and/or is prejudicial in any manner to Homeland’s business interests;
   4. for any purpose which is against public interest, public order or national harmony;
   5. in any manner which may infringe the copyright, patent, trademark, trade secret or other proprietary rights of any third party;
   6. to interfere with damage, disrupt or unlawfully gain access to any service, equipment or computer network belonging to Homeland or any other third party;
   7. the Client shall not use the Services to send unsolicited messages whether or not they are of a commercial nature without the prior consent of the Subscribers. The Client shall on request from Homeland at any time, and from time to time, produce evidence satisfactory to Homeland that each subscriber receiving the content provided by the Client has requested the supply of, and agreed to the payment and other conditions in relation to, the Services provided by the Client.
   8. The Client shall not convey any message to any subscriber unless such subscriber has requested the same and has agreed as provided in this clause by:
      1. written contract;
      2. requesting such service by a telephone call or data message sent by the Subscriber; or
      3. such other method as agreed, in advance, by Homeland.

 **For the avoidance of doubt a Subscriber will not be deemed to have given his/her consent to receive the message by reason of his number being registered or “recommended” to receive the content by a third party.**

* 1. In the event that a Subscriber has given consent to the receipt of marketing messages through text messages then such marketing must be restricted to products and services which for which consent was originally given by the Subscriber. The Client may only send messages which promote products or services dissimilar or unrelated to the original consent only where the additional and specific consent of the Subscriber has been obtained.
  2. The Client shall in addition co-operate with Homeland to ensure that it provides the Subscribers with sufficient information (in a clear and unambiguous manner) regarding the particular Services offered by the Client including the price payable for the same and the methods of subscribing for and unsubscribing for the service.
  3. The Client shall not convey messages to any subscriber or encourage the conveyance of messages to any subscriber number, the number and/or frequency of which is in the opinion of Homeland, excessive.

The Client will indemnify Homeland against any criminal and/or civil actions and/or costs that arise specifically from the breach of the provisions of this clause 7.3.

1. The Client shall ensure that the Services are not likely to bring Homeland into disrepute and in the light of generally prevailing standards of decency and propriety to cause offence. In this respect suitability may be determined by Homeland and such determination shall be binding on the Client.
2. In the event that Homeland receives complaints that any content transmitted using the Services are in breach of this Agreement then Homeland may terminate this Agreement or any particular Client Service if Homeland is reasonably satisfied that having investigated the complaint, the Client has breached the prohibitions of this clause 7. This right of termination is not dependent upon the outcome of any proceedings by the police or other authorities.
3. The Client shall not transmit through the Network any content that promotes any products or services from a Homeland Competitor. **For the purpose of this Agreement a Homeland Competitor means any mobile, fixed or local loop operator, financial services institution or such other organisation or institutions as may be communicated by Homeland from time to time**.

## 8 ADVERTISING, PROMOTION AND COMMUNICATION

### 8.1 Advertising

1. All Advertising, promotions and communications must be in line with Homeland’s Client Code of Ethics (*Schedule 4*) and the Communication Charter (*Schedule 6*) and will not without the prior written consent of Homeland infer Homeland’s endorsement of the content transmitted via the Services.
2. The Client shall be responsible for its own marketing and advertising costs and will not invoke Homeland’s name in order to obtain any discount, favour or preference from any media house or advertising agency.
3. Neither Party shall do, cause or permit to be done anything that may infringe, damage or endanger any intellectual property rights (which shall for purposes of this Agreement include but will not be limited to logos, trademarks, service marks, brand marks, copyrights) belonging to the other Party PROVIDED THAT in cases where the Client shall utilise any Copyright, Trademarks, Trade Names, Brand Names or any Intellectual Property or Property of Homeland in the Client’s press statements, promotions, advertisement and/or communications of any type, it shall not utilise the said materials unless it shall first seek and have Homeland’s written consent to utilise the said materials. The provision of such consent to the Client shall however not operate as an assignment to the Client of any Homeland intellectual property.

### 8.2 Communication Charter

The Client shall comply with the provisions of the Communication Charter as set out in Schedule 6 to this Agreement and shall not utilise the short code number(s) allocated to it until the associated Services are fully operational for a commercial launch, including the availability of the Client’s customer care system.

## 9 CHARGES AND FEES AND VARIATION THEREOF

### 9.1 Fees Due

1. Fees due from the Client are as set out in the Pricing Booklet.
2. Set-up fees will be charged to the Client each time a new interface or material is validated or configured on Homeland’s network.
3. Short number allocation & operation fees will be charged to the Client, each time: an SC number is allocated, allocation is demanded to operate a service. These fees are described in the Pricing Booklet.
4. The Client shall not use the return or free leg of the SMS where the SMS is charged on MO to submit unsolicited messages. If the Client is found to be in breach of this sub clause then the Client will be required to pay such fee as is prescribed in the Pricing

Booklet which at the minimum shall be not less than the prevailing base rate or as Homeland may in its sole discretion stipulate.

1. The Client shall not terminate any SMS or communication from outside Kenya

(international) on Homeland’s Network unless permitted by Homeland in writing. If the Client is found to be in breach of this sub clause then the Client will be required to pay such fee as Homeland may in its sole discretion prescribe from time to time. All SMS traffic or communication passing on or through the affected code/channel shall, for this purpose, be deemed to be international traffic.

### 9.2 Variation of Pricing Booklet

1. **NOTWITHSTANDING** any other provisions of this Agreement, Homeland shall be entitled to review any of the fees or charges set out in the Pricing Booklet and/or to introduce new charges. The revised Pricing Booklet shall be communicated to the Client using such means as Homeland shall consider expedient and convenient including via email. By revising the Pricing Booklet Homeland shall be entitled to vary the terms of this Agreement where such change is necessary to give effect to the change in the Pricing Booklet.
2. In the event that change to the Revenue Share Matrix are due to the imposition or alteration of taxes or levies, the Client shall immediately effect the adjustments and such adjustments by the Client shall not be dependent on whether or not Homeland has publicised the said adjustments to the end user.

## 10 BILLING AND PAYMENT TERMS

### 10.1 Billing

1. Homeland shall collect on behalf of Client all the Content Service Charges accruing out of the use of the Services by the Subscribers, and shall on being invoiced, remit such charges as are due to Client subject to the payment terms herein stipulated.
2. Client shall install at its own cost at its business premises equipment fitted with traffic meters for taking count of all incoming SMS and successfully delivered SMS traffic which count shall be used as a comparison to Homeland’s records.
3. The Client meters shall be synchronized with the Homeland charging meters during the testing period above mentioned and shall remain so for the duration of the Agreement

PROVIDED THAT the statistics from the Client’s charging meters shall be held to be only persuasive.

1. Such accounts as indicated by Homeland’s meter shall, in the absence of manifest error (which for the purposes of this Agreement shall be a difference of not more than

5% of the amounts said to be due in that month between accounts as indicated by

Homeland’s meter and accounts indicated by the Client meter), be prima facie proof of the number of calls recorded and the charges in respect thereto which are due and payable to Client, and such accounts shall be used for the purposes of invoicing.

### 10.2 Payment Terms

1. Client shall raise a detailed invoice for the amounts due in charges in respect of the preceding month and shall ensure that such invoice reaches Homeland no later than the 5th day of each month for the term of this Agreement.
2. Homeland will pay the sum due to the Client within forty-five (45) days of receipt of such invoice from Client.
3. Without prejudice to any other right or remedy, Homeland reserves the right to set off any amount owing to Homeland at any time from the Client or its related company against any amount payable by Homeland to the Client or its related company under this or any other agreement.
4. In the event that there is a dispute, arrangements shall be made for payment on the undisputed amounts pending settlement of the disputed amounts.
5. All payments will be subject to statutory deduction for which Homeland will issue the requisite certification.
6. All invoices should be addressed to:

**Finance Department**

**Homeland PLC**

## P O Box 66827-00800, NAIROBI

1. If applicable Homeland shall deduct from and pay to the Kenya Revenue Authority withholding tax payable on the monies due to the Client at such rate as may be prescribed by the Kenya Government from time to time. Upon such deduction Homeland shall present the Client with a Withholding Tax Certificate in such form as may be prescribed by the Kenya Revenue Authority from time to time.
2. Payments will be made in Kenya Shillings and will be issued by cheque or electronic funds transfer to the Client’s Nominated Bank Account.
3. No payments made by Homeland under this clause or any other clause in this Agreement shall be deemed to signify or imply that the amounts paid are properly due to the Client. Homeland shall be permitted to make corrections for factual, mathematical or other manifest errors identified with any payments made or requested to be paid.
4. In the event that any regulatory fine is due from the Client to the CA or any other regulatory body, Homeland shall be entitled, if called upon by the CA or such regulatory body to withhold or deduct a sum equal to such fine, charge or sum from any sums payable to the Client under this Agreement and to pay the same to the relevant regulatory body or to keep such sum in the event that Homeland has already paid the amount due by the Client to the CA or other regulatory body.

## 11 SECURITY

11.1 Depending on the nature of the Service being provided by the Client Homeland may require that the Client’s obligations be secured by:

1. a bank guarantee issued by banks and financial institutions approved by Homeland in such manner and format as Homeland may require from time to time. In the event that a guarantee is required by Homeland then the Client will not commence the services before the said guarantee is provided.
2. Homeland may at any time during the currency of this Agreement require the Client to pay a deposit of such amount as Homeland may think fit by way of security for the payment of any sums payable by the Client to Homeland or which may become payable or liable to be paid by the Client. In addition, Homeland may appropriate sums otherwise due to the Client for the purposes of using the same as a deposit. Homeland will be entitled to retain the deposit until the discharge of all liability of the Client under this Agreement and may from time to time appropriate the deposit or any part of it in or towards payment of any sums due from the Client to Homeland or to the CA or other regulatory body.

11.2 Upon a failure to provide Homeland with such guarantee or deposit, or if a demand by Homeland thereunder is not satisfied, Homeland may terminate this Agreement immediately without prejudice to any rights or remedies it may be entitled to at law.

### 11.3 Access to Homeland Network

#### 11.3.1 Terms of Access

1. The Client will be required to comply with all terms of access issued and directions given by Homeland from time to time in relation to the use of the Homeland Network and Portals such as SDP including security and virus checking procedures.
2. The access to and use of the Network and Portals shall be subject to the right by Homeland in its absolute discretion to, at any time, withdraw the right of access granted to the Client.

#### 11.3.2 Passwords

1. The Client will be required to:
   1. ensure that all login IDs and passwords issued to it by Homeland for access of the Network and Portals are kept secret and only accessible to such of the Client’s personnel as are authorised to access the Network or Portals;
   2. notify Homeland immediately if it becomes aware the login IDs or passwords have become or may have become known by any unauthorised person.
2. The Client is responsible for any access to the Network or Portals using any login IDs and passwords issued by Homeland, whether or not the access was authorised by the Client.

### 11.4 Homeland owned equipment and software

1. In the event that Homeland supplies the Client with equipment and software free of cost for use in its operations then such equipment and software will remain the property of Homeland and the Client will only use the same for such purposes as may be agreed upon with Homeland.
2. The Client will use the equipment and software on such other terms as Homeland may prescribe and will not give a third-party possession or use of them without the prior written consent of Homeland.
3. The Client will not remove any identification markings on the equipment indicating that the equipment is owned by Homeland and will not make attempts to encumber charge or transfer the equipment.
4. Without prejudice to the obligations of the Client under Clause 19 (*Indemnity*), the Client will make good any damage caused to the equipment or software by the Client.
5. The Client will insure such equipment (naming Homeland as an insured party) for the full replacement value of the equipment and licensed software and the Client shall upon request from Homeland at any time produce to Homeland copies of every such policy of insurance and the receipt for the current year’s premium.

## 12 REPAIRS, MAINTENANCE, VIRUS, NETWORK UPGRADE AND SERVICE LEVEL

### 12.1 Operation, Repair and Maintenance

1. During the continuance of this Agreement the Client shall at its own expense maintain its equipment so as to ensure that it functions properly and does not damage or interfere with or cause any deterioration to the normal operation of Homeland’s Network.
2. The Client is to provide suitable monitoring tools by which alarms will be set off at the Homeland’s Network Monitoring Centre.
3. The Client shall not use the interconnection service being offered to it by Homeland for purposes of operating an SMS routing facility on behalf of other operators (fixed line or mobile). In the event that this is found to be the case then Homeland reserves the right to disconnect the Client from its network with immediate effect and without prior notice.
4. In the event that the Client discovers a discrepancy or impairment in the operation of the Homeland system, equipment, Network and/or services, the Client shall notwithstanding any other provision of this Agreement, notify Homeland with immediate effect on the nature and location of the discrepancy or impairment and both Parties shall work together to resolve such discrepancies or impairments promptly.
5. Similarly, where Homeland discovers that the Client’s system has caused impairment to Homeland’s system, equipment, Network and/or services, Homeland shall promptly notify the Client of the nature and location of the impairment and the Parties shall work together to resolve such impairment promptly failure to which Homeland shall be entitled to terminate this Agreement.
6. Where the Client’s equipment fails and it is unable to provide the requested Services to the Subscribers, Homeland shall not be obliged to collect and pay to the Client any of the Revenue Share applicable.
7. In all the cases described above, Homeland reserves the discretional right to disconnect or put the Client service offline, in order to protect its network and equipment from the effects of the failure. The lifting of such temporary discontinuance shall be by notice.

### 12.2 Viruses

It shall be the responsibility of both parties to check and ensure that their respective local area networks are kept free of any viruses, trojan horses and any malicious embedded programs at all times. The provisions of this clause shall however not release the Client of any of its obligations under this Agreement with regard to the content transmitted through the Services.

### 12.3 Network Upgrade

12.3.1 In the event of Homeland upgrading its network and equipment or part thereof (“**Upgraded System**”) which as a result may require an upgrade of equipment on the Client’s part, Homeland shall provide the Client with fourteen (14) calendar days prior written notice and the Client shall upgrade its equipment, servers and all other equipment, network and/or system (collectively “**the Client Service System**”) correspondingly to enable the Client Service System to continue to integrate with the Upgraded System.

12.3.2 In the event that the Client elects not to upgrade the Client Service System then the Client shall within five (5) working days from receipt of the Homeland notice, notify Homeland of its election and Homeland shall thereupon be entitled to terminate this Agreement in the event the provisioning of Services become interrupted by providing the Client with thirty (30) days’ notice whereupon the Parties shall cooperate to ensure that the Subscribers are notified that the Services will no longer be provided. For the avoidance of doubt Homeland will not be liable to the Client should the Services be interrupted or affected in any manner whatsoever as a consequence of the Client electing not to upgrade the Client Service System or Homeland delaying in communicating its planned Network upgrade to the Client.

12.3.3 For the purpose of this Clause, ‘upgrading its network’ includes, but shall not be limited to, any change of servers, software and/or application protocol interphase.

### 12.4 Service Level

#### 12.4.1 Initial Service Level Agreement (SLA)

1. Upon execution of this Agreement, the parties herein shall be deemed to have accepted the provisions of the Service Level Agreement as set out in Schedule 3 to this Agreement and as may be amended by Homeland from time to time.
2. In particular, the Client shall ensure that it maintains a certain minimum level of service for the duration of this Agreement which shall include but not be limited to:
   1. Ensuring that all SMS’s routed by Homeland to the Clients SMS Platform attended to within five (5) seconds or less of receiving the SMS message;
   2. Ensuring that the information given to the Subscribers maintains the integrity of content set out in this Agreement;
   3. Further that the Subscribers are treated in a courteous manner and their queries are responded to accurately and appropriately with a minimum base of commitment as defined in the Service Level Agreement in Schedule Three.

#### 12.4.2 Setting of Service levels

The Parties shall from time to time review the service levels. Following such review, the parties shall negotiate in good faith for the purpose of setting Service Levels covering various aspects of the Services and the same shall be appended to this Agreement.

#### 12.4.3 Observance of Service levels

Where a Service Level has been set then the Client shall ensure that the Client Services are offered and performed in accordance with the applicable Service Level.

#### 12.4.4 Homeland’s right to terminate

If the failure to perform the Services in accordance with the Service Levels is:

1. not remediable; or
2. remediable but is not remedied within any time periods stipulated in the Service Level Agreement or as otherwise agreed upon with Homeland; Homeland shall be entitled to terminate this Agreement.

## 13. Customer service

13.1 The Client is responsible for procuring adequately trained personnel to provide efficient, courteous and correct customer support to the Subscribers. For the avoidance of doubt, Homeland shall not be required to provide any customer support to the Subscribers with regard to the Services. The Client shall co-operate with Homeland to resolve any complaints received from the Subscribers.

13.2 The Client shall advertise in every communication made by the Client about its services the customer care telephone numbers (which **MUST NOT** be charged at a premium) through which the Client’s customer service team can be reached. The Client must provide a Homeland number as one of the designated customer care numbers through which the Subscribers can contact the Client. For the avoidance of doubt any monies paid by the Subscriber in calling the designated Homeland number shall not be the subject of revenue share with the Client.

13.3 The Client shall upon request from Homeland provide information relating to the complaints and questions received from the Subscribers with regard to the Services. Notwithstanding anything to the contrary in this Agreement, Homeland shall be entitled to pass such information (or any part thereof) to the CA or any other competent regulatory authority who may require the same.

## 14 DATA PROTECTION

14.1 The Client shall comply with any statutory requirements, regulator issued rules and regulations, or any guidelines set out in the Code of Ethics relating to the collection, processing, storage and use of personal Subscriber data collected in the course of the provision of the Services.

14.2 The Client shall not use the personal data collected from the Subscribers to send the Subscribers any unsolicited messages.

14.3 The Client shall not transmit, copy, relay, communicate and/or sell in whole or in part any personal data to third parties.

14.4 Homeland shall be entitled to collect any personal data about Subscribers through or in connection with the provision or availability of the Services. The Client shall make the Subscribers aware that Homeland may collect such personal data and may use such personal data for data analysis and similar purposes and in order to improve its services.

14.5 The Client shall indemnify Homeland against all claims and or liabilities arising as a result of the Client’s breach of this clause 14.

14.6 In respect of confidential information supplied by Homeland to the Client under this Agreement, the Client shall:

1. keep confidential Information physically and logically separate and distinct from any other data compiled, maintained or used by the Client;
2. retain the confidential information only for as long as is reasonably required to achieve the permitted purposes;
3. take all appropriate technical and organisational measures against unauthorised or unlawful processing of confidential information and against accidental loss or destruction of, or damage to, confidential information, including by:

i. taking reasonable steps to ensure the reliability of any Personnel of the

Client who have access to the Customer Information; ii. ensuring a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage and appropriate to the nature of the Customer Information;

iii. maintaining E2EE (end to end encryption) through Supplier Systems on matters concerning the receipt and transfer of any data concerning any confidential information under this Agreement.

1. Implement all such further technical and organisational security measures in relation to the processing of confidential information as Homeland may reasonably consider necessary (and in any case, in accordance with Best Industry Practice) in order to comply with the laws and regulations on data protection;
2. Periodically monitor its internal processes and the organisational measures to ensure compliance with applicable data protection laws;
3. Provide Homeland with reasonable assistance in connection with its compliance with the Data Protection Rules;
4. Not disclose or transfer confidential information to any third party (including its Affiliates or third-party providers of data hosting solutions), without Homeland’s prior written consent;
5. Not publish, transfer, distribute, sell, sub-license or otherwise part with the confidential information, or permit any third party, including its Affiliates, to use or exploit the confidential information without the express written consent of

Homeland;

1. Not create copies or duplicates of any such data or information without the knowledge of Homeland;
2. Where sub-contracting is permitted, the transfer of confidential information from the Client to the subcontractor and the processing of such information shall only take place upon receipt of written consent from Homeland and where Homeland is satisfied that the subcontractor will comply with all the applicable regulations.
   * 1. Commencement of the processing of confidential information shall only be undertaken after such consent has been received.
     2. Further outsourcing by the subcontractor requires the consent from Homeland.
3. Not transfer any confidential information outside Kenya, including to Supplier’s systems located outside the Kenya, without Homeland’s prior written consent;
4. Promptly inform Homeland of any complaints from any third party (including but not limited to its Customers) concerning the processing of confidential information;
5. Immediately inform Homeland of any inspections and measures conducted by a supervisory authority, where they relate to this Agreement. This also applies where the Client is under investigation or is party to an investigation by a competent authority in connection with infringements to any Civil or Criminal Law, or Administrative Rule or Regulation regarding the processing of personal data in connection with the processing of this Contract;
6. Respond to queries, complaints and other correspondence with any Regulatory Body in relation to the processing of confidential information only after consultation with, and in accordance with the instructions of, Homeland;
7. Without undue delay, assist Homeland, where requested, in investigating queries or complaints about the confidential information and the processing of the confidential information or where Homeland needs the Client’s cooperation in complying with any of the obligations under the applicable rules and regulations;
8. Permit Homeland access on reasonable notice to its premises, systems, books and records and all information in relation to the processing of confidential information as Homeland may reasonably require to:
   * 1. ensure compliance with data protection regulation
     2. ensure compliance with the data storage, retention and other security measures referred to in this clause;
     3. allow Homeland to investigate, determine the cause of, and ensure that an appropriate response was taken by the Client to, any unauthorised access to confidential information;
9. Promptly amend, update, delete or supplement any confidential information if

Homeland so requests;

1. If any confidential information is accessed by an unauthorised person or lost, corrupted, degraded or otherwise altered, due to an act or omission of the Client

or its Personnel, immediately notify Homeland and take all steps to mitigate or avoid such breach;

1. Promptly notify Homeland of any breach of this clause on Data Protection and provide Homeland without undue delay with such details as Homeland reasonably requires regarding:
   * + 1. the nature of the Personal Data Breach;
       2. any investigations into such Personal Data Breach; and
       3. any measures taken, or that the Client recommends, to address the Personal Data Breach.

For purposes of this Agreement, confidential information shall be construed to include **Customer Information**, which means information that can identify a Homeland Customer either directly or indirectly such as name, identification number, date of birth, gender, transaction data, location data, an online identifier or to one or more factors specific to the physical, psychological, genetic, mental, economic, cultural or social identity of that Customer

* 1. Upon termination or expiry of this Agreement for any reason or when requested in writing by Homeland, the Client shall irretrievably delete all confidential information, including all copies or backups thereof, from the Client Systems.
  2. This clause on Data Protection shall survive termination and/or expiry of this Agreement.

## 15 SUSPENSION OF THE SERVICES & LIQUIDATED DAMAGES

### 15.1 Suspension for non-compliance

15.1.1 If the Client does not comply with the terms in this Agreement, Homeland reserves the right to suspend the provision of the non-compliant or all of the Client Services immediately by providing written notice to the Client wherein such notice shall state the nature of the Client’s default and the period within which the default is to be rectified.

15.1.2 If the Client shall rectify such default to the satisfaction of Homeland within the period prescribed, then the suspended Client Service(s) shall be restored.

### 15.2 Suspension for operational reasons

In addition to Homeland’s rights under clause 15.1 above, Homeland reserves the right to suspend the Client Services upon giving the Client forty-eight (48) hour prior notice for operational reasons save in the case of an emergency where suspension of the Client Services may be effected immediately and without prior written notice.

### 15.3 Liquidated Damages

1. Should the Client contravene the Code of Ethics, SLAs and any other terms of this Agreement, the following liquidated damages shall be applicable without prejudice to other remedies in the Agreement and Homeland reserves the right to immediately terminate the Agreement and notify CA accordingly:

|  |  |  |
| --- | --- | --- |
| **No of Complaints** | **Time**  **Frame** | **Liquidated Damages** |
| 1- 10 | 1 month | Kshs. 100,000 + taxes |
| 11-30 | 1 month | Kshs. 500,000 + taxes |
| 31-50 | 1 month | Kshs. 1,000,000 + taxes |
| 51 and above | 1 month | Kshs. 1,500,000 + taxes and suspension of all Client short codes for a month |

1. Homeland shall be entitled to claim and receive compensation from the Client in the form of Liquidated Damages as indicated above which includes the cost of receiving, processing and managing subscriber complaints arising from Client services.
2. Following the complaint resolution process, the liquidated damages shall be payable to Homeland as a set off from any amounts due to the Client.
3. The payment of the aforesaid liquidated damages are considered to be fair and reasonable by both parties and as a reasonable compensation for the loss and costs incurred by Homeland in resolving subscriber complaints arising from use of the Client services.
4. Complaints received by Homeland and arising from Client services will be handled through the Client Complaint Resolution Process defined below. This Process may change from time to time and Homeland will notify the Client of such changes in writing.
5. Should the Parties disagree on the treatment of a complaint, the parties will use best efforts to settle the dispute amicably through the following levels: -

i) **First Level**: Homeland’s Commercial Partnerships Administrator- PRSP support. If dispute is not resolved within 10 working days, the parties will proceed to the next level ii) **Second level**: Homeland’s Commercial Partnerships Manager and a manager from the Client. If dispute is not resolved within 10 working days, the parties will proceed to the next level

iii) **Third Level**: Homeland’s Head of Department (Internet & Content) and a Manager from the Client. If dispute is not resolved within 5 working days, either Party is at liberty to commence dispute resolution mechanism under the Agreement.

1. Should a dispute be referred to resolution under the Agreement, the liquidated damages will be applied and, in the event, that the dispute is resolved in favour of the Client, Homeland shall refund such liquidated damages within thirty (30) days of notification of the Award.

### 15.4 Client Complaint Resolution Process

1. Customer complaints received by Homeland through Customer Care lines, Homeland Retail Shops, E-care channels, letters or e-mails to Homeland and any other means will be sent to the Client with a request for information or action.
2. The Client should revert to Homeland within six (6) hours with the relevant response failing which the issue will be escalated to PRSP Support who will follow up with the Client contact and feedback or action within two (2) hours of the escalation
3. Once a response is received from the Client, the information will be reviewed by the Partnerships and Manager and where the Client is at fault, the complaint will be logged in the Liquidated Damages Report and communicated to the Client
4. Where no fault on the part of the Client is established, the complaint will not be logged in the Liquidated Damages Report. However, should the complaint generate a need for improvement in process, the same shall be communicated to the Client.
5. In cases of spamming proof of request of subscription by the subscriber will be required from the Client.
6. In the case of service termination (Stop) interaction logs will be required and an explanation why the service was not stopped. Note that the logs will be compared to the customers profile on the Homeland network for any discrepancies.
7. Codes will be tested randomly on a monthly basis for compliance with message guidelines and in cases where the message does not comply this test will be recorded as a complaint and forwarded to the Client for action following the above procedure.
8. In cases where a Client is found to be selling databases, an investigation will be done through the Homeland Fraud department and if found to be correct then Homeland shall write to the Client and CA and notify the Client of Homeland’s intention to suspend the Clients services within 14 days. This is without prejudice to Homeland’s right to immediately terminate the Agreement and also levy Liquidated Damages. Nothing in this clause, prevents Homeland from immediately suspending Short Codes prior to investigations.
9. In the cases of spamming a first warning and second warning will be given to the Client in writing and copied to the CA and if repeated Homeland will suspend all the Client’s services with a copy to the CA. This is without prejudice to Homeland’s right to terminate the Agreement and levy Liquidated damages.
10. Should a dispute be referred to resolution under the Agreement, the liquidated damages will be applied and, in the event, that the dispute is resolved in favour of the Client, Homeland shall refund such liquidated damages within thirty (30) days of notification of the Award.
11. This process may change from time to time. Such changes will be notified to the Client in writing

## 16 REFUND PROCESS

Upon the occurrence of an event or series of events resulting in a refund by Homeland to affected Subscribers, the Client will:

1. Comply and cooperate in the investigation of the circumstances resulting in the claim for a refund;
2. Fully indemnify Homeland without set off or deduction in accordance with the following formula:

**Total Invoice Amount** **= No. of Refunded SMS x (Homeland Revenue Share + Client Revenue Share)**

**\*invoice will be raised and issued by Homeland to the Client**

## 17 ASSIGNMENT AND CHANGE IN SHAREHOLDING

17.1The Client may not assign or transfer or purport to assign or transfer its rights or obligations under this Agreement without having first sought and obtained the written consent of Homeland.

17.2 For the purposes of this Agreement the Client must notify Homeland of any change affecting over forty nine (49%) per cent of its shareholding existing on the date of execution of this Agreement within ten (10) days of such changes taking effect and Homeland may at its sole discretion repudiate this Agreement without consequence if such changes are not in its opinion beneficial to its business **PROVIDED** that such discretion is exercised within thirty (30) days of receipt of official notification of the said changes from the Client.

## 18 COMPLIANCE WITH OTHER LAWS AND CODE OF CONDUCT

18.1 The Client will, at its expense, obtain and renew, in accordance with any law or regulations for the time being in force, all permits, licences and authorisations required for the performance of its obligations under this Agreement. The Client shall produce to Homeland on request certified copies of such permits, licences and authorisations and a failure to provide such proof will amount to a breach of this Agreement entitling Homeland to terminate the Agreement. The Client shall keep Homeland indemnified against any claim that may be made by any relevant authority or person against Homeland for a failure to maintain such permits, licences and authorisations.

18.2 The Client will comply with the provisions of Homeland’s Code of Ethics as set out in Schedule 4 to this Agreement and as may be amended and communicated to the Client from time to time. In addition, the Client shall comply with any code of conduct communicated to it by Homeland with regard to the content and other ethical guidelines with regard to the provision of the Services.

## 19 INDEMNITY

19.1 Subject to clause 19.2 below the Client hereby agrees to indemnify and hold harmless Homeland, from and against all claims, liabilities, losses, damages, and expenses incurred (including any legal costs or penalties and liabilities awarded or imposed by a court or expenses properly incurred) by Homeland pursuant to any breach or nonobservance by the Client, its agents or servants of any of its obligations or representations under this Agreement. Homeland reserves the right at its sole discretion, to require the Client to back up this indemnity at any time with appropriate security such as bank guarantee.

19.2 The Client shall not, however, be liable under the foregoing indemnity to the extent that any such losses are determined to have resulted directly from the proven negligence or wilful misconduct of Homeland.

19.3 The Client acknowledges and agrees that its obligations hereunder shall be in addition to any rights that Homeland may have at law or otherwise.

19.4 Where Homeland is entitled to claim any indemnity under this Agreement, Homeland shall have the right to offset the value of such indemnity against any amounts owing to the Client from Homeland under this Agreement.

## 21 INDEPENDENT CONTRACTOR AND AUTHORITY

21.1 Nothing contained in this Agreement shall constitute or be deemed to constitute the Client the agent or partner of Homeland for any purpose whatsoever.

21.2 The Client shall not, and shall ensure that its employees, agents and/or representatives shall not, carry on Agreement negotiations or enter into correspondence on behalf of Homeland, or use the name of Homeland in any media or printed matter (without the prior written consent of Homeland), nor shall the Client or the Client’s employees, agents and/or representatives have, or purport to have, authority to execute legal documents, enter into legal agreements or otherwise in any way bind Homeland or create or incur any legally binding commitments or liabilities or any kind or nature on behalf of Homeland.

## 22 TERMINATION

### 22.1 Termination for Convenience

Either party shall be entitled to terminate this Agreement at any time by giving to the other party not less than thirty (30) calendar days prior written notice.

### 22.2 Termination by Homeland

Homeland shall be entitled to terminate this Agreement immediately without prejudice to any other remedy at its disposal by giving written notice to the Client, such termination immediately effective upon the giving of such notice of termination, if:

1. The Client fails to comply with its obligations under this Agreement, and, if the failure can be cured, the Client fails to cure such a failure within fourteen (14) days written notice from Homeland or such other period as may be indicated by Homeland in the notice or declares that it will not be able to remedy the default within such time.
2. The Client abandons or (except where required or agreed upon with Homeland) suspends the provision of the Client Services.
3. Any pre-contractual statements made by the Client and on which Homeland has relied upon are found to have been false or misleading. For the avoidance of doubt such pre-contractual statements include but are not limited to any proposal submitted by the Client with regard to the provision of a particular Client Service.
4. The Client is found to have been fraudulent in the course of fulfilling its obligations under this Agreement. For the purpose of this clause acts of fraud include but are not

limited to all those activities that are so defined in any statute or regulation and such other acts involving dishonesty and deception that can drain value from Homeland’s business and accrued goodwill, directly or indirectly, whether or not there is personal benefit.

1. the Kenya Government, the Communications Authority of Kenya or any Kenyan court should take any decision or perform any act which suspends and/or revokes

Homeland’s License or makes Homeland unable to perform its commitments under this Agreement;

1. The Client is found not to have been compliant with the provisions of the Client Code of Conduct and failing to remedy such breach (where breach is remediable) within fourteen (14) days after written notice to that effect from Homeland.
2. The Client fails to meet the targets communicated by Homeland in the provision of the Services by the Client.

### 22.3 Termination by Either Party

Each Party shall be entitled to terminate this Agreement by giving written notice to the other Party such termination immediately effective upon the giving of such notice of termination: -

1. if one Party ceases or threatens to cease to carry on its business;
2. if a receiver, administrator or similar officer is appointed over all or any part of the assets or undertaking of the other Party;
3. if one Party makes any arrangement for the benefit of its creditors;
4. if one Party goes into liquidation save for the purposes of a genuine amalgamation or reconstruction;
5. in the event of either party being prohibited by any law or official requirement from complying with the terms of this Agreement;
6. Where a Material Breach that is so described in this Agreement is occasioned by either Party.

### 22.4 Consequence of Termination

1. Upon termination of this Agreement, Homeland shall promptly return to the Client (or otherwise dispose of as the Client may instruct) all confidential information and any documentation containing confidential information and the Client shall promptly return all or any confidential information relating to Homeland.
2. The termination of this Agreement shall not discharge the liabilities of the defaulting Party.
3. Any Clauses intended by the Parties or this Agreement to survive the termination of this Agreement shall survive the termination of this Agreement by whatever cause.
4. The Client shall immediately cease to provide the Services through the Network and to issue any communication purporting to provide the Services through the Network.

## 23 VARIATION TO THE AGREEMENT

Unless otherwise provided for in this Agreement, this Agreement shall not be varied or cancelled, unless both Parties shall expressly agree to such variation or cancellation in writing.

## 24 FORCE MAJEURE

### 24.1 Definition of Force Majeure

For the purposes of this Agreement, **“Force Majeure”** means an event which could not reasonably have been avoided by a diligent party in the circumstances, which is beyond the reasonable control of a party and which makes a party’s performance of its responsibilities hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances and includes, but is not limited to, war, riots, civil disorder, earthquake, storm, flood or adverse weather conditions, strikes, lockouts or other industrial action, terrorist acts, confiscation or any other action by government agencies.

### 24.2 Negligence and intentional acts

Force Majeure shall not include any event which is caused by the negligence or intentional action of a Party or such Party’s or agents or employees, or by a failure to observe good professional practice.

### 24.3 Financial constraints

Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

### 24.4 Performance excused

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms of this Agreement.

### 24.5 Duty to mitigate

A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party’s inability to fulfil its obligations hereunder with a minimum of delay. The Parties shall take all reasonable measures to minimise the consequence of any event of Force Majeure.

### 24.6 Notification

A Party affected by an event of Force Majeure shall notify in writing the other Party of such event as soon as possible, and in any event not later than five (5) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

### 24.7 Consultation

Not later than fourteen (14) days after Contractor, as a result of an event of Force Majeure, has become unable to discharge a material portion of its obligations, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

## 25 GENERAL

### 25.1 Confidentiality

The Client shall not at any time disclose, directly or indirectly to any other person whatsoever (including to the public or any section of the public) any information concerning this Agreement or any other information of any nature whatsoever concerning Homeland or any other matter regarding the internal affairs of Homeland, whether such information or matter is stated to be confidential or not, without the express written permission of Homeland. This covenant is given by the Client on its own behalf and the Client also undertakes to ensure that it will take all reasonable steps to enforce obligations in like form against its directors and personnel.

### 25.2 Copy right

Nothing in the Agreement shall grant, suggest, or imply any authority for the Client to use the name, trademarks, service marks, or trade names of Homeland for any purpose whatsoever unless such use is done with the prior written consent of Homeland.

### 25.3 Entire Agreement

Subject to Clause 22.2(d) (*pre-contractual statements*) this Agreement contains the whole agreement between the Parties relating to the subject matter of this Agreement and no variation, extension or cancellation of the expressed terms of this Agreement shall be binding upon the Client or Homeland unless varied in accordance with the terms of this Agreement.

### 25.4 No Waiver

Except where this Agreement provides otherwise, the rights and remedies contained in it are cumulative and not exclusive to rights or remedies provided by law. The failure by either Party to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

### 25.5 Severability

If any provision of this Agreement is declared by any judicial or other competent authority or an arbitrator appointed hereunder to be void, voidable, illegal or otherwise unenforceable, the Parties shall amend that provision in such reasonable manner as achieves the intention of the Parties without illegality or at the discretion of Homeland it may be severed from this Agreement and the remaining provisions of this Agreement shall remain in full force and effect.

## 26 DISPUTE RESOLUTION

### 26.1 Amicable Settlement

The parties shall use their best efforts to settle amicably any dispute arising from or in connection with this Agreement or the interpretation thereof.

### 26.2 Arbitration

26.2.1 If the dispute has not been settled pursuant to clause 26.1 above within ten (10) days from when the mediation was instituted, any party may elect to commence arbitration.

Such arbitration shall be referred to arbitration by a single arbitrator to be appointed by agreement between the Parties or in default of such agreement within fourteen (14) days of the notification of a dispute, upon the application of either Party, by the Chairman for the time being of the Kenya Branch of the Chartered Institute of Arbitration of the United Kingdom.

26.2.2 Such arbitration shall be conducted in Nairobi in accordance with the Rules of Arbitration of the said Institute and subject to and in accordance with the provisions of the Arbitration Act 1995.

26.2.3 To the extent permissible by Law, the determination of the Arbitrator shall be final, conclusive and binding upon the Parties hereto.

26.2.4 Pending final settlement or determination of a dispute, the Parties shall continue to perform their subsisting obligations hereunder.

26.2.5 Nothing in this Agreement shall prevent or delay a Party seeking urgent injunctive or interlocutory relief in a court having jurisdiction.

## 27 NOTICES

### 27.1 Notices other than communication with Commercial Partnership Manager

The Parties select as their respective addresses, the addresses set out below for all purposes arising out of or in connection with this Agreement at which addresses only all processes and notices arising out of or in connection with this Agreement may validly be served upon or delivered by the Parties.

**Homeland**: The Chief Executive Officer

Homeland PLC

Homeland House, Waiyaki Way, Westlands

P.O. Box 66827-00800, Nairobi

**Client:** The Directors

Homeland Teq Solutions Ltd

Golf View Office Suites, Muthaiga

P.O. Box 24249-00100, Nairobi

### 27.2 Time of Delivery

Any notice shall be in writing and shall either be delivered by hand or sent by registered post:

1. if delivered by hand it shall be deemed to have been duly received by the addressee on the date of delivery; or
2. if posted by prepaid registered post it shall be deemed to have been received by the addressee on the eighth business day following the date of such posting. **27.3 Change of Address**

Either Party may provide changes in the above addressees by notice in writing given to the other Party as aforesaid.

### 27.4 Client Bulletin

Homeland may issue from time to time Client Bulletins relating to the conduct of the Client business which the Client will be required to comply with. The Client Bulletins will automatically form part of the Agreement.

## 28 COSTS

Each party shall bear its own costs incurred in the negotiation, preparation and execution of this Agreement.

## 29 EXECUTION BY HOMELAND

This Agreement may be executed on behalf of Homeland by its authorised representative using any form of electronic or digital execution including using a scanned signature and such execution shall have the full force and effect of a physical signature.

## 30 GOVERNING LAW

The construction, validity and performance of this Agreement shall be governed in all respects by the Laws of Kenya.

**IN WITNESS WHEREOF** this Agreement has been duly executed by or on behalf of the

Parties.

|  |  |
| --- | --- |
| Signed by the duly authorised representatives of **HOMELAND TEQ**  **SOLUTIONS LTD**      *Signature: ...................................................*  *Name: ................................*JOHN M. LENGA *........................*  C.E.O  *Designation: ...............................................* | Signed by the duly authorised representative of **HOMELAND PLC**      [Sylvia Wairimu Mulinge](https://na2.documents.adobe.com/verifier?tx=CBJCHBCAABAApN6jn9vyMLXFhlC5wdIAUolQ3gO0fko3)  *Signature:* [Sylvia Wairimu Mulinge (Feb 23, 2022 15:02 GMT+3](https://na2.documents.adobe.com/verifier?tx=CBJCHBCAABAApN6jn9vyMLXFhlC5wdIAUolQ3gO0fko3)*................................................*[)](https://na2.documents.adobe.com/verifier?tx=CBJCHBCAABAApN6jn9vyMLXFhlC5wdIAUolQ3gO0fko3)  *Name:* **SYLVIA MULINGE**  *Designation:* **CHIEF** |
| *Signature:*  [*.................................................*](https://na2.documents.adobe.com/verifier?tx=CBJCHBCAABAApN6jn9vyMLXFhlC5wdIAUolQ3gO0fko3)*..*  GEORGE KANYINGI  *Name: ........................................................ Designation:* T*................................*ECHNICAL MANAGER*...............* | [Joseph Ogutu](https://na2.documents.adobe.com/verifier?tx=CBJCHBCAABAApN6jn9vyMLXFhlC5wdIAUolQ3gO0fko3)  *Signature:* [*...............................*Joseph Ogutu (Feb 23, 2022 20:23 GMT+3*................*)](https://na2.documents.adobe.com/verifier?tx=CBJCHBCAABAApN6jn9vyMLXFhlC5wdIAUolQ3gO0fko3) [.](https://na2.documents.adobe.com/verifier?tx=CBJCHBCAABAApN6jn9vyMLXFhlC5wdIAUolQ3gO0fko3)  *Name:* **JOSEPH OGUTU**  *Designation:* **CHIEF** |

**SCHEDULE 1**

# TECHNICAL REQUIREMENTS

This Schedule describes the technical process that should be followed to connect a Client to the Homeland SMPP Gateway, once connected; the interface will support the Client’s with both SMS Pull and Push services.

## 1. DOCUMENTATION

Each new Client will be required to provide to Homeland the following documentation:

1. The Client’s Registration Certificate;
2. The Client’s Content Service Provider License;
3. The Company’s VAT and PIN number certificates;
4. Overview of Service applications, SC’s and Charging;
5. Network Architecture;
6. Physical Location of Servers and Connectivity Solution;
7. Hardware and Operating Systems Descriptions;
8. Security of Servers and Access;
9. Method of Updating Client’s Content;
10. Test Plans for functional tests and load tests;
11. Alarms and Monitoring;
12. Twenty-four hour, seven days a week Support Number;
13. Statistics & Billing Requirements;
14. Project Plan.

The Client will also be required to present their technical solution to Homeland team comprising (Product and Services, Engineering, IT, Operations & Maintenance, Finance & Security Departments).

## 2. HOMELAND’S SMPP GATEWAY

2.1 Homeland have installed a Service Delivery Platform (SDP). The SDP implements the Parlay X 2.1 Protocol and shall allow Clients to connect and to send and receive SMS messages.

2.2 Required Architecture: the system architecture that would be required by the Client allocated three [3] SCs (x,y,z) corresponding to content Applications (App1, App2, App3).



Routing



Function



Storage



App 1



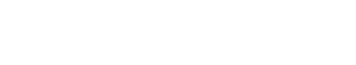
App 3



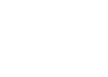
Connectivity



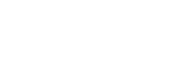
Solution



**Content Provider Premise**



Server



**Homeland**

SDP

FW

x

y

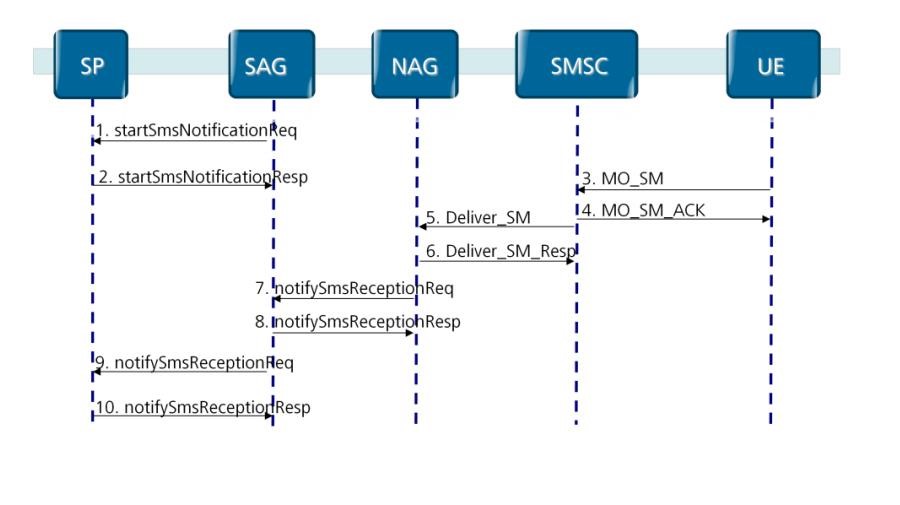
App 2

z

Shortcode

x,y,z

Function



## 3. GENERIC Parlay XCONNECTION

If the Client only requires one SC, the Storage Function may not be required, if multiple SCs are required, the Client is required to implement the storage function architecture or an equivalent.

## 4. CONNECTIVITY SOLUTION

The Client is requested to propose a connectivity solution that matches with its business activities and that meets the minimum security requirements required by Homeland.

1. **FIREWALL CONNECTIVITY**

Homeland will allow successful CPs traffic to pass through the firewall to the SDP network.

1. **FIXED IP ADDRESS REQUIREMENTS**

Homeland’s IT department shall review and allocate the required IP address for the CPs.

## 7. INTERFACE OPTIONS

Client connects to Homeland SDP using ParlayX 2.1 protocol. This will need implementation of the following interfaces which have the different operations within them

* **SendSms**: This interface defines operations to send various types of SMS messages and to subsequently poll for delivery status
* **SmsNotification:** SmsNotification is the application side interface to which notifications about SMS messages are delivered.
* **SmsNotificationManager:** This enables applications to set up and tear down notifications for SMS messages online.
* **DataSync:** This interface is used to synchronize the subscription data to Client applications.

## 8. CHARGING METHODS

The SMPP Gateway supports two charging methods: ‘on submission’ and ‘on delivery’ which may be used by CPs in the design of their SMS services.

*On Submission - charging*

Subscribers are charged when their SMS Pull request is sent to the SDP.

*On Delivery – charging*

Subscribers are charged when their SMS MT is delivered to SDP.

‘On delivery’ charging is of particular use during SMS Push activities or Content Services.

## 9. SECURITY

Notwithstanding the requirements in this Agreement, the Client is required to meet Homeland’s minimum security requirements which are summarized below:

In addition, the Client will be requested to present the security aspects of their solution to Homeland for review. Test Plans

Client’s are required to submit to Homeland detailed test documentation for review, the tests documentation must include the following:

i. Interface Tests; ii. Functional Tests; iii. Load Tests.

## ParlayX 2.1 Conformance

Clients must ensure their technical solution conforms to SMPP 3.3 standard, and further that their solution has no adverse effect on the SDP.

*SendSMS (from Client GW to SDP)*

The following is an example of an ParlayX 2.1 SendSms message from the Client to SDP.

## Input Message: sendSmsRequest

**Table 1-1** Description of the sendSmsRequest message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Option**  **al** | **Description** |
| Addresses | xsd:anyURI[1..unbound ed] | No | Addresses to which the SMS message will be sent. |
| SenderName | xsd:string | Yes | Name of the SMS message sender. It is displayed on the user's terminal as the originator of the message. |
| Message | xsd:string | No | Content of the SMS message. |
| ReceiptRequest | common:SimpleReferen ce | Yes | Application endpoint, interface name and correlator that will be used to notify the application when the message has been delivered to the terminal or whether the delivery is |

impossible.

The following is a sample sendSmsRequest message:

<soapenv:Envelope

xmlns:soapenv="http://schemas.xmlsoap.org/soap/envelope/" xmlns:v2="http://www.huawei.com.cn/schema/common/v2\_1" xmlns:loc="http://www.csapi.org/schema/parlayx/sms/send/v2\_2/local">

<soapenv:Header>

<v2:RequestSOAPHeader>

<v2:spId>35000001</v2:spId>

<v2:spPassword>ZhlEXrrAmfosSFpYPfdPCA==</v2:spPassword>

<v2:serviceId>35000001000001</v2:serviceId>

<v2:timeStamp>20120721112622</v2:timeStamp>

<!--mandatory if service is on-demand-->

<v2:linkid>07201312390000000006</v2:linkid>

<v2:OA>tel:254722123456</v2:OA>

<v2:FA>tel:254722123456</v2:FA>

</v2:RequestSOAPHeader>

</soapenv:Header>

<soapenv:Body>

<loc:sendSms>

<!--1 or more repetitions:-->

<loc:addresses>tel:254722123456</loc:addresses>

<!--Optional:-->

<loc:senderName>1234</loc:senderName>

<loc:message>This is a test message</loc:message>

<!--Optional:-->

<loc:receiptRequest>

<endpoint>http://10.138.30.123:9080/notify</endpoint>

<interfaceName>SmsNotification</interfaceName>

<correlator>123</correlator>

</loc:receiptRequest>

</loc:sendSms>

</soapenv:Body>

</soapenv:Envelope>

## Output Message: sendSmsResponse

**Table 1-2** Description of the sendSmsResponse message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Optional** | **Description** |
| Result | xsd:string | No | A specific SMS delivery request.  This is the **requestIdentifier** that is required for the getSmsDeliveryStatus operation |

The following is a sample sendSmsResponse message:

<soapenv:Envelope

xmlns:soapenv="http://schemas.xmlsoap.org/soap/envelope/" xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance">

<soapenv:Header/>

<soapenv:Body> <ns1:sendSmsResponse

xmlns:ns1="http://www.csapi.org/schema/parlayx/sms/send/v2\_2/local">

<ns1:result>100005200401110225063201000041</ns1:result>

</ns1:sendSmsResponse>

</soapenv:Body>

</soapenv:Envelope>

## Operation: notifySmsReception

The notification is used to send an SMS message to the application. The notification will occur only if the SMS message fulfills the criteria that are specified for starting the SMS notification. The notifySmsReceptionoperation must be implemented by a Web Service on the application side. It will be invoked by the Parlay X 2 server to notify the application of the reception of an SMS message. The notification will occur only if the received SMS message fulfils the criteria specified in a provisioning step, identified by the correlator. The criteria must at least include an smsServiceActivationNumber, that is, the SMS destination address that can be "monitored" by the application. The parameter senderAddress contains the address of the sender. The application can apply the appropriate service logic to process the SMS message. The linkid specified in the NotifySOAPHeader section is required in the sendSmsRequest as detailed in section 4.2.2.

## Input Message: notifySmsReceptionRequest

**Table 1-3** Description of the notifySmsReceptionRequest message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Optiona**  **l** | **Description** |
| Correlator | xsd:string | No | Correlator provided in the request to set up this notification. |
| Message | SmsMessage | No | Message received. |

The following is a sample notifySmsReceptionRequest message:

|  |
| --- |
| <soapenv:Envelope  xmlns:soapenv="http://schemas.xmlsoap.org/soap/envelope/" xmlns:v2="http://www.huawei.com.cn/schema/common/v2\_1"  xmlns:loc="http://www.csapi.org/schema/parlayx/sms/notification/v2\_2/loca l">  <soapenv:Header> <ns1:NotifySOAPHeader  xmlns:ns1="http://www.huawei.com.cn/schema/common/v2\_1">  <ns1:spRevId>ekubai</ns1:spRevId>  <ns1:spRevpassword>Abc123</ns1:spRevpassword>  <ns1:spId>601399</ns1:spId>  <ns1:serviceId>6013992000001491</ns1:serviceId>  <ns1:linkid>07161722430758000009</ns1:linkid>    <ns1:traceUniqueID>404090102591207161422430892004</ns1:traceUniq ueID>  </ns1:NotifySOAPHeader>  </soapenv:Header>  <soapenv:Body>  <loc:notifySmsReception>  <loc:correlator>123</loc:correlator>  <loc:message>  <message>This is a test message</message>  <senderAddress>tel:722123456</senderAddress>    <smsServiceActivationNumber>1234</smsServiceActivationNumber>  <dateTime>2012-07-03T00:00:00.000+08:00</dateTime> </loc:message>  </loc:notifySmsReception>  </soapenv:Body>  </soapenv:Envelope> |

## Output Message: notifySmsReceptionResponse

**Table 1-4** Description of the notifySmsReceptionResponse message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Optional** | **Description** |
| None | None | None | None |

Sample notifySmsReceptionResponse

<soapenv:Envelope

xmlns:soapenv="http://schemas.xmlsoap.org/soap/envelope/" xmlns:loc="http://www.csapi.org/schema/parlayx/sms/notification/v2\_2/loca l">

<soapenv:Header/>

<soapenv:Body>

<loc:notifySmsReceptionResponse/>

</soapenv:Body>

</soapenv:Envelope>

## Operation: startSmsNotification

The application registers for the reception of short messages by invoking startSmsNotification. The request includes event criteria consisting of a value for the short message destination address (the smsServiceActivationNumber part) and an optional text string for matching against the first word of the message body (the criteria part); also a URI for a Web Service implementing the SmsNotification interface on the client application side, and a correlation value for identifying this event registration request.

This operation initiates notifications to the application for a given SMS Service activation number and criteria.

The smsServiceActivationNumberis an address data item, for example, a short code, as defined in ES 202 391-1 [2].

The correlatorprovided in the referencemust be unique for the application Web Service at the time the notification is initiated; otherwise a fault (SVC0005) will be returned to the application. If specified, criteria will be used to filter messages that are to be delivered to an application. The use of criteria will allow different notification endpoints to receive notifications for the same smsServiceActivationNumber. If criteria are not provided, all messages for the smsServiceActivationNumber will be delivered to the application. If the values of **criteria** overlap, SVC0008 will be returned to the application and the notification will not be set up. The combination of **smsServiceActivationNumber** and **criteria** must be unique, so that a notification will be delivered to only one notification endpoint. If matching combination of **smsServiceActivationNumber** and **criteria** is found, the message will not be delivered to the application.

## Input Message: startSmsNotificationRequest

**Table 1-5** Description of the startSmsNotificationRequest message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Optiona**  **l** | **Description** |
| Reference | common:SimpleR eference | No | Notification endpoint definition |
| smsServiceActivationNum ber | xsd:anyURI | No | Destination address of the SMS message |
| **Parameter** | **Type** | **Optiona**  **l** | **Description** |
| Criteria | xsd:string | Yes | Text to match against to determine the application to receive the notification. This text is matched against the first word in the message, defined as the initial characters after discarding any leading Whitespace and ending with a Whitespace or end of message. The matching shall be case-insensitive. |

The following is a sample startSmsNotificationRequest message:

|  |
| --- |
| <soapenv:Envelope  xmlns:soapenv="http://schemas.xmlsoap.org/soap/envelope/" xmlns:v2="http://www.huawei.com.cn/schema/common/v2\_1"  xmlns:loc="http://www.csapi.org/schema/parlayx/sms/notification\_manager /v2\_3/local">  <soapenv:Header> <RequestSOAPHeader  xmlns="http://www.huawei.com.cn/schema/common/v2\_1"> <spId>35000001</spId>    <spPassword>de96d901b3bad1db2aab76b7b0b202f2</spPassword>  <serviceId>0003062000001100</serviceId>  <timeStamp>20120731064245</timeStamp>  </RequestSOAPHeader>  </soapenv:Header>  <soapenv:Body>  <loc:startSmsNotification>  <loc:reference>  <endpoint>>http://10.138.30.153:9080/notify</endpoint>  <interfaceName>notifySmsReception</interfaceName>  <correlator>1232</correlator>  </loc:reference>    <loc:smsServiceActivationNumber>23424</loc:smsServiceActivationNumb er>  <!--Optional:-->  <loc:criteria>Love</loc:criteria>  </loc:startSmsNotification>  </soapenv:Body>  </soapenv:Envelope> |

## Output Message: startSmsNotificationResponse

**Table 1-6** Description of the startSmsNotificationResponse message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Optional** | **Description** |
| None | None | None | None |

**Operation: stopSmsNotification**

The application may end an SMS notification by using this operation.

## Input Message: stopSmsNotificationRequest

**Table 1-7** Description of the stopSmsNotificationRequest message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Optional** | **Description** |
| Correlator | xsd:string | No | Correlator of the request to end an SMS notification. |

The following is a sample stopSmsNotification message:

<soapenv:Envelope

xmlns:soapenv="http://schemas.xmlsoap.org/soap/envelope/" xmlns:v2="http://www.huawei.com.cn/schema/common/v2\_1"

xmlns:loc="http://www.csapi.org/schema/parlayx/sms/notification\_manager /v2\_3/local">

<soapenv:Header>

<v2:RequestSOAPHeader>

<spId>35000001</spId>

<spPassword>de96d901b3bad1db2aab76b7b0b202f2</spPassword>

<serviceId>0003062000001100</serviceId>

<timeStamp>20120731064245</timeStamp>

</v2:RequestSOAPHeader>

</soapenv:Header>

<soapenv:Body>

<loc:stopSmsNotification>

<loc:correlator>1232</loc:correlator>

</loc:stopSmsNotification>

</soapenv:Body>

</soapenv:Envelope>

## Output Message: stopSmsNotificationResponse

**Table 1-8** Description of the stopSmsNotificationResponse message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Optional** | **Description** |
| None | None | None | None |

**Interface: DataSync**

This interface is used to synchronize the subscription data to Client applications.

## Operation: SyncOrderRelation

This operation is invoked to notify SPs that a subscription has been changed on the SDP so that they can update their local subscription database.

The input message, output message, and reference faults are as follows:

Input message: SyncOrderRelationRequest

**Table 1-9** SyncOrderRelationRequest description

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Mandatory/ Optional** | **Type** | **Description** |
| userID | Mandatory | UserID | ID of a subscriber. |
| spID | Mandatory | String | ID of an SP. |
| productID | Mandatory | String | Service ID which may correspond to one or more products, and each of product has a price. |
| serviceID | Mandatory | String | Service ID. |
| serviceList | Optional | String | ID list of all services in a service package. For example,  "1234567890|1234567891|1234567892". All  IDs are separated with "|" characters. If no IDs are specified, the value of this parameter is blank. |
| updateType | Mandatory | Int | Reason type of updating subscription information. Optional values are as follows:  1: Addition  2: Deletion  3: Modification |
| updateTime | Mandatory | String | Time stamp in the format of  YYYYMMDDhhmmss. |
| updateDesc | Optional | String | Update description. |
| effectiveTim e | Optional | String | Time when the subscription takes effect. The default value is the current time of the MDSP. |
| expiryTime | Optional | String | Expiry time of the subscription. |
| extensionInf o | Optional | NamedPa  rameterLis  t | Extended parameter. |

**Table 1-10** List of extended parameters

|  |  |  |
| --- | --- | --- |
| **Key** | **Actual Type** | **Meaning** |
| N/A | - | - |

The following is a sample syncOrderRelationRequest message:

<soapenv:Envelope

xmlns:soapenv="http://schemas.xmlsoap.org/soap/envelope/" xmlns:loc="http://www.csapi.org/schema/parlayx/data/sync/v1\_0/local"> <soapenv:Header/>

<soapenv:Body>

<loc:syncOrderRelation>

<loc:userID>

<ID>254721214848</ID>

<type>0</type>

</loc:userID>

<loc:spID>601399</loc:spID>

<loc:productID>MDSP2000052892</loc:productID>

<loc:serviceID>6013992000001442</loc:serviceID>

<loc:serviceList>601399200000144</loc:serviceList>

<loc:updateType>1</loc:updateType>

<loc:updateTime>20120621232135</loc:updateTime>

<loc:updateDesc>Addition</loc:updateDesc>

<loc:effectiveTime>20120622001311</loc:effectiveTime>

<loc:expiryTime>20120822001311</loc:expiryTime>

<loc:extensionInfo>

<namedParameters>

<key>TransactionID</key>

<value>1339730498361</value>

<key>orderKey</key>

<value>999000000009508556</value>

<key>MDSPSUBEXPMODE</key>

<value>1</value>

<key>objectType</key>

<value>1</value>

<key>TraceUniqueID</key>

<value>06212031580010010012</value>

<key>rentSuccess</key>

<value>false</value>

</namedParameters>

</loc:extensionInfo>

</loc:syncOrderRelation>

</soapenv:Body>

</soapenv:Envelope>

Output message: SyncOrderRelationResponse

**Table 1-11** SyncOrderRelationResponse description

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Mandatory/ Optional** | **Type** | **Description** |
| Result | Mandatory | Integer | Return code; **0** means success. |
| resultDescripti on | Mandatory | String | Operation result description. |
| extensionInfo | Optional | NamedParameter  List | Extended parameter. |

The following is a sample syncOrderRelationResponse message: <soapenv:Envelope

xmlns:soapenv="http://schemas.xmlsoap.org/soap/envelope/" xmlns:loc="http://www.csapi.org/schema/parlayx/data/sync/v1\_0/local">

<soapenv:Header/>

<soapenv:Body>

<loc:syncOrderRelationResponse>

<loc:result>0</loc:result>

<loc:resultDescription>OK</loc:resultDescription>

<!--Optional:-->

<loc:extensionInfo>

<!--Zero or more repetitions:-->

<namedParameters>

<key>ServiceName</key>

<value>LoveQuotes</value>

</namedParameters>

</loc:extensionInfo>

</loc:syncOrderRelationResponse>

</soapenv:Body>

</soapenv:Envelope>

**Table 1-12** List of extended parameters

|  |  |  |
| --- | --- | --- |
| **Key** | **Actual Type** | **Meaning** |
| N/A | - | - |

## Operation: notifySmsDeliveryReceipt

The **notifySmsDeliveryReceipt** operation must be implemented by a Web Service on the application sideif it requires notification of SMS delivery receipt. It will be invoked by the Parlay X 2 server to notify the application when an SMS message sent by an application has been delivered to the terminal of the recipient or whether the delivery is impossible. The notification will occur only if the status of the sent SMS message is **DeliveredToTerminal** or **DeliveryImpossible** and the application has specified the optional **receiptRequest** part when sending an SMS message. The correlator returned corresponds to the identifier specified by the application in **receiptRequest** of the original sendSMS request.

When an SMS message is sent to multiple addresses, the server will send a notification for each terminal when an SMS message is delivered to the terminal.

The following three different SMS delivery status values will be returned in a notifySMSDeliveryReceiptResponsemessage: **DeliveryImpossible**: Unsuccessful delivery. The message cannot be delivered before it expires.

**DeliveredToTerminal**: In case of concatenated messages, the SMS message enters this status only when all the SMS contents have been successfully delivered to the terminal.

**DeliveredNotificationNotSupported:** If notification is supported by the network but it does not support delivery receipt for the addresses specified in the **sendSMSRequest** message, the service will send this status for those addresses.

**Insufficient\_Balance:** Occurs when a CP/SP terminate MT chargeable SMS to a subscriber who does not have enough money.

**Invalid\_Linkid:** This happens when a CP/SP send SMS with an in correct linkid value or terminate an on demand MT SMS to a subscriber without having received an MO from the subscriber. It also comes when you use linkid tag in sendsms soap request. It is recommended that developers strip off the linkid when sending bulk SMS.

## Input Message: notifySmsDeliveryReceiptRequest

**Table 1-13** Description of the notifySmsDeliveryReceiptRequest message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Optional** | **Description** |
| correlator | xsd:string | No | ID of the original "Send" Request.  This correlator is provided by the application in the sendSMS Request message. |
| deliveryStatu s | DeliveryInformatio n | No | Possible delivery statuses of the SMS message sent to a terminal are: DeliveryImpossible  DeliveredToTerminal  DeliveryNotificationNotSupported  DeliveryUncertain  Insufficient\_Balance  Invalid\_Linkid |

The following is a sample notifySmsDeliveryReceiptRequest message:

<soapenv:Envelope xmlns:soapenv="http://schemas.xmlsoap.org/soap/envelope/" xmlns:v2="http://www.huawei.com.cn/schema/common/v2\_1" xmlns:loc="http://www.csapi.org/schema/parlayx/sms/notification/v2\_2/loca l">

<soapenv:Header>

<v2:NotifySOAPHeader>

<v2:timeStamp>20100904042855</v2:timeStamp>

<v2:subReqID>11111111111111</v2:subReqID>

<traceUniqueID>504021503311009040428550001002</traceUniqueID>

</v2:NotifySOAPHeader>

</soapenv:Header>

<soapenv:Body>

<loc:notifySmsDeliveryReceipt>

<loc:correlator>123456789</loc:correlator>

<loc:deliveryStatus>

<address>tel:254722123456</address>

<deliveryStatus>DeliveredToTerminal</deliveryStatus>

</loc:deliveryStatus>

</loc:notifySmsDeliveryReceipt>

</soapenv:Body>

</soapenv:Envelope>

## Output Message: notifySmsDeliveryReceiptResponse

**Table 1-14** Description of the notifySmsDeliveryReceiptResponse message

|  |  |  |  |
| --- | --- | --- | --- |
| **Parameter** | **Type** | **Optional** | **Description** |
| None | None | None | None |

## Load Test Proposal

*Flood Tests*

Client applications will be required to subject their applications and interface to SMPP Gateway to a load of at least [10] SMS/Second for a period of one hour. **Failure & Recovery**

Client’s should demonstrate the failure and recovery capability of their solution, and to demonstrate suitable alarms.

## Statistics and Billing

The Client is required to demonstrate the statistics that are available for their service and also to document and demonstrate the process of generating CDR’s and Statistics that can be used for billing.

## Project Plan

Client’s are required to provide a project plan to Homeland detailing the planned schedule of activities. In addition, the plan should also high-light the times that support would be required from Homeland teams.

Clients should be aware to satisfy all of Homeland’s technical requirements may take up to one month, and Client’s are advised to start their planning early.

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**SCHEDULE 2**

# TESTING PARAMETERS

The Homeland Technical Department, Customer Care and Billing System Centre, shall perform tests with regard to calling, rating/billing and interconnection. The following parameters shall be tested: **Calling Scenario**

* The normal calling scenario, for example, calling from a Homeland post-paid and prepaid line. o The special calling scenarios, for example, calling when the Transmission Link is congested or busy. **Rating & Billing Scenario** o That all called numbers are captured.
* That all the calls made from post-paid lines have been rated. o Whether the correct Content Services rates are applied on all calls made.
* Whether calls made from prepaid lines have been charged and the correct Content Service rates have been applied.
* Whether calls made from post-paid lines have been billed and the calls appear on the Subscribers’ bill. **Interconnect Scenario** o That all called numbers have been captured to the interconnect module.
* That all calls made from post-paid and prepaid lines have the interconnect charges applied.
* Whether the correct interconnect charges have been applied on the above calls.
* Production of the interconnect report.

The Homeland Technical Department shall perform tests with regard to switching, routing and the signalisation protocol. The following parameters shall be tested: **Interconnection and SMPP Tests** o Flood Tests.

* SMPP Validation.

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**SCHEDULE 3**

# SERVICE LEVEL AGREEMENT

As a complement to article 3.1, the following mechanisms must be set by Client operating a short number related service, to ensure quality of service toward customers:

* SMS treatment guarantee:

As some devices do not accept empty SMS (no content inside), Client are recommended to ask customer to key at least one keyword to request services, even if the service would not require a keyword to be operated;

It is asked to the Client to avoid use of keywords containing numbers or special characters such as “@”, “”””, …

It is asked to Client to choose simple keywords, if possible existing in the English language, as some of the users use the T9 function of their device to key their texts;

It is asked to Client to limit the number of keywords that can be combined in a SMS to request an information, to keep the service functioning as easily memorable as possible for customers

* Error management for SMS requests

Each end-user sending a bad request to a SMS server must be notified of its mistake through an answer SMS, describing the right way to proceed;

In order to ensure customer satisfaction and limit the number of bad command notification, the service provider shall make sure that its platform is able to correct as much as possible potential mistakes made by customers. For instance, a command consisting of the “METEO” keyword to ask for some weather information will have to be correctly treated even if the customer makes a mistake (such as “METEN”, “MET”, “METO”, …); The answer SMS will be charged to Client as a normal SMS, following the mass rates defined with the operator.

* Contact request for SMS services: as a complement to error management, Client are strongly advised to enable this command for the service

Each Client service customer must be allowed to send a SMS-MO to request contact information about the Client;

This SMS-MO must be answered Client through a message giving him precise and complete information about company and customer care contact;

The answer SMS will be charged to Client as a normal SMS, following the mass rates defined with the operator.

* Help request for SMS services: as a complement to error management, Clients are strongly advised to enable this command for the service

Each Client service customer must be allowed to send a SMS-MO to request help information about the service Client;

This SMS-MO must be answered by Client through a message giving him precise and complete information about the commands available to use the service;

The answer SMS will be charged to Client as a normal SMS, following the mass rates defined with the operator.

* Stop request for SMS services: as a complement to error management, Client are strongly advised to enable this command for the service

For services sending periodical information following a SMS MO request sent by user, Client shall allow customers to ask them to stop these sending until the next SMS MO request;

This stop request must be enabled through the sending of an SMS MO containing the keyword “STOP” in it.

* Customer care

Client must provide its customers with a customer care service, which has to be clearly mentioned on any communication related to the service. This customer care obligation is compulsory, whatever the nature of the service, IVR or SMS;

This customer care service can consist either of a phone number or a mail address;

In the case of a phone number, Client must clearly indicate the price of the call if charged more than a standard airtime call and ensure an answer rate of 80% to incoming calls;

In the case of a mail customer care, Client has to provide customers with a written answer within five days after reception of the initial letter;

All customer care calls handled by Homeland concerning the only subject of the Client service will be billed to Client on a monthly basis, according to fees defined in the Pricing Booklet.

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**SCHEDULE 4**

# CODE OF ETHICS

## 1. GENERAL

The content services provider agreement which has been entered into by the Client imposes a number of obligations on the Client, including, in particular, a requirement to ensure that the services offered, and all associated marketing materials comply with all applicable laws and regulations. These guidelines do not qualify those obligations in any way.

These guidelines shall constitute a Code of Ethics issued by Homeland Limited, and you are required to comply with these guidelines pursuant to the content service provider agreement for voice or message services that the Client has entered into with Homeland.

Homeland may at its option and without incurring any liability to you, suspend its services, withhold payments due to you and recover reasonable costs that it has incurred in making refunds to customers and investigating any breach of this Code, if it has reason to believe that you are in breach of the content service provider agreement (which includes this Code of Practice).

Homeland may from time to time in its sole discretion revise this Code of Practice.

Failure to comply with this Code will entitle Homeland to terminate your Client Agreement.

For the purposes of this Code of Ethics, **“Active Subscriber”** means a user of the Client service who has requested subscription to and has been subscribed to the service.

## 2. DUTIES OF A CONTENT SERVICE PROVIDER

### 2.1 Nature of Content

Without qualifying in any way, the other provisions of this Code or the content services provider agreement of which this code forms a part, the Client will be expected not to provide any services or material that:

1. Constitutes offending material as per the content services provider agreement;
2. Is morally repugnant; or
3. Incites violence or desire to cause harm;
4. induces an unacceptable sense of fear or anxiety;
5. encourages or incites any person to engage in dangerous practices or to use harmful substances;
6. induces or promotes tribal or racial disharmony;
7. causes grave or widespread offence; or (h) debases, degrade or demeans.

#### 2.1.1. Disclosure of prices, terms and conditions

The Client shall ensure that prior to providing a content services to any subscriber it shall disclose to such subscriber how the service will be charged and the terms and conditions applicable to the service.

When disclosing the pricing, terms and conditions discussed in clause 2.1.1 above the Client will be required to comply with the advertising requirements of this code as set out in clause

2.2 below.

### 2.2 Advertising

2.2.1A Client shall, in disclosing the prices, terms and conditions required under clause 2.1, and in relation to all other advertisements relating to its content services, comply with the following requirements –

1. no advertisement or disclosure related to the service shall be presented in a manner that is reasonably likely to confuse or mislead in any way, whether by inaccuracy, ambiguity, exaggeration, omission or otherwise;
2. every disclosure and advertisement shall be required to state – (i) the description of the content services offered;
   1. the name of the content service provider as registered with the Registrar of Companies, the Communications Authority of Kenya and Homeland’s Commercial Partnerships section; and
   2. a customer service number through which the subscriber can contact the Client (which must not be charged at a premium rate). One of the numbers advertised by the Client for this purpose must be a Homeland number;
   3. The price at which the service is offered (including tax)-the pricing must not contain any hidden charges and MUST be in the same font size and prominence as the short code to be utilised for the service;
   4. Details on how the STOP command for the service is to be implemented-refer to clause 2.3 below for more details.
3. For services such as MMS, that have specific handset requirements, advertisements must make it clear that the subscriber needs to have a compatible handset that has been correctly configured to use that service.

(e) For services which are likely to run for a period of more than one month then the Client will be required to state in its advertising that the information given is correct as at the date of publication, and that date must also be stated. An advertisement for a Service shall not contain material that is out of date, having regard to time sensitive information generally available.

2.2.2 The following are non-exhaustive examples and illustrations of practices which would constitute a breach of clause 2.2.1 above:

***Example A:*** *The advertisement for a content service only sets out a description of the service and the short code. The advertisement does not contain the applicable prices and key terms of the service but instead refers subscribers to other sources for this information e.g. a website. Subscribers should be informed upfront of the prices and key terms of the service. Key terms for this purpose means all terms which have a material bearing on the charges payable by the subscriber and the subscribers means to unsubscribe for the service.*

***Example B****: The prices, terms and conditions of the content service are scattered all over the place in the advertisement or depicted in a very small font such that that they are not legible or require a lot of effort to read.*

#### 2.2.3 Use of Disclaimers in an Advertisement

Where a disclaimer is used in any advertising:

1. The disclaimer must not be inconsistent with anything contained in the principal message of the advertising and must not negate the principal message of the advertising;
2. Having regard to the type of advertising (including the medium or format being used) and its intended audience, the disclaimer must be clearly visible and readable;
3. The disclaimer must:
   1. be placed next to the offer;
   2. be linked to the offer by an asterisked footnote or other symbol; or
   3. for television or radio advertising, form part of the advertisement visually or orally;
4. All advertising containing an offer for a product or Service for a limited period or in a limited quantity must clearly state or communicate that limitation;
5. All advertising offering a product or Service which is available only to a limited class of Subscribers must clearly state or communicate the eligibility requirement or restriction.
6. Where a ‘special offer’ is being advertised, sufficient details of the special offer must be included, including:
   1. the principal elements of the special offer;
   2. any conditions or limitations of the special offer;
   3. the start date (if the special offer has not already started); and
   4. the end date of the special offer; and
   5. Where a savings claim is made in advertising, the advertising must specify the Service, rate or other matter on which the savings claim is based;
7. Where any advertising uses the term “free” or equivalent (which includes but is not limited to “no cost”, “no fee”, “no charge”), the Client must ensure that:
   1. the “free” product or Service is not subject to any charge, fee or cost (save for the prevailing Homeland rate for sending the SMS which must be stated or if such a charge does not apply then this again must be clearly stated);
   2. the advertising material clearly identifies those elements of the offer that are “free”;
   3. any other conditions that qualify the offer are clearly stated, including:
      1. any other product or Service which must be purchased with the “free” product or Service; and
      2. the prices of products or Services accompanying the offer are not inflated to cover some or all of the cost of the “free” offers; and
   4. advertising which offers or promotes credits, free services or products, or other benefits must clearly state or communicate any conditions, including time limits, caps or fair use policies, upon a Subscriber’s ability to use the credits, free services or products, or other benefits;

### 2.3 Unsolicited messages (Spam)

2.3.1 No Client shall engage in the practice of providing any unsolicited services which for the purpose of this code are to be construed as spam.

2.3.2 As a general guideline messages will be deemed to be unsolicited:

1. Where the recipient/subscriber has not requested for the message either from the Client or a third party with whom the recipient has a direct and prior commercial relationship and has accepted receipt of such a message and reasonably expects to receive a message of such nature;
2. The message requires the recipient to take some prescribed action to unsubscribe from the service, failing which he is automatically subscribed and charged for a content service for future messages.

2.3.3 For the avoidance of doubt, a person shall be treated as having been provided with an unsolicited free service so long as he did not specifically take action to request for that service prior to it being provided to him.

2.3.4 You should not broadcast a message to a database of numbers which are not actively subscribed to the service in a bid to either subscribe such numbers to the service or promote the service. This includes subscribers who have stopped the service.

2.3.5 You should not send messages to subscribers from any database; either as individuals or a group if they have not actively subscribed to or they have not requested for the service.

### 2.4 Requirements for Gaming/Lottery

2.4.1 A Client who wishes to run a Gaming/Lottery promotion either for its own gain or on behalf of a third party on the Homeland Network shall: -

1. In the event that the Client intends to run prize competitions/games of chance then the Client shall ensure that it complies with the requirements of the Betting Control and Licensing Act (Cap 131 Laws of Kenya).
2. Give Homeland written Notice of such intention fifteen (15) days prior to launch of the promotion. Such notices will be addressed and delivered to the **Commercial**

## Partnerships Manager;

1. The notice in 2.4.1 (a) above shall include a copy of the licence issued or required under any law for such promotion, the terms and conditions of the promotion together with the mechanics;
2. publicise the terms and conditions of the competition.
3. make available to Homeland the list of winners on request.
4. Provide any such further information as may be requested by Homeland.

2.4.2 Homeland will consider the notice and grant its approval to the promotion in writing within fifteen (15) days of submission of all the requisite information and documents. Such approval will include a confirmation of the commercial terms applicable and any other such reasonable conditions as Homeland may deem necessary.

2.4.3 Notwithstanding the foregoing, Homeland may in its sole discretion decline to approve the running of a promotion on its Network.

### 2.4.4 General Provisions

1. Any Client who runs a promotion on the Network without first notifying Homeland as provided herein commits a Material Breach of this Agreement and Homeland shall be entitled to forthwith terminate the Agreement;
2. Further to 3 (a) above, Homeland shall in that event apply the commercial terms it would have applied with respect to the Revenue had the Client notified it of the promotion as is requisite.
3. For the avoidance of doubt, this clause 2.4 (Requirements for Gaming/Lotteries) apply to any and all promotions run by Client on the Homeland Network notwithstanding the channel, mode, platform or service used.

### 2.5 Adult content

The Client shall not transmit through the Network any material that would in Homeland’s opinion be deemed to be of an adult nature, nor content that is obscene or lurid. Examples of such content include but are not limited to content that is clearly of a sexual nature, or any service for which the associated promotional material is of a clearly sexual nature, or indicates directly, or implies that the service is of a sexual nature.

### 2.6 Dating and Personal Contact Services

2.6.1 Dating and personal contact services are services that are intended to bring into contact persons who were not previously acquainted with each other.

2.6.2 In facilitating such services the Client will be required to specifically communicate in its advertising that the services offered are targeted at persons of 18 years and above. In addition, the Client will be required to take reasonable steps to ensure that only persons of 18 years or older have access to dating and personal contact services.

2.6.3 The Client will in addition be required to communicate as part of its terms and conditions a warning to users of the services of the need to apply discretion and to be aware of the risks involved in sharing information with strangers.

2.6.4 The Client must ensure that the subscribers contact information is duly protected and not publicly available and MUST obtain explicit consent from the subscriber prior to making the subscribers contact information available to third parties. Such consent having been given in writing or data message.

### 2.7 Political Messaging Services

2.7.1 Prior to transmission of any Political Message, Homeland shall have the right to vet the content thereof to ensure compliance with Homeland’s Guidelines on Political Messaging. Such Guidelines may be published, varied by Homeland from time to time and the same shall automatically form part of this Agreement;

2.7.2 Homeland shall have the right to immediately terminate this Agreement if the Client sends out unauthorised political messages;

2.7.3 Homeland reserves the right to refuse the transmission of a proposed political message over its Network;

2.7.4 The Client shall not send unsolicited Political Messages to customers who have not subscribed to the service. The Client shall ensure that all recipients of Political Messages have opted into the service by SMS registration and shall provide evidence of such registration to Homeland immediately upon request;

2.7.5 Homeland shall have the right to immediately terminate this Agreement if the Client is engaged in any unauthorised use sale of existing customer data bases for purposes of sending out Political Messages, Poll tracking, lobby activities or any such activities for which the customer did not grant express consent;

2.7.6 Political Message must include the name of the Sponsor in the body of the message;

2.7.7 The following **Process** shall be followed by the Client if it wishes to send out Political Messages:

1. The Client shall make an application to Homeland at least forty-eight (48) hours before the message is due to be sent out. The application shall be in the Form provided and shall include as a minimum, the following information: -
   1. the verbatim content of the Political Message;
   2. a signed Authorisation Letter from the Political Party or individual sponsoring the Political Message in such Form as shall be prescribed by Homeland;
   3. certified copies of the Political Party or identification documentation of the individual, whichever is applicable;
   4. intended timing of the Political Message.
2. Prior to sending of any proposed Political Message, Homeland shall have the right to bet the content to ensure compliance with these Guidelines. Homeland

will notify the Client of its decision within eighteen (18) hours of submission of the request;

**2.7.8 Content in Political Messages:**

1. No political messages shall be sent out through the Homeland Network in the name of Homeland or bearing any of Homeland’s logos or slogans or otherwise appearing to be associated with Homeland;
2. Political Messages must bear the name of the Political Party or individual authorising the dissemination of the Political Messages;
3. Political Messages shall not contain offensive, abusive, obscene or profane language;
4. Political Messages shall not contain inciting or discriminatory language that may or is intended to expose an individual or group of individuals to hatred, hostility or ridicule on the basis of race, ethnicity, tribe, colour, religion, gender or otherwise;
5. Political Messages shall focus on Party Manifestos and shall not dwell on unnecessary attacks on individual persons, their families, tribe or associations; (f) Political Messages shall be in English or Kiswahili languages only.

**2.7.9 Timing of Political Messages:**

1. Approved Political Messages shall only be sent out between 0800 hrs and 1800 hrs;
2. The Client shall comply with the law as regards political campaign periods

**2.7.10 Unsolicited Political Messages:**

1. The Client shall not send unsolicited Political Messages to customers who have not subscribed to the service. The Client shall ensure that all recipients of Political Messages have opted into the service by SMS registration. Such opt in will require the express consent of the recipients and opt out procedures must be clearly notified to customers;
2. The Client must produce evidence of such consent immediately upon request by Homeland or any other concerned governmental body or regulator;
3. the Client shall strictly adhere to the law and procedures regarding the use of customer data bases howsoever acquired;

**2.7.11 Adherence to the Law in Political Messaging:**

1. The Client shall take legal responsibility for the content of Political Messages and shall fully indemnify and keep indemnified Homeland against any claims that may arise out of those Political Messages;
2. The Client shall strictly adhere to the laws, regulations and guidelines relating to elections and political activities which include the Constitution, Elections Act, Independent Electoral Commission & Boundaries Act, National Cohesion & Integration Act;
3. Failure to comply with any of these provisions shall entitle Homeland to suspend or terminate this Agreement.

### 2.8 Content Providers

The Client will be required to bind its content providers to ensure that the content provided with regard to the provision of the services is not in contravention of this Code.

### 2.9 Termination of services- commands

2.9.1 Having regard to the advertising obligations set out in clause 2.2 above, the Client must provide to subscribers’ instructions on how to unsubscribe for the service.

2.9.2 Homeland requires a STOP text function to be implemented that is clear and executable in a single message. In this regard the Client shall be required to support a STOP text as follows:**The Client must specify on SDP the key word e.g. game off or date stop**

Stop request must be enabled through the sending of an SMS MO containing the keyword “STOP” or “OFF” in it.

The STOP text must not be case sensitive.

2.9.3 The Client must ensure that the STOP command mechanism is functional and accessible at all times.

2.9.4 The Client will also be required to allow subscribers to unsubscribe for services through the Clients customer care helpline.

2.9.5 The Client must have a clear and short “stop” instruction. The “stop” functionality must work at all times. **Eg send ‘stop’ to 1234**

2.9.6 Once a customer has deactivated the service, he/she should at no time be reactivated without his/her request. The customer should also not receive further messages promoting the service

## 3. Welcome message

The first message when a customer subscribes to a service should always have at the minimum the following details:- a) The service subscribed to;

1. The cost of the service;
2. Frequency of the service;
3. Deactivation method (“stop” function);
4. Help line- customer care number;
5. Summary of the most critical terms and conditions;
6. URL for the terms and conditions (optional).

**An example: Welcome to Skiza tones. Cost per message 10/-, 3 times/week. To deactivate send STOP to 0123. For help call 072200000. Terms and conditions** [**www.skiza.com**](http://www.skiza.com/)

## 4. Wrongful subscription of customers

4.1 You should not wrongfully subscribe customers to your service without their consent. This is either on sms or wap/web subscription and includes customers who have opted out of the service.

4.2 Under no circumstance should any customer be subscribed to a service he/she has not requested

## 5. Databases

### 5.1 False proof of subscription

It is the Client’s responsibility to keep clear data records of the customers that have subscribed to the service. When required, the Client must produce authentic proof of such data records immediately. Such records shall be authenticated against the records obtained from the Network and in the event of discrepancy, the latter shall prevail.

### 5.2 Selling databases

Under no circumstances should Client sell, distribute, transfer or in any manner whatsoever share customer information.

### 5.3 Database Cleanup

Every three (3) months, the Client shall clean up its databases to remove numbers without successful deliveries.

## 6. OTHER PROVISIONS

In addition to the above requirements the Client will be required to comply with the following:

### 6.1 Relations with competitors

The Client will be required to comply with applicable antitrust or competition laws and will not engage in any restrictive trade practises. The Client will at all times act in a manner that will uphold and encourage healthy competition.

The applicable anti-trust legislation with regard to Kenya operations is the Restrictive Trade Practices, Monopolies and Price Control Act (Cap 504 Laws of Kenya).

### 6.2 Bribes, Conflicts of Interest, Gifts and other Courtesies

#### 6.2.1 Bribes

The Client shall not make or offer bribes or payments of money or anything of value to any Homeland employee or any other person including officials, employees, or to any other third party for the purpose of obtaining or retaining business with Homeland. For the avoidance of doubt Homeland considers an act of bribery to include the giving of money or anything of value to anyone where there is belief that it will be passed on to a government official or Homeland employee for this purpose. The Client is required comply with all applicable local anti-bribery laws.

#### 6.2.2 Gifts and other business courtesies

The Client shall ensure that any expenditure incurred in relation to any particular Homeland employee or government official is in the ordinary and proper course of business and cannot reasonably be construed as a bribe or so as to secure unfair preferential treatment. A general guideline for evaluating whether a business courtesy is appropriate is whether public disclosure would be embarrassing to the Client or Homeland.

Homeland employees may accept unsolicited gifts from The Client provided:

1. they are items of nominal value – Kshs 500 or less, or
2. they are advertising or promotional materials having wide distribution e.g.

calendars, stationary etc; and

1. acceptance of the gift does not violate any applicable law.

#### 6.2.3 Conflicts of Interest

No Client shall enter into a financial or any other relationship with a Homeland employee that creates a conflict of interest for Homeland. A conflict of interest arises when the material personal interests of the Homeland employee are inconsistent with the responsibilities of his/her position with the company. All such conflicts must be disclosed and approval to the transaction given.

### 6.3 Employment Relations

The Client will comply with all local laws relating to labour, employee health and safety and wages.

## (a) Child Labour

Homeland the Clients and their subcontractors will not hire children, a child being any person below the age of 16 years unless in the case of Kenya operations under apprenticeship and, in a technical institution, unless authorised under the Industrial Training Act(Cap 237 Laws of Kenya) and supervised by a public authority. **(b)** **Forced Labour and Disciplinary Practices**

The Client’s will:

* Not use forced labour nor require any worker whether local or foreign to remain in employment for any period of time against his or her will.
* Treat workers with respect and dignity and ensure workers are not subjected to any form of physical, sexual, psychological or other form of harassment or abuse.
* Ensure that workers are free to express their views about their workplace conditions without fear of retribution or losing their jobs.

## (c) Freedom of Association

The Clients will allow and respect their employees’ right to form or join trade unions of their own choosing and to bargain collectively.

## (d) Wages and benefits

The Client’s will meet minimum wage requirements and will ensure that all statutory deductions as required under any local laws from time to time are complied with.

The Client’s will ensure that working hours as provided for in any employment legislations or regulations in force from time to time to time or in any collective bargaining agreement entered into with the employee’s trade union are observed.

The Client’s will furthermore ensure that workers are provided at least one day off during any seven day working period.

## (e) Health and Safety

The Clients will provide their workers with safe and healthy work environment, clothing and other protective gear which as a minimum standard are in compliance with any local health and safety laws and regulations.

### 6.4 Environmental Matters and the Community

The Client’s will comply with all local environmental laws in force from time to time. Homeland encourages its The Client’s to play a role in improving the environment and in so doing Homeland shall implement programmes that promote a clean environment and reduce waste and seek ways to use and produce products that are environmentally friendly. In addition The Client’s shall engage with communities and invest in society in a way that makes effective use of resources including the support for charitable organisations.

### 6.5 Compliance and implementation

#### 6.5.1 Licences and Returns

The Client will be required to obtain and renew, in accordance with any law or regulations all permits, licences and authorisations required for it to carry out its business. In addition the Client will be required to prepare and file any returns that it may be required to file under its incorporation statute, the Companies Act (Cap 486 Laws of Kenya) or applicable local or Kenyan revenue legislation.

#### 6.5.2 Taxation, Financial Integrity and Retention of Records

6.5.2.1The Client will comply with all revenue laws and will not evade tax.

6.5.2.2 The Client’s will be required to maintain accurate and reliable financial and business records and shall not have any false or inaccurate accounting books or records related to Homeland for any reason. The Client’s shall maintain all business records at the minimum in compliance with the provisions outlined by the Kenya Revenue Authority or local revenue authorities from time to time.

6.5.2.3 When any government investigation or audit is pending or ongoing then The Client’s will not destroy any relevant records until the matter has been investigated and closed.

## 7. VIOLATIONS

If a Client becomes aware a bribe or other improper inducement having been offered to any Homeland employee or any other person with the promise of influencing Homeland’s position as far as that Client is concerned or if the Client feels that a conflict of interests exists with one of Homeland’s employees then all pertinent details should be reported in confidence to the following:

|  |  |
| --- | --- |
| **Contact** | **Details** |
| Report Fraud | **toll free line:** 0800 720 009 **email:** Homeland@ethics-line.com **website:** [www.Homelandethicsline.com](http://www.safaricomethicsline.com/) |

**8. VARIATION**

Homeland reserves the right to vary this Code at any time.

**SCHEDULE 5**

# SHORT NUMBER ALLOCATION PROCESS

Short number allocation demands have to be sent by registered post, filling the form as defined in the short number allocation demand document. Each allocation demand involves the unconditional acceptation of all the conditions and clauses as defined in the present contract, and in the short number allocation contract. Each short number allocation demand must include:

Three 4 digits short number wishes, by order of preference

The nature of the service the Client intends to provide

All administrative information related to the Client identity and status, contact address and billing address

After validation of the demand by Homeland within 10 working days after reception of the demand, the Client will receive the confirmation of the short number availability and an invoice corresponding to the short number set-up fees, as defined in Schedule 7.

The Client will then have 10 working days to honour the invoice payment, in order to confirm the reservation

Conditions associated to the short number allocation:

By reserving a short number, the Client commits to launch its services within 3 months after the number allocation confirmation and set-up fees payment

Past this initial 3-month period, the Client will have to renew the set-up fee payment to get 3 additional months allowance to launch its services. In any case, if the Client does not renew the set-up fee payment, it is still holds priority over the concerned short number for a period of 1 month from the end of the previous reservation period.

Short number allocation contracts have an undefined duration, and can be terminated on demand of one of the parties, involving a 2 months delay between the written request and contract ending

A short number abandoned by an Client cannot be re-allocated before a 6 months period from its previous contract termination

As soon as the Client’s service is commercially launched, a monthly fee, as defined in Schedule 7 has to be paid to Homeland for short number and contract operation & management.

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**SCHEDULE 6**

# COMMUNICATION CHARTER

The service Client shall respect the present communication charter in all its communication operations about its Client services.

If the service operated is not available from defined operator’s networks, the communication operation has to clearly mention the name of the operators whose customers can access the service.

In any communication operation, the Client shall not create confusion among customers between its services and name and the operator’s own services and names. The name used in the Client’s communication operations shall be the same as declared in the short number allocation form.

Homeland reserves the right to refuse a short number allocation if the name of the service is too close to a well-known existing service or uses the 4 digits short number requested as part of the service name.

The name of the service shall not be a usual or common name. It shall be distinct enough from current expressions not to create confusion among customers.

If the Client builds a partnership on one or more services, it shall clearly identify in its communication operations the name of the Client the short number has been allocated to. This involves the obligation to mention systemically the sentence “edited by” on every communication support.

Each customer sending the keyword “CONTACT” to a short number operated by an Client must be answered through a SMS MT with all the details about contact address and means related to the service Client.

All SMS MT sent to customers must clearly be mentioning the name of the service and its associated short number, as identified in the Client’s communication operations.

All communications about a Client service must clearly mention the price of the content service, inclusive of all taxes, in Kenyan shillings and to expressly mention that this cost is above Homeland’s standard rate for carriage.

For SMS services, the sentence “XX /- per SMS sent + price of the SMS”, “XX” being the premium rate applied, shall clearly and explicitly appear on all communication supports.

For IVR services, the sentence “XX /- per minute sent + price of the communication”, “XX” being the premium rate applied, shall clearly and explicitly appear on all communication supports.

If a SMS MT sent to customer incites the customer to re-use the service, the message must clearly mention the associated costs as defined upper.

If the delivery of a service requires the sending of more than One SMS MO by the customers, the Client shall mention the requested number of SMS needed to obtain the service.

All communications mentioning the short number must clearly precise that:

1. The service can only be accessed from a mobile phone.
2. The instructions related to the use of the service, especially for SMS service with the process of sending a message from the phone.
3. The clear description of characters to key in the message body to send a request. The information about the need for sending the message to the short number the Client communicates about the Promotion of the service shall respect the following basic rules:
4. Promotion supports will not use insulting images of men or women bodies.
5. The respect of children rights and protection will be specially looked at.
6. No promotion about high price services shall be made toward children.
7. No advertising supports will be used out of the legally reserved places for advertising supports.

The communication graphic charter below must be used in all communications, whatever the medium used. The rules for the use of this charter are declined on the different medias as follows:

* Paper, Newspaper & Internet Medias: the Client logo must appear in the body of the communication, or as its signature; the price information must clearly and explicitly appear each time the logo is used
* SMS, Wap services: The logo cannot be used, but all the communication using the short number information must clearly and explicitly mention the price information about the service
* TV : the Client logo must appear in the body of the communication, or as its signature ; the price information must clearly and explicitly appear each time the logo is used, either through a visible message or through a clear oral quote of the service price
* Radio ; The logo cannot be used, but all the communication quoting the short number information must clearly and explicitly mention the price information about the service through an oral announcement.

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