



**FAX COMPLETED &
SIGNED FORM TO:
0865528574**

iSPOT PARTNERSHIP AGREEMENT

BETWEEN

Perlcom CC (Hereafter referred to as iSPOT)

represented by _____ ID No _____

AND

_____ (THE PARTNER)

represented by _____ ID No _____

1. iSPOT manufactures and operates Wireless Hotspot Units and software. The Partner owns or operates premises suitable for deploying a Wireless Hotspot. The parties therefore agree to deploy an iSPOT Unit at the premises of The Partner according to the following terms and conditions:
2. Where users will pay to use the Wireless Hotspot (Profit-Share Partner & Hosting Partner):
 - 2.1. iSPOT undertakes to:
 - a. Supply a functioning iSPOT unit or units to the partner that ensures that End Users first have to obtain a Login before being able to utilize the facilities of the Hotspot
 - b. Demonstrate the operation of this unit to the Partner and monitor the continued functioning of the unit,
 - c. To supply the iSPOT Unit with a permanently online broadband internet connection meeting at least the minimum standard recommended by iSPOT. This excludes the provision of an ADSL line or Wireless Internet connection.
 - d. Enable Time and bandwidth limited Logins via the iSPOT Unit by enabling UserNames and Passwords as requested by:
 - i End User via Premium SMS

- ii Partner via Voucher sale
- iii Partner via Online Request
- iv End User via Online Credit Card Transaction
- e. To Credit The Partner for each Login enabled via SMS or Credit Card Transaction according to the current iSPOT Partner Pricing Schedule where such Login is first used via the iSPOT unit deployed at the Partner's premises,
- f. To supply the Partner with iSPOT Access Vouchers containing valid Usernames and Passwords as required and to supply the Partner with valid Usernames and Passwords via an Online Website as required.
- g. To Debit the Partner for each Login that was supplied to the Partner via Voucher or Online Request once it has been used by an End User,
- h. To supply the Partner with a detailed reconciliation of all SMS Purchases, Voucher Purchases, Online Purchases, Credit Card Purchases and Logins effected via the iSPOT Unit deployed at the Partner premises.
- i. Ensure that each login supplied by iSPOT is useable for a maximum total of the time designated for that login and does not allow the downloading or uploading of more than the number of megabytes designated for that login.
- j. Where the Partner does not have an existing website iSPOT will furnish the Partner with a suitably designed HOME WEB PAGE only hosted by iSPOT in order to display this alongside the iSPOT login page.

2.2. The Partner undertakes to:

- a. Deploy the iSPOT Unit/s at its premises and to keep it supplied with electricity and to pay a Once-Off Setup fee for each unit as listed on the current Partner Pricing Schedule,
- b. Provide a functioning ADSL line or Wireless Internet connection (excluding the cost of internet bandwidth) which may be used to link the unit to the iSpot bandwidth provider.
- c. To assist users where necessary to connect to the iSPOT as per the manual published on the iSPOT website and to provide end users with a suitable environment for using a Wireless Hotspot,
- d. Where applicable, to pay iSPOT a MONTHLY iSPOT Management Fee as detailed on the current Partner Pricing Schedule,
- e. Where Vouchers or Online Login Requests are sold:
 - i to pay iSPOT for Logins enabled via Vouchers supplied to the Partner and for Logins Requested Online by the Partner,
 - ii once such Logins have been utilized by an end user to Log into any iSPOT,
 - iii such payments to be according to the current iSPOT Partner Pricing Schedule and within 30 days of such login,
- f. Where Premium SMS or Credit Card Transactions are used by an end user:
 - i to accept a Credit from iSPOT for Logins first utilized via the iSPOT deployed at the Partner's premises,
 - ii such credits to be according to the current iSPOT Partner Pricing Schedule and within 90 days of such login,
- g. Not tamper with or interfere with the operation of the iSPOT Unit in any way,
- h. Display advertising material indicating that a wireless hotspot exists at or near their premises. Such advertising material to be supplied by iSPOT and according to iSPOT specifications.

3. Where users will be given a FREE service at the HotSpot (Free-To-User Partner):

3.1. iSPOT undertakes to:

- a. Supply a functioning iSPOT unit or units to the partner that ensures that End Users first have to obtain a Login before being able to utilize the facilities of the Hotspot
- b. Demonstrate the operation of this unit to the Partner and monitor the continued functioning of the unit,
- c. To supply the iSPOT Unit with broadband internet data connection soft-capped to 1 Gb. This excludes the provision of an ADSL line or Wireless Internet connection equipment.

- d. Enable Time and bandwidth limited Logins via the iSPOT Unit by enabling UserNames and Passwords as requested by SMS, such Time and Bandwith to be determined by the Partner
- e. To Debit the Partner Monthly a FIXED iSPOT Management Fee for each iSPOT Unit installed according to the current iSPOT Partner Pricing Schedule.
- f. To supply the Partner with a detailed report of all Logins effected via the iSPOT Unit deployed at the Partner premises.
- g. Ensure that each login supplied by iSPOT is useable for a maximum total of the time designated for that login and does not allow the downloading or uploading of more than the number of megabytes designated for that login.

3.2. The Partner undertakes to:

- a. Deploy the iSPOT Unit/s at its premises and to keep it supplied with electricity and to pay a Once-Off Setup fee for each unit as listed on the current Partner Pricing Schedule,
- b. Provide a functioning ADSL line or Wireless Internet connection equipment which may be used to link the unit to the iSpot bandwidth provider and to accept 1Gb free data and then pay for data used in excess of this soft-cap at the current iSpot rate.
- c. To assist users where necessary to connect to the iSPOT as per the manual published on the iSPOT website and to provide end users with a suitable environment for using a Wireless Hotspot,
- d. Where applicable, to pay iSPOT a MONTHLY iSPOT Management Fee as detailed on the current Partner Pricing Schedule,
- e. Not tamper with or interfere with the operation of the iSPOT Unit in any way,
- f. Display advertising material indicating that a wireless hotspot exists at or near their premises. Such advertising material to be according to iSPOT specifications.

4. Where the Partner installs and operates his own Wireless HotSpot (Owner-Operator Partner):

4.1. iSPOT undertakes to:

- a. Supply iSPOT Firmware via download from its website suitable for installation in certain wireless routers at no cost to the Partner.
- b. Make available a RADIUS server allowing UAM authentication of users logging in to Wireless Routers fitted with the iSPOT Firmware.
- c. Ensure that only users who have paid for access are authenticated via this mechanism.
- d. Make available to the Partner iSPOT's payment mechanisms thus allowing users to obtain logins via Premium SMS or by purchasing Time-Limited or Membership Logins using a credit Card via the iSPOT website. Such logins to be according to Recommended Retail Price on the current Partner Pricing schedule,
- e. To provide a mechanism for the Partner to adjust the bandwidth supplied for logins according to the Partners requirements,
- f. To provide the Partner with detailed real-time analysis of Logins via the Partner's iSpot by means of a personal area on the iSPOT website,
- g. To share revenue generated when MEMBERS log in to the Partners HotSpot by Crediting the Partner each month with a percentage as published on the current Partner Pricing Schedule of the Recommended Retail Price paid for logins utilized during that month at the iSPOT.

4.2. The Partner undertakes to:

- a. Install the iSPOT Firmware on recommended equipment only and strictly according to the instructions provided on the iSPOT website.
- b. To supply the iSPOT Unit with a permanently online broadband internet connection meeting at least the minimum standard recommended by iSPOT.
- c. To assist users where necessary to connect to the iSPOT as per the manual published on the iSPOT website and to provide end users with a suitable environment for using a Wireless Hotspot,
- d. Where applicable, to pay iSPOT a MONTHLY iSPOT Management Fee as detailed on the current Partner Pricing Schedule,

- e. Where Members Log in to the iSPOT the Partner accepts Credits from iSPOT calculated as a percentage of the Membership fee (iSPOT Bandwidth credits) that have been USED during that month. Such Credits based on the current Partner Pricing Schedule.
 - f. Where Vouchers or Online (Point-Of-Sale) Login Requests are sold:
 - i to pay iSPOT for Logins enabled via Vouchers supplied to the Partner and for Logins Requested Online by the Partner,
 - ii once such Logins have been utilized by an end user to Log into any iSPOT,
 - iii such payments to be according to the current iSPOT Partner Pricing Schedule and within 30 days of such login,
 - g. Where Premium SMS or Credit Card Transactions are used by an end user:
 - i to accept a Credit from iSPOT for Logins first utilized via the iSPOT deployed at the Partner's premises,
 - ii such credits to be according to the current iSPOT Partner Pricing Schedule and within 90 days of such login,
 - h. Not to tamper with or reverse engineer the iSPOT Firmware in any way,
5. Where the Partner does not have an existing website:
- 5.1. iSPOT will furnish the Partner with a suitably designed HOME WEB PAGE only,
 - 5.2. iSPOT will host the Web Page in order to display this alongside the iSPOT login page free of charge.
6. This agreement is effective from _____ and continues indefinitely. Either party can terminate this agreement by giving the other 30 days written notice of their intention to terminate the agreement.
7. Except for Owner-Operator Partners, the physical iSPOT Unit remains the property of iSPOT and on termination of this agreement must be returned to iSPOT intact.
8. This agreement is subject to the Managed Hotspot Standard Terms and Conditions printed on the reverse of the Partner Details schedule attached hereto.
9. The Partner vouches that he has viewed the current iSPOT Partner Pricing Schedule and agrees to abide by this pricing or such prices as amended from time to time by iSpot and published on its website.
10. Signatures:

SIGNED AT _____ ON _____

For iSPOT

Witness

SIGNED AT _____ ON _____

For Partner (who vouches he is authorized to so sign)

Witness

PARTNER DETAILS & DEBIT ORDER AUTHORISATION

(Subject to Standard Terms and Conditions Overleaf)

These details are needed to activate your partner account and begin revenue sharing. The banking details are essential and are used for settling the balance of your share of revenue earned at your managed hotspot/s. This amount may be a credit due to you (if revenue was collected by iSpot eg. via online Credit Card transaction or Premium SMS) or the amount could be a debit owed to iSpot (if revenue was collected by you eg. via scratch card sales). Credits are settled via EFT into the partners nominated bank account and debits are processed via Debit Order. Settlements are executed in the month following the relevant transaction month period end.

Partner Information	Supplied Information	Office Use
Business Name or Partner Name if individual		
Business Registration Number or Partner ID Number		
Business VAT Number if applicable		
Business or Partner Address		
Contact Person Name		
Contact Landline Tel No		
Contact Cell No		
Contact Email		
Technical Email		
Technical Cell No		
Username Partner registered on iSpot Website		
Nominated Partner Type (tick one only)	<input type="checkbox"/> Profit-Share Partner <input type="checkbox"/> Hosting Partner <input type="checkbox"/> Free-To-User Partner <input type="checkbox"/> Owner-Operator Partner	
Banking Details	Must Be a Current Account	
Business or Partner Bank Name		
Branch Name		
Branch Code		
Account Name		
Account Number		

I/we hereby request and authorize you to draw against my/our account with the abovementioned bank (or any other bank or branch to which I/we may transfer my/our account) the sums indicated in the agreement or any variable amount pertaining to this agreement, on the first working day of each month. This being the amount necessary for the settlement of the amounts due to you in respect of the above Partner Agreement. All such withdrawals from my/our account by you shall be treated as though they had been signed by me/us personally. I/we the undersigned, "instruct" and authorize your agent Netcash (Pty) Ltd, or any such other agent you appoint to draw against my/our account. I/we understand that if bank details have been supplied the withdrawals authorized here will be processed by BankServ. I/we also understand that details of each withdrawal will be printed on my/our statement.

I/we agree to pay any banking and administrative charges relating to this debit order instruction. This authority may be cancelled by means of giving you thirty days notice in writing, sent by prepaid registered post, but I/we understand that I/we shall not be entitled to any refund of amounts, which you have withdrawn whilst this authority was in force if such amounts were legally owing to you. I authorize you to draw against my/our account any administrative costs (in addition to the indicated sum above) incurred when transactions have to be re-processed for any reason whatsoever. Further, if there are insufficient funds in the nominated account to meet the obligation, you are entitled to track my account and re-present the instruction for payment as soon as sufficient funds are available in my account. I/We acknowledge that the party hereby authorized to effect the drawing(s) against my/our account may cede or assign any of its rights and that I/we may not delegate any of my/our obligations in terms of this contract/authority to any third party without prior written consent of the authorized party.

Signed _____ on this _____ day of _____ 20____

SIGNATURE AS USED FOR SIGNING CHEQUES OR CREDIT CARD VOUCHERS

Managed Hotspot

Standard Terms and Conditions

1 Definitions

- 1.1 In the agreement, unless inconsistent or otherwise indicated by the context, the following terms shall bear the following meanings:
- 1.2 "Agreement" The subscriber application form setting out the subscriber's details, together with all annexure attached thereto, and the subscriber terms and conditions.
- 1.3 "Charges" The management charges, connection charges, monthly service charges, usage charges and any other charges pertaining to the provision of the services and any other services provided to the subscriber in terms of this agreement.
- 1.4 "Effective Date" Notwithstanding the date of signature of the application form, the date of commencement of the services.
- 1.5 "Initial Period" A period as indicated on the application form, commencing on the effective date.
- 1.6 "Installation" The installation of terminal equipment at a location or on a subscriber system or similar device specified by the subscriber in an order.
- 1.7 "Internet" The interconnected system of networks that connect computers around the world via the TCP/IP protocol.
- 1.8 "Licence" The national data telecommunication licence granted to the Network Operator to provide a national data telecommunication service by means of a data network.
- 1.9 "DN" The data network established and operated by the Network Operator in terms of a licence that provides connectivity to the Internet.
- 1.10 "Services" Managed Wireless Hotspot services, Broadband Internet access services, value-added Internet Protocol ("IP") services, virtual private network ("VPN") services, corporate managed data network services, made accessible to the subscriber by Service Provider in terms of this agreement.
- 1.11 "Access Numbers" The access numbers, IP address, unique user name or subscription numbers used to identify subscribers having access to the DN.
- 1.12 "Network Operator" The Broadband Internet operator which has been appointed by the Service Provider to make the DN services available to the subscriber.
- 1.13 "Order" An order placed by a subscriber on Service Provider for the provision of the DN services.
- 1.14 "Renewal Period" A period as indicated on the subscriber application form, commencing on the day immediately following the expiration of the Initial Period, or an anniversary of the expiration period, as the case may be.
- 1.15 "Service Provider" Pericom CC T/A iSPOT.
- 1.16 "Subscriber" Any party to whom the services are made available in terms of the agreement.
- 1.17 "Terminal Equipment" The equipment installed in order to give effect to the Service, including the antennas and communication cards used by a subscriber to send and/or receive any data signal via an DN radio link and may include any other special equipment provided by the Network Operator or Service Provider in order to facilitate any future enhanced services to subscribers.

2 Commencement and termination

- 2.1 This agreement shall commence on the effective date and shall, subject to the provisions of clause 7 and 9 below, continue for the Initial Period, and thereafter continue automatically for an unlimited number of Renewal Periods unless terminated:
- 2.1.1 By the subscriber, on expiration of the Initial Period or a Renewal Period, as the case may be, by giving to Service Provider a written notice of termination not less than 30 days and not more than 90 days before the expiration of the Initial Period or the Renewal Period, as the case may be; and/or
- 2.1.2 By the subscriber, within a period of 7 days from the effective date, should the subscriber not find the service fit for use, subject to a written explanation accepted by the management of the Service Provider; and/or
- 2.1.3 By Service Provider, on written notice to the subscriber in the event of the authorisation issued by the Network Operator in terms of which Service Provider is authorised and empowered to give the subscriber access to the DN services is terminated for whatsoever reason.
- 2.2 Notwithstanding the use of agents or other intermediaries (Delegated Service Providers) by Service Provider, the order by the subscriber is an offer made by the subscriber to Service Provider and will be considered once received by Service Provider. Service Provider's acceptance of the offer shall consist of the activation of the terminal equipment as contemplated in clause 2.1, and upon which activation this agreement shall become binding between Service Provider and the subscriber whether or not the subscriber was notified of the acceptance of the offer. The subscriber hereby expressly dispenses with notification of acceptance of the offer by Service Provider.

3 Supply and installation of terminal equipment and DN services

- 3.1 The order placed by the subscriber on Service Provider is subject to Service Provider's approval in its sole discretion. If Service Provider does not approve the order, it shall not be under any obligation to the subscriber to give reasons for its decision.
- 3.2 Service Provider shall utilise its best endeavours to promptly comply with any supply and/or delivery and/or installation requirements recorded in the order but shall not be liable to the subscriber in the event that such supply and/or delivery and/or installation is delayed or cancelled, for whatsoever reason. Service Provider may in its discretion refer the subscriber to a third party who may undertake the installation of the terminal equipment in its own name and behalf and not as an agent of Service Provider.
- 3.3 The subscriber shall be responsible for obtaining all necessary approvals and authorities imposed by any competent authority and required for the purpose of any such supply and/or delivery and/or installation, and the subscriber hereby indemnifies Service Provider against any claim or liability suffered by Service Provider by reason of such approval and authorities not having been obtained.
- 3.4 All risk in and to the terminal equipment supplied and delivered by Service Provider to the subscriber shall pass to the subscriber on delivery.
- 3.5 If any terminal equipment is lost, stolen or damaged, the subscriber shall immediately notify Service Provider in writing and until such notification, the subscriber shall remain liable for all costs and charges pertaining to such terminal equipment. Service Provider shall as soon as reasonably possible replace the terminal equipment. The cost of this replacement equipment shall be for the subscriber's account. Such loss, theft or damage and/or the replacement of the terminal equipment and/or the allocation of a new mobile access number for any reason, shall in no way be deemed to constitute a termination of this agreement which shall continue to be of full force and effect.
- 3.6 The subscriber hereby warrants and undertakes in favour of Service Provider that the subscriber:
- 3.6.1 Shall not use nor allow the DN Services to be used for any improper, immoral or unlawful purpose, nor in any way which may cause injury or damage to persons or property or an impairment or interruption to the MDN Services.
- 3.6.2 Shall only use the terminal equipment provided by Service Provider, and comply with relevant legislation and regulations imposed by any competent authority and all directives issued by Service Provider relating to the use of terminal equipment and the provision of MDN services.
- 3.6.3 Recognises that no right, title or interest in the software contained in the terminal equipment issued to the subscriber vests in the subscriber.
- 3.6.4 Shall not, nor permit any third party to reverse engineer, decompile, modify or tamper with the software contained in or pertaining to any terminal equipment.

4 Charges

- 4.1 In consideration for the provision of the DN Services, terminal equipment and any other services supplied by Service Provider to the subscriber, the subscriber shall effect payment to Service Provider of the applicable charges, as detailed in the application form and whether or not the MDN Services have been, or are being utilised by the subscriber.
- 4.2 Service Provider may, by written notice to the subscriber, vary future charges, either in whole or in part, with effect from the date specified in such notice.
- 4.3 Unless otherwise agreed to by Service Provider in writing, the subscriber shall effect payment to Service Provider:
- 4.3.1 For the supply and delivery of terminal equipment and installation on presentation of invoice and against such delivery.
- 4.3.2 Of monthly service charges monthly in advance and of all other charges, monthly in arrears, in either event in full, within 21 days from date of the relevant invoice.
- 4.3.3 At Service Provider's premises or at the bankers of Service Provider in Durban North. Where payment is made by the subscriber through a debit order, other electronic means or any other intermediary, the subscriber's bankers or other intermediaries shall act as the subscriber's agent and the subscriber shall have discharged its obligations only upon payment being received by Service Provider.
- 4.4 Notwithstanding the provisions of clause 4.3, Service Provider may at any time on reasonable written notice to the subscriber vary its invoicing and payment procedures and requirements.
- 4.5 In the event that Service Provider requires payment for the services provided to the subscriber to be made by debit order, the subscriber will commit a breach of this agreement if the subscriber:
- 4.5.1 Cancels such debit order without the written consent of Service Provider.
- 4.5.2 Changes his banking details upon which the debit order relies, without giving Service Provider prior notification of such change and providing Service Provider with the subscriber's new banking details.
- 4.5.3 The subscriber authorises Service Provider to debit any bank account held by the subscriber for the costs owed by the subscriber to Service Provider in terms of this agreement.
- 4.6 The monthly statement shall be sent by Service Provider to the subscriber at the e-mail address supplied by the subscriber in the application form in writing to Service Provider. It shall be the duty of the subscriber to check the statement in order to ensure that the contents thereof are correct. Unless a query is raised in respect of the contents of the statement within 30 days from the date thereof, the contents of the statement shall be deemed to be correct.
- 4.7 Any migration from one package option to another shall for the duration of this agreement be subject to Service Provider approval in its discretion and Service Provider shall be entitled to levy fees for migrations, but which fees may not exceed the amounts approved or fixed by the responsible regulatory authority from time to time.
- 4.8 The subscriber indemnifies and holds the Service Provider harmless for any loss suffered as a result of incorrect amounts being debited in respect of applicable charges.

5 Suspension

- 5.1 Service Provider may at any time, without notice to the subscriber and in any manner whatsoever, suspend the subscriber's access to the DN Services in the event that:
- 5.1.1 Any modification, maintenance or remedial work is required to be undertaken pertaining in any manner whatsoever, to the DN Services or the Network. Service Provider will endeavour to inform the subscriber timely, in the event of planned maintenance.
- 5.1.2 The subscriber fails to perform any of his or her obligations, or breaches any terms of the agreement (in which event Service Provider may also suspend the subscriber's use of the terminal equipment).
- 5.1.3 Service Provider reserves the right to require the subscriber to effect payment of any applicable reconnection charges pursuant to the restoration of the DN Services suspended in the circumstances contemplated in clause 5.1.2. In the event that the subscriber's access to the Network is suspended, the subscriber shall still be liable for the monthly service charges during any such period of suspension.

6 Limitation of liability

- 6.1 Without detracting from any of the other provisions of the agreement, Service Provider shall not be liable to the subscriber for any loss or damage suffered by the subscriber and whether the same is direct or consequential, in the event that:
- 6.1.1 Service Provider fails for any reason whatsoever to supply and/or deliver and/or provide installation of any terminal equipment either on the required date or at all; and/or
- 6.1.2 The DN Services are interrupted, suspended or terminated for whatsoever reason; and/or
- 6.1.3 Service Provider fails to suspend the provision of the MDN Services to the subscriber in terms of an arrangement between Service Provider and the subscriber or after the subscriber has specifically requested Service Provider to do so in order to limit the charges; and/or
- 6.1.4 Such loss or damage was caused by any negligent act or omission on the part of Service Provider, its employees or its agents.

7 Breach

- 7.1 If the subscriber commits a breach of any of the terms and conditions hereof and remains in default for a period of seven days after delivery to the subscriber of a written notice ("notice of breach") from the Service Provider calling for such breach to be remedied, the Service Provider shall be entitled forthwith and without further notice to the subscriber to either terminate the Agreement or claim specific performance of all of the subscriber's obligations, including the immediate payment of all sums of money payable by the subscriber, whether or not then due, in either event without prejudice to the Service Provider's right to claim such damages as it may have suffered by reason of such breach or failure.
- 7.2 Without prejudice to the provisions of clause 7.1 above, the Service Provider may forthwith terminate this Agreement at any time by giving subscriber written notice of such termination if (i) the subscriber fails to make payment of any charges on or before the due date for payment thereof; and/or (ii) the subscriber within a 12-month period calculated from a notice of breach, receives a further two notices of breach; or (iii) in the event that the subscriber is sequestered, liquidated or placed under judicial management, irrespective of whether any of the aforesaid are provisional or final; or voluntary or compulsory.
- 7.3 Any termination pursuant to the preceding provisions of this clause shall be without prejudice to any claim the Service Provider may have against the subscriber in respect of any prior breach of the terms and conditions of this agreement by the subscriber.
- 7.4 Without derogating from any other rights or remedies available to the Service Provider in terms of this Agreement or at law, in the event of the Agreement being cancelled by the subscriber (for whatsoever reason) prior to the expiry of the Initial Period or any Renewal Period, or in the event of the Service Provider electing to terminate the Agreement pursuant to any breach by the subscriber which entitles the Service Provider to cancel:
- 7.4.1 The subscriber shall be liable to the Service Provider and hereby agrees to pay on demand, the full charges payable to the Service Provider for the remainder of the Initial Period or Renewal Period, as the case may be.

8 Insurance

- 8.1 Service Provider owns equipment and insures it at its discretion.

9 General

- 9.1 In the event of the subscriber failing to effect payment of any amount owing by them to Service Provider on due date, then without derogating from Service Provider rights in terms of clause 7, the subscriber shall be liable to effect payment of interest to Service Provider on the amount so owing at the prime interest rate as published from time to time by ABSA Bank Limited plus 2% (percent), from due date to date of payment.
- 9.2 Unless specifically stated otherwise, all prices and charges set out in this agreement and any price list are inclusive of Value-Added Tax and exclusive any other applicable tax or duty, the liability of which shall vest with the subscriber.
- 9.3 The rights and obligations of the subscriber in terms of the agreement may not be ceded or delegated to any third party. The rights and obligations of Service Provider in terms of this agreement may be ceded and delegated by it to any other party on written notice to the subscriber.

- 9.4 Service Provider may change the terms and conditions of this agreement as a result of changes in taxes, laws, regulations, the terms and conditions of the licence to the Network Provider, the terms and conditions of any agreement between Network Provider and Service Provider or any circumstances or events similar to the foregoing. Service Provider shall notify the subscriber of any changes as contemplated herein in writing.
- 9.5 A certificate under the hand of any manager of Service Provider certifying the sum of any amount owing by the subscriber to Service Provider shall be prima facie proof of its contents and sufficient proof for the purposes of enabling Service Provider to obtain any judgment or order against the subscriber.
- 9.6 The subscriber hereby authorises Service Provider to disclose the subscriber's name, address and personal details to any party whenever it is reasonably necessary for Service Provider to properly perform its functions or protect its interests, or for the purpose of enabling the Network Operator or Service Provider to provide emergency DN Services to the subscriber, or directory or repair services and information to Network users generally. In addition, the subscriber consents to the Service Provider using any information supplied by the subscriber for the purposes of informing subscribers of the Service Provider's services which may interest the subscriber from time to time.
- 9.7 In the event of Service Provider instituting legal proceedings against the subscriber to recover amounts due to Service Provider or take any other legal steps arising out of this agreement, the subscriber shall be liable for legal costs on the scale as between attorney and own client.

10 Ownership of Terminal Equipment

- 10.1 Ownership in Terminal Equipment vests in the Service Provider and remains so during and after the termination of this agreement.
- 10.1.1 In the event of termination of this agreement for whatsoever reason, Service Provider shall have the right to claim from the subscriber an amount equal to the value of the terminal equipment as per pricelist of the Service Provider at the time of installation of the terminal equipment and the subscriber shall be obliged to effect payment to Service Provider of the amount so claimed on demand; provided that if the subscriber fails to effect the payment so claimed by Service Provider, the subscriber shall be obliged forthwith to return the terminal equipment to Service Provider in good working order, and shall not be entitled to receive any refund therefore.
- 10.2 Ownership in and to the terminal equipment supplied and delivered by Service Provider to the subscriber is reserved until payment of all amounts payable to Service Provider in respect of same until such amount has been paid by the subscriber to Service Provider.
- 10.3 All risk in and to the terminal equipment supplied and delivered by Service Provider to the subscriber shall remain with the Service Provider on delivery.
- 10.4 All transport costs shall be for the subscriber's account.

11 Miscellaneous matters

- 11.1 Postal address:
- 11.1.1 Any written notice in connection with this agreement may be addressed:
- 11.1.2 In the case of Service Provider to: Pericom CC Address: 1 Balmoral Drive, Durban North, 4051 Fax No: 0866874385 Marked for the attention of the Managing Director
- 11.1.3 In the case of the subscriber to the postal address and fax number set out in the subscriber details application form to which these standard terms and conditions apply, and marked for the attention of the subscriber.
- 11.1.4 The notice shall be deemed to have been duly given 7 days after posting, if posted by registered post to the parties addressed in terms of this sub-clause.
- 11.1.5 On delivery if delivered to the party's physical address in terms of either this sub-clause or the next sub-clause dealing with service of legal documents.
- 11.1.6 On dispatch if sent to the party's then fax number and confirmed by registered letter posted no later than the next business day.
- 11.1.7 Unless the addressee is aware, at the time the notice would otherwise be deemed to have been given, that the notice is unlikely to have been received by the addressee through no act or omission of the addressee.
- 11.1.8 A party may change that party's address for this purpose by notice in writing to the other party.
- 11.2 Address for service of legal documents
- 11.2.1 The parties choose the following physical addresses at which documents and legal proceedings in connection with this agreement may be served (that is their domicilia citandi et executandi):
- 11.2.2 In the case of Service Provider to: Pericom CC Address: 1 Balmoral Drive, Durban North, 4051 Fax No: 0866874385 Marked for the attention of the Managing Director
- 11.2.3 In the case of the subscriber, to the physical address and fax number set out in the subscriber details application form to which these standard terms and conditions are attached and marked for the attention of the subscriber.
- 11.3 A party may change that party's address for this purpose to another physical address in the Republic of South Africa by notice in writing to the other party.

12 Entire contract

- 12.1 The agreement contains all the express provisions agreed on by the parties with regard to the subject matter of the agreement and the parties waive the right to rely on any alleged express provision not contained in this agreement.

13 No representations

- 13.1 Neither party may rely on any representation which allegedly induced that party to enter into this agreement, unless the representation is recorded in this agreement.

14 Variation, cancellation and waiver

- 14.1 No contract varying, adding to, deleting from or cancelling this agreement, and no waiver of any rights under this agreement, shall be effective unless reduced to writing and signed by or on behalf of the parties.

15 Indulgences

- 15.1 If either party at any time breaches any of that party's obligations under this agreement, the other party ("the aggrieved party"):
- 15.1.1 May at any time after that breach exercise any right that became exercisable directly or indirectly as a result of the breach, unless the aggrieved party has expressly elected in writing of a clear and unambiguous conduct, amounting to more than mere delay, not to exercise the right (if the aggrieved party is willing to relinquish that right, the aggrieved party will on request do so in writing). In particular, acceptance of late performance shall for a reasonable period after performance be provisional only, and the aggrieved party may still exercise that right during that period.
- 15.1.2 Shall not be stopped (i.e. prevented) from exercising the aggrieved party's rights arising out of the breach, despite the fact that the aggrieved party may have elected or agreed on one or more previous occasions not to exercise the rights arising out of any similar breach or breaches.

16 Applicable law

- 16.1 This agreement shall be interpreted and implemented in accordance with the laws of the Republic of South Africa.

17 Blacklisting Clause

- 17.1 The Service Provider may, without prejudice to any other rights which it may have under this agreement or at law:
- 17.1.1 Notify credit bureaus of the subscriber's default; and
- 17.1.2 Blacklist the equipment to prevent the further use thereof.

18 Acknowledgements

- 18.1 The subscriber acknowledges having read and accepted the terms and condition of the Acceptable Use Policy on the iSpot website, the terms and conditions in the installation of the terminal equipment as well as the terms and conditions as set out here