

HelloSMS TERMS AND CONDITIONS

1 SCOPE OF AGREEMENT

- 1.1 The parties agree to abide by the terms and conditions specified in this document which shall take effect upon the Client using the services referred to herein.
- 1.2 Additional to the terms and conditions as indicated in this document, the Client will also need to adhere to the Code of Conduct and Advertising Rules of the Wireless Application Service Providers' Association (WASPA), as per the web site <http://www.waspa.org.za> .
- 1.3 The Client intends to send and/or receive various Short Message Service messages (SMSs) and/or also offer premium rated SMS campaigns (referred to as "messages" in this document) to and/or from various subscribers who have GSM enabled devices connected to the three local GSM networks in South Africa.
- 1.4 The WASP, Stouf Communications (Pty) Ltd or it's partnership company W3MS Trading (Pty) Ltd, hereinafter referred to as Stouf, can receive, aggregate and deliver such messages through the HelloSMS messaging platform, connected to the three GSM networks in the local market.
- 1.5 The Client will be activated on HelloSMS once he has completed the Registration process in HelloSMS. The related monthly subscription charge will be deducted by direct debit from the Client's bank account on the first day of the following calendar month. The first direct debit will include a pro-rata portion of the subscription charge for the month of registration, together with the full monthly subscription charge for the following month. Thereafter, direct debits will take place on the first day of every month.
 - 1.5.1 The Client will be granted 100 Free SMS on the 10th day of every month, provided the monthly subscription charge has been paid. This facility is not applicable to post-paid Clients.
- 1.6 Following registration and activation the Client will be able to log on to the HelloSMS messaging platform via the internet, using the log-in details as captured by the Client during the registration process. Once logged in, the Client has access to the Send SMS module (sending MT messages), the SMS Competitions module (receiving MO messages) and the eMail-to-SMS module (sending MT messages via the Client's eMail client) of HelloSMS.
- 1.7 A premium rated message sent to HelloSMS by a subscriber is indicated by HelloSMS as a Mobile Originated (MO) message and a message sent by HelloSMS or eMail-to-SMS and received by the participant/subscriber is indicated by HelloSMS and by eMail-to-SMS as a Mobile Terminated (MT) message.

- 1.8 Stouf will leverage a cost per MT message sent and share revenue per premium rated MO message received. Detail of the MT pricing is in Annexure A. Detail on premium rated MO message revenue sharing is in Section 4. The Client will be able to effect prepaid purchases of SMS (MT message) bundles via the purchasing function within the Send SMS module. The Client will be required to transfer the amount/s reflected on the relevant invoice as requested by the HelloSMS system and to fax or e-mail proof of payment to Stouf as requested by the HelloSMS system.
- 1.9 The Client will be able to create and manage premium SMS campaigns via the SMSCompetitions module. Each campaign has a standard setup fee as per Annexure A. The Client will be required to pay the setup fee before the campaign will be activated. The Client will share revenue per premium rated MO message received, as detailed in Section 4. Each premium rated MO message received can be replied to by an optional auto-response MT message, with costing as per Annexure A. The revenue share and auto-response payment process are detailed in Section 4 and Annexure A.
- 1.10 The Client will be able to set up eMail-to-SMS in HelloSMS and then send MT messages and receive replies from within his eMail service. eMail-to-SMS will attract a monthly subscription charge as detailed in Annexure A. The available credits for eMail-to-SMS will be controlled by the same routine within HelloSMS that manages available credits for the SendSMS module. The SMS bundles and purchasing process discussed in 1.8 above will apply.
- 1.11 Stouf will have the right to increase the current prices if and when one or more of Stouf network providers or channel partners increase their pricing structures that result directly in an increase in the cost to Stouf of providing the messaging service(s) to the Client. Stouf will notify the Client of such price increase immediately of it becoming effective. Furthermore, Stouf will have the right to periodically increase its pricing structure. However, Stouf will notify the Client of such price increase, at least two months in advance.
- The Client will then have the option to terminate this agreement on notice to Stouf within 15 (fifteen) days from the date on which Stouf notified the Client of such price increases.
- 1.12 The Client shall pay all amounts due to Stouf according to the bank details as indicated on the HelloSMS system.
- 1.13 Stouf reserves the right to amend the account details on written notice to the Client.

2 COMMENCEMENT AND DURATION

This agreement shall commence on the date of online acceptance by the Client and thereafter shall, continue indefinitely unless terminated on one calendar month written notice by either party to the other.

3 NUMBER ALLOCATION AND KEYWORDS

The following 5-digit numeric premium rated MO numbers (“short codes”) are allocated by the local GSM networks to Stouf for the HelloSMS service in order to offer a campaign service.

SMS Value	SMS CODE
R 0.86	31010
R 1.00	32060
R 1.50	33040
R 2.00	34030
R 3.00	35060
R 5.00	36070
R 7.50	37050
R 10.00	38050
R 15.00	39040
R 20.00	40060
R 25.00	41030
R 30.00	42050

"Keyword" means a string of alphanumeric text that is separated from other text in a MO SMS by a “space” character before and after the Keyword. Each campaign in HelloSMS can have up to three unique Keywords. The subscriber will have to make use of Keywords in order to participate in HelloSMS campaigns.

4 REVENUE SHARE ON PREMIUM RATED MESSAGES

The following tables indicate the revenue share Stouf as a Wireless Application Service Provider (WASP) receives from the local GSM networks for premium rated services, called Third Party Revenue (TPR).

For MTN traffic:

MTN			
TARIFF		TPR	
		EXCL. VAT	
INCL. VAT	EXCL.	AMOUNT	%
R 0.86	R 0.75	R 0.25	32.95%
R 1.00	R 0.88	R 0.33	37.24%
R 1.50	R 1.32	R 0.61	46.04%
R 2.00	R 1.75	R 0.88	50.44%
R 3.00	R 2.63	R 1.44	54.83%
R 5.00	R 4.39	R 2.56	58.35%
R 7.50	R 6.58	R 3.95	60.11%
R 10.00	R 8.77	R 5.35	60.99%
R 15.00	R 13.16	R 8.14	61.87%
R 20.00	R 17.54	R 10.93	62.31%
R 25.00	R 21.93	R 13.72	62.57%
R 30.00	R 26.32	R 16.51	62.75%

For Vodacom traffic:

VODACOM			
TARIFF		TPR	
		EXCL. VAT (AMOUNTS)	
INCL. VAT	EXCL.	POST-PAID	PRE-PAID
R 0.90	R 0.79	R 0.30	R 0.26
R 1.00	R 0.88	R 0.37	R 0.33
R 1.20	R 1.05	R 0.52	R 0.46
R 1.50	R 1.32	R 0.75	R 0.66
R 2.00	R 1.75	R 1.12	R 0.99
R 3.00	R 2.63	R 1.86	R 1.66
R 5.00	R 4.39	R 3.36	R 2.98
R 7.50	R 6.58	R 5.22	R 4.64
R 10.00	R 8.77	R 7.08	R 6.29
R 15.00	R 13.16	R 10.81	R 9.60
R 20.00	R 17.54	R 14.54	R 12.91
R 25.00	R 21.93	R 18.27	R 16.23
R 30.00	R 26.32	R 22.00	R 19.54

For Cell C traffic:

CELL C			
TARIFF		TPR	
		EXCL. VAT	
INCL. VAT	EXCL.	AMOUNT	%
R 1.00	R 0.88	R 0.29	32.89%
R 1.50	R 1.32	R 0.59	44.52%
R 2.00	R 1.75	R 0.89	50.63%
R 3.00	R 2.63	R 1.48	56.37%
R 5.00	R 4.39	R 2.68	60.94%
R 7.50	R 6.58	R 4.17	63.32%
R 10.00	R 8.77	R 5.66	64.51%
R 15.00	R 13.16	R 8.64	65.66%
R 20.00	R 17.54	R 11.62	66.26%
R 25.00	R 21.93	R 14.61	66.60%
R 30.00	R 26.32	R 17.59	66.82%

Stouf will share 80% of TPR with the Client.

Stouf will have the right to change the above numbers and/or percentage of TPR with immediate effect and without notice by Stouf to the Client in an event where the applicable numbers/rates have been changed by the local GSM networks. However, Stouf will endeavor to notify the Client in advance, wherever possible, of such changes.

5. MESSAGING SERVICE

5.1 Security and Authentication:

Upon the commencement of this agreement, the Client's username and password will be activated and will be sent via e-mail to the Client. The Client's username and password will be the only identifiers by which Stouf will identify the Client whilst using the messaging

service(s). It is the Client's responsibility to ensure that the username and password are handled with care and not used negligently. The Client indemnifies STOUF against any claims, actions or damages as a result of the fraudulent or unauthorized use of the Client's username and password or loss thereof.

5.2 Risks and Indemnity:

Due to the nature of messaging service(s), Stouf cannot be held responsible for risks incurred through the use of the messaging service(s), as well as all risks associated with data security, privacy, availability and reliability of messaging processing and transmission. Thus, the Client is fully and exclusively liable for any and all risk resultant from the use of the messaging service(s) and indemnifies Stouf against any and all claims made by the Client, Clients of the Client or any third party in this regard.

5.3 Limitation of Liability:

5.3.1 The messaging service(s) and all information, products and other content (including third party information, products and content) included in or accessible from the messaging service(s), and are subject to change at any time without notice to the Client. To the fullest extent permitted by law, Stouf disclaims all liability for any representations and warranties (express, implied and statutory) as to the messaging service(s) and all information, products and other content (including third party information, products and content) included in or accessible from the messaging service(s).

5.3.2 In no event shall Stouf be liable for any damages, claims, costs, expenses or losses whatsoever which may be suffered by the Client, Clients of the Client or any third party, including but not limited to any direct, indirect, special, consequential, punitive or incidental damages, or damages for loss of use, profits, data or other intangibles, or the cost of procurement of substitute goods and services, arising out of or related to the use, resale, inability to use, unauthorized use, performance or nonperformance of the messaging service(s), or anything done or not done pursuant to this agreement even if Stouf has been advised previously of the possibility of such damages and whether such damages arise in contract, negligence, delict, under statute, at law or any other cause without limitation and whether this agreement is cancelled or not and the Client indemnifies STOUF against all and any claim/s in this regard.

5.4 Access to the messaging service(s):

Stouf shall use all reasonable endeavors to ensure that the messaging service(s) are available on a 24-hour, 7 days-a-week basis. The quality of the messaging service(s) provided hereunder shall be consistent with industry standards, government regulations and sound business practices. Stouf's Support Process is detailed in Appendix A hereto.

The Client is responsible for obtaining all devices and services necessary to enable access to the messaging service(s) and the use of such messaging service(s).

6. NATURE OF MESSAGING SERVICES

6.1 Message Delivery:

The Client acknowledges and accepts that the provision of the messaging service(s) may be enabled through agreements with various mobile network operators and Stouf is therefore only able to act under the conditions imposed through such agreements.

The receipt of messages is subject to the availability and performance of the MTN network and the originating network's technical systems and network and cannot be guaranteed by Stouf. Specifically, messages submitted through a foreign network or

MTN network will be transferred from the recipient's mobile terminal within times ranging from a few seconds to a few minutes depending on the conditions prevalent at the time of submission.

6.2 Message Content:

The Client accepts full responsibility for the content of messages transmitted by Stouf on the Client's behalf. The Client agrees not to submit any messages for transmission by Stouf, the content whereof is improper, immoral or unlawful or which contains any violent, offensive, discriminatory, illegal or pornographic material. The Client must

reasonably ensure that the content of messages does not cause disturbance or harassment to the recipient thereof. Stouf is bound to ensure the delivery of a valued service and will not tolerate spamming of messages by the Client.

Therefore the Client is not permitted to send messages to recipients who have advised that they do not wish to receive messages of a particular or any kind. Failure to abide by the provisions of this clause will result in the immediate and automatic suspension of access to the messaging service(s). In such event the Client shall forfeit all fees previously paid to Stouf and shall have no recourse to any such fees, including service fees, and the Client shall be liable for and hereby indemnifies Stouf (including its agents, shareholders, employees, officers and subsidiaries) against all and any claims, loss, costs, expenses or damages howsoever caused as a consequence of the failure by the Client to abide by the provisions of this clause.

6.3 Submission of Large Message Volumes:

When the Client requests a large number of messages to be transmitted the quality of the messaging service(s) may be degraded due to capacity and technical constraints imposed by the Networks.

In such instances, delays may be encountered and Stouf cannot be held liable for consequences resulting from such service degradation. Stouf shall use all reasonable endeavors to ensure, but cannot guarantee, that such delivery shall be made without disruption.

6.4 Privacy of Message Content:

6.4.1 The handling of messages submitted through the local GSM networks is subject to South African privacy laws. Stouf may be required to maintain message logs of all transmissions and to further make such messaging transmission reports available to government and legal authorities upon explicit request.

6.4.2 The Client acknowledges that messages are transmitted in an unencrypted format and as such Stouf cannot guarantee against eavesdropping of messages at any stage.

6.5 Changes to Message Service Offerings and Content:

Stouf reserves the right to modify, enhance, temporarily suspend and further develop the messaging service(s) or its service offerings and contents on notice to the Client.

7. CLIENT'S RESPONSIBILITIES AND LIABILITY

7.1 Malicious Disruptions and Damages:

Should the Client be implicated of malicious disruptions or damages to the messaging service(s), the Client shall be liable for all damages (whether direct or indirect) and associated costs resultant from such malicious activity.

7.2 Termination of the Messaging Service(s):

7.2.1 At any time during the tenure of this agreement, the Client acknowledges that Stouf reserves the right to suspend or terminate the Client's username and/or password, discard and remove any content, for any reason, including without limitation, for nonuse of the messaging service(s) or if Stouf, in its reasonable opinion, believes that the Client has contravened or breached any provision of this agreement on notice to the Client.

7.2.2 The Client also fully understands, accepts, and further indemnifies Stouf fully against any claims by the Client or any third party as a result of such termination of the messaging service(s), or part thereof.

8. MESSAGING BILLING METHODOLOGY:

The Client agrees to pay the fees and charges to Stouf as indicated by the HelloSMS system dependent on the type of service(s) requested by the Client. Refer to Annexure A for more detail on costs related to these services. Should there be a disputed transaction, Stouf shall endeavor to make the necessary investigations to the best of its abilities and attempt to rectify the discrepancy, but should such investigations prove to be inconclusive, the message transaction logs, as maintained by Stouf shall be deemed to be true and accurate for accounting purposes.

A message will be billed for, once that message has been successfully submitted to Stouf gateway. The Client's account will however be refunded with the relevant amount of message credits if messages could not be sent due to direct related problems with STOUF's messaging platform, MTN's messaging infrastructure or wrongful information on Stouf's messaging platform regarding network availability. In the event that a message exceeds the minimum 160 characters, the client will be billed for two SMS's

9. COMPLAINTS

All complaints relating to the messaging service(s) provided to the Client must be directed

to Stouf, in writing and within 7 business days of the event causing the objection at the following address.

Private Bag 1595

Glenvista

2058

South Africa

Marked for the attention of "Financial Director".

10. INTELLECTUAL PROPERTY RIGHTS

The information, media, systems, content and messaging service(s) provided by Stouf for the Client's use, including all intellectual property rights therein, is the sole property of Stouf and the Client shall at no stage acquire any rights therein or thereto.

11. APPLICABLE LAW

The laws of the Republic of South Africa govern this agreement. The Client fully acknowledges that any disputes resulting in legal intervention shall be concluded within the jurisdiction of the Republic of South Africa and that the applicable laws of the Republic of South Africa shall prevail.

12. INTERPRETATION AND NULLIFICATION OF CLAUSES

12.1 Both parties agree to all aspects of this agreement and shall comply with all laws, regulations and restrictions that apply to them.

12.2 Any delay in the enforcement of any term of this agreement shall not be deemed to be waiver of such right(s).

13.ADDRESSES

13. 1 The Client's address and fax number for the delivery of all notices, including any legal notices, shall be the address and fax number provided by the Client on his online account.

13.2 Stouf's address for the delivery of all notices (excluding the address for billing related documentation which is indicated on the HelloSMS system), including any legal notices, shall be:

14 Esmarelda Crescent

Robindale, Johannesburg,

2194

South Africa

Fax No: 086 656 8742

Marked for the attention of "Financial Director".

13.3 A party may at any time change that party's address and/or fax number on 10 (ten) days notice in writing to the other provided that the chosen address consists of or includes a physical address.

13.4 Any notice given in connection with this agreement shall be delivered by hand or be sent by prepaid registered post or be sent by telefax subject to delivery confirmation.

13. 5 Notice, as set out above shall be deemed to have been duly given if delivered on the first business day after the date of delivery and if sent by post 10 days after posting and if sent by telefax on the first business day after the telefax is transmitted.

14. BREACH

14.1 Notwithstanding anything to the contrary contained in this agreement, should any party ("the defaulting party") commit a breach of any provision of this agreement and fail to remedy such breach within 14 (fourteen) days of receiving a written notice from the other party ("the aggrieved party") requiring the defaulting party to do so, the aggrieved party shall be entitled, in addition to its

other remedies in law or in terms of this agreement, to cancel this agreement forthwith and without prejudice to its right to claim damages; provided that if the defaulting party commits two or more breaches of any provision of this agreement in any 6 (six) month period of this agreement, irrespective of whether or the breach is remedied by the defaulting party, the aggrieved party shall be entitled, without prejudice to any of its other rights or remedies in law or under this agreement, to terminate this agreement forthwith by notice in writing to the defaulting party.

14.2 In the event that Stouf terminates this agreement in terms of clause 12.1, the Client shall forfeit all fees previously paid to Stouf and shall have no recourse to any such fees, including service fees, and the Client shall be liable for and hereby indemnifies Stouf (including its agents, shareholders, employees, officers and subsidiaries) against all and any claims, loss, costs, expenses or damages howsoever caused as a consequence of the failure by the Client to abide by the provisions of this clause.

15. SEVERABILITY

If any provision in this Agreement is found by any court of competent jurisdiction to be invalid, unlawful or unenforceable, such provision shall not invalidate the remaining provisions of this Agreement.

MOBILE NUMBER PORTABILITY

Until further notice, Stouf cannot support a return path service (MO messaging) for numbers that have been ported and the Client will have no claim against Stouf in this regard.

ANNEXURE A

All prices include VAT

Subscription:

Monthly Subscription Fee:

ZAR 100.00

Additional Monthly Subscription for eMail-to-SMS:

First 10 eMail addresses: ZAR 0.00

eMail addresses > 10: ZAR 10.00 per eMail address

Price Structure for Bulk Messaging:

MT SMS Batch Purchases:

Batch of 500 SMS's: ZAR 0.29 per MT SMS

Batch of 1,000 SMS's: ZAR 0.28 per MT

SMS Batch of 2,000 SMS's: ZAR 0.27 per

MT SMS Batch of 5,000 SMS's: ZAR 0.26

per MT SMS Batch of 10,000 SMS's: ZAR

0.24 per MT SMS

Price Structure for Premium Rated Messaging:

Once-off Set-up Fee per campaign:

ZAR 900.00 (The setup fee is payable on the date the campaign is created)

Return Path SMS Cost:

ZAR 0.29 per MT SMS (Optional Reply SMS's will be charged at R0.29 per SMS. This charge will be deducted from the Client's revenue share (TPR) provided the revenue share exceeds this charge. If the Reply SMS charge exceeds the

revenue share, a SMS credit will be deducted from available bulk SMS credits. If the Client has no available bulk SMS credits, the Reply SMS will not be sent.

ANNEXURE B

Applicable Dates and Processes:

Collection of Monthly Subscription:

Monthly subscription charges will be deducted on the first day of each month via direct debit from the bank account provided by the Client upon Registration. The Client can effect changes to the banking details by sending an eMail to support@hellosms.co.za

Payment of Client share of TPR:

Stouf will present a reconciliation of the Client's share of TPR (see Section 4 above) to the Client between the 20th and 30th of each month for the previous month's figures, requesting the Client to submit an invoice for payment.

Stouf will pay against the invoice received only once the Networks have settled with Stouf, which is usually within about 60 days from receipt of invoice. In addition, such payment is subject to the Client's share of TPR for the month in question being at least R300 (three hundred rand) per campaign. Should the Client's share of TPR be less than R300 per campaign, the Client's share of TPR for that campaign for that month will be forfeit.

Support Process

The Support Helpdesk will be operated between the hours of 08:00 to 17:00 (GMT +2) on normal business days.

Contact Details:

Telephonic Support: +27 83 916 6363

eMail Support: support@hellosms.co.za