

# SUBSCRIPTION CONTRACT TERMS & CONDITIONS

ComACC CC SUBSCRIPTION CONTRACT TERMS AND CONDITIONS

Effective as of 1 April 2008

THIS DOCUMENT DESCRIBES THE TERMS AND CONDITIONS UNDER WHICH ComACC CC WILL PROVIDE ITS SERVICE TO YOU. PLEASE ENSURE YOU READ THESE TERMS AND CONDITIONS BEFORE YOU SIGN THE SUBSCRIPTION CONTRACT. PLEASE KEEP THIS DOCUMENT FOR YOUR RECORDS.

To contact ComACC CC:

Telephone: +27 11 425-4420 +27 82 642-6733 (South Africa)

Facsimile 086 503-2702

Email comacc@comacc.co.za

Website: www.comacc.co.za

## 1. FEES AND CHARGES

- 1.1 The fees and charges referenced in this Contract are listed in our Pricing Guide, or quote received from ComACC CC. ( the quote taking precedence)
- 1.2 You must pay the following within 10 days of your Activation Date:
  - a. the Domain Registration fee;
  - b. the Activation Fee; and
  - c. any Additional Fees payable.
- 1.3 You must pay any goods and services tax, duty, levy or charge in the nature of a goods and services tax or like charge assessed or imposed in respect of any product or service supplied by us ("Other Charges").
- 1.4 The Subscription Fee must be paid monthly on the 1<sup>st</sup> working day of the month by one of the approved payment methods.
  - a. Debit Order;
  - b. Electronic Funds Transfer (EFT)
  - c. Cash deposit into our account
- 1.5 If any amount owed to us by you is overdue, we may, upon reasonable notice to you, deactivate the Service until payment is received in full.
- 1.6 If a payment is dishonored or rejected, we will charge you for any associated fees and charges which we incur as a direct result.
- 1.7 You will be charged Additional Fees for the provision upgraded services.
- 1.8 You must complete all relevant documentation in relation to the payment method that you have chosen and ensure that there are sufficient funds available through your financial institution to meet your obligations under the Contract.
- 1.9 We may pay a commission to any person or entity who introduces a person or entity to us.

## 2. EQUIPMENT

- 2.1 Any equipment necessary to receive our services must be purchased by the subscriber, outside of the subscription agreement, unless otherwise stated and reduced in writing
- 2.2 You will need to pay a third party for access to the internet

## 3 Intellectual Property

- 3.1 Unless otherwise stated all scripts, code, pictures, logos, video clips etc remain the property of ComACC CC and may not be reproduced, tampered with, copied, resold, or any alteration permitted to them unless prior written permission is granted by ComACC CC
- 3.2 All logos remain the copywrite of the relevant parties involved

## 3. WARRANTIES AND AUTHORITIES

- 3.1 You authorize us to use your information in accordance with our Privacy Policy. You must immediately notify us of any changes to the details provided by you.
- 3.2 If you wish to authorize another person to have access to your account details so we can speak to them about your account, contact us and this can be arranged.
- 3.3 You indemnify us against any claim made against us by any owners' corporation, person or entity subsequent to the publishing of the internet site, due to publishing, removal, replacement or maintenance of the web site or provision of the Service, including but not limited to the cost of removing and or suspension of the service if you have not obtained their permission prior to the publication of the site

## 4. SERVICE

- 4.1 We will activate the Service once you have confirmed you have agreed to enter the Contract.
- 4.2 We will provide you with the Service from the Activation Date in accordance with the Contract and the terms of any promotional offer under which you sign up.
- 4.3 We will give you at least 14 days' notice of any changes or additions which we make to the Contract which we reasonably consider may have more than a minor detrimental impact on you. If any change or addition to the Contract does have more than a minor detrimental impact on you, you may end the Contract by notifying us within 14 days of the date of the notice by giving us 30 days' written notice.

We may from time to time vary ComACC CC Services and, products, or location:

- a. in order to improve the Service;

- b. due to our relationship with third party suppliers;
- c. to comply with any relevant laws or regulation; or
- d. to maintain commercial viability.

4.4 We may increase our fees and charges to reflect any increase in the Consumer Price Index by providing you 14 days' notice of the increase.

#### **5. LIMITATION OF LIABILITY**

- 5.1 We cannot and do not accept responsibility for any interruption to the Services due to third party suppliers, network availability or weather.
- 5.2 We do not warrant or represent that the web site content is suitable for viewing by any particular audience. We do not accept responsibility for the accuracy of information contained in the web site.
- 5.3 We do not accept any liability for any damage to your equipment which may occur due to using the Services, email, FTP or internet including any burn-in suffered to your computer monitor.
- 5.4 You will be liable for all loss, damage or reasonable costs incurred by ComACC CC as a result of any serious breach of the Contract or reckless or negligent act by you or anyone authorized to use your account. For the avoidance of doubt, any form of unauthorized use of the Services or your account is a serious breach of the Contract.
- 5.5 We shall not be liable for default or failure in performance of our obligations under the Contract resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, insurrection, accidents, fires, explosions, earthquakes, floods, the elements, power surges, strikes, labour disputes, shortage of suitable parts, components, materials or transportation or any other cause beyond our reasonable control.

#### **6. TERM OF THE CONTRACT**

- 6.1 The Contract will commence on the Activation Date and continue for the Term stated in the Subscription Contract or until this Contract is validly terminated.
- 6.2 We will provide you with the Service after the Term ends on a monthly basis on the Terms and Conditions of the Contract, until either of us terminates the Contract.
- 6.3 You are not permitted to downgrade your Service to a lesser value Service during the initial Term.
- 6.4 If you elect to take any Additional Subscription Services, you agree to subscribe for the minimum term of that Additional Subscription Service as advised.

#### **7. TERMINATION**

- 7.1 You may terminate the Contract by exercising any right you may have under any applicable legislation. That legislation will prevail if there is any inconsistency between the Contract and such legislation.
- 7.2 You may terminate the Contract after the Term stated in the Subscription Contract has expired by giving us one calendar (1) month's prior written notice.
- 7.3 You may terminate the Contract within term by paying the Subscription Fees due for the remainder of the Term.
- 7.4 You may terminate the contract without penalty if the Service is interrupted for a continuous period of 21 days.
- 7.5 We may terminate the Contract:
- a. upon reasonable notice to you if any monies payable by you are overdue for more than fourteen (14) days;
  - b. upon notice to you if you breach any material obligation under the Contract;
  - c. by one (1) month's written notice to you if you are outside the term of your Contract; or
  - d. upon notice to you if we have reasonable belief that you have engaged in conduct which is unlawful in relation to the Services, or which may cause us harm, or cause harm or distress to any of our employees, representatives, or subscribers
- 7.6 We may terminate the Contract if we discover that you did not obtain permission from any owner's corporation, person or entity from whom permission was required to be obtained prior to the publishing of the web site.
- 7.7 On termination of the Contract all rights accrued in favor of either party against the other party shall continue.
- 7.8 On the termination of the Contract, unless otherwise specified in these Terms and Conditions, you must immediately pay us:
- a. all Subscription Fees and other amounts which are owed by you; and
  - b. all Subscription Fees which have not yet fallen due for payment for the remainder of the Term.
- 7.9 On the termination of the Contract, you must follow any directions we give you about the return or removal of any copywritten material. Failure to do so will mean we can charge you for said material.
- 7.10 If we terminate the Contract within the Term due to monies payable by you being overdue for more than fourteen (14) days, you can reactivate the Service within 30 days of the date of termination by paying any overdue Subscription Fees as well as the Reactivation Fee as set out in the Pricing Guide

#### **9. ASSIGNMENT**

- 9.1 We may transfer or assign our rights and obligations under the Contract to any other person or company. We will notify you of any such transfer or assignment.

#### **10. PRIVACY POLICY**

- 10.1 This Privacy Policy sets out our policy on the management of your personal information. We are committed to ensuring the proper use of that information.. This Policy may be updated from time to time.
- 10.2 We will only collect personal information that is necessary for one or more of our legitimate functions or activities and will only do so by lawful and fair means and not in an unreasonably obtrusive way.

10.3 We will collect, record and store personal information about you when you register as a subscriber to the Service or when you enter or apply for promotions run by us.

10.4 The personal information collected by us is or may be used:

- a. For billing purposes;
- b. To maintain your account;
- c. To notify you about new products or services from time to time;
- d. To provide customer support;
- e. To provide you with products, services or information that you have requested;
- f. To streamline and personalize your experience while dealing with us; and
- g. To tailor our information, services or products in order to improve and enhance those services and products we provide for you.

10.5 We may also use personal information for the purpose of direct marketing. However, we may only use your personal information or data in relation to promotional activities where it is impracticable for us to obtain your prior express consent. Whenever we do this we will provide an express opportunity when we first contact you to decline receiving any further marketing communications from us.

10.7 Information collected by us may also be combined and de-identified to provide us with anonymous demographic and usage information. We will then use this aggregated information to develop new and/or more appropriate services and products to offer to customers.

10.8 We will only pass on personal information about you to other companies or people when:

- a. we need to share your information in order to provide the product or Service you have requested;
- b. we have your consent to share the information;
- c. we need to pass on the information to companies that provide programming or work on behalf of, or in conjunction with us, in order to provide a product or service to you;
- d. we need to pass on the information to companies for the purpose of assessing credit applications;
- e. we need to pass on the information to companies to ensure you meet your obligations under the Contract;
- f. we need to pass on information to research houses for the purpose of analyzing the Service we provide to you;
- g. we are required to respond to subpoenas, court orders or any legal process or responsibility.

10.9 If you tell us that you do not wish to have your personal information used or disclosed for a particular purpose we will respect your wishes, unless this is not legally or practicably possible.

10.10 For the purposes of clause 10.8, personal information may be accessed and viewed by authorized information technology consultants and other systems administrators for the sole purpose of maintaining an effective recording and accounting network system.

10.11 We will take reasonable steps to ensure that the personal information we collect, use or disclose is accurate, up to date and complete.

10.12 We will take reasonable steps to protect the security of personal information held by us.

10.13 We only permit personal information to be accessed by authorized personnel.

10.14 We will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose.

10.15 Subject to verification of identity, personal information may be accessed at any time by request of the person to whom the information relates.

10.19 We will only use personal information in this way if it is necessary to do so in order that we are able to provide you with services and products that you have requested.

10.21 We will not collect, use or disclose sensitive information (such as information about political or religious beliefs or racial or ethnic origins) except with your consent.

## **11. MISCELLANEOUS**

### **The Contract**

11.1 The Contract contains the whole agreement between you and us with regard to subscription to the Service. The Contract can only be amended with our agreement.

11.2 Any provision of the Contract which is illegal, void or unenforceable will be ineffective to the extent only of that illegality, voidness or unenforceability without invalidating the remaining provisions.

### **Governing Law and Jurisdiction**

11.3 This Contract, and any proceedings arising from the Contract, shall be governed by the law of South Africa.

11.4 Both parties to the Contract submit to the exclusive jurisdiction of the courts of South Africa.

### **Language used in the Contract**

11.5 Words in the singular include the plural and vice versa. Words importing any gender include all genders. Words importing persons include companies and vice versa.

11.6 The headings are a guide only to the meaning of words. They constitute part of the context within which the words used in the Contract must be construed and should be taken into consideration in determining the meaning of those words in case of ambiguity. The headings do not, however, limit the generality of words used in the Contract.