**Appendix 8**

**Contract**

**INTERNATIONAL A2P SMS AGREEMENT**

Made by and between the undersigned:

**\*\*\*\*\***, a company incorporated at the Register of Commerce in \*\*\*\* under № \*\*\*\*, whose registered office is located \*\*\*\*\*\*\*

(hereinafter referred to as the “First Party” or “\*\*\*\*\*\*\*\*\*\*“).

**AND**

**Mobile Interim Company No. 2 S.A.L. (MIC2)**, a Lebanese company registered with the Commercial Register ofBeirut under number /1000382/, and with the Ministry of Finance VAT department under No /291711-601/, having its head office located at Touch Building (Beirut Central Building - Block B), Fouad Chehab Avenue, Bashoura, Beirut, Lebanon and represented by its Chairman General Manager Mr. Salem Itani and Chief Financial Officer Mrs. Nibal Matta Salameh,

(hereinafter referred to as the “Second Party” or “MIC2”)

Both herein after referred individually to as “Party” or collectively as “Parties”.

**PREAMBLE**

Whereas, MIC2 operates the second mobile network for the account and for the benefit of the Republic of Lebanon;

Whereas, MIC2 had launched a Public Auction for the provision of International A2P SMS services;

Whereas, the First Party, based upon the proposal it has submitted under the said Public Auction, has been selected to be the service provider of International A2P SMS services and subsequently was awarded the Agreement for the provision of the said services;

IT IS NOW AGREED BETWEEN BOTH PARTIES ON THE FOLLOWING:

**1.** The above Preamble, as well as all Annexes attached hereto constitute an integral part of this Agreement.

**2. SCOPE**

2.1. Subject to the terms and conditions of this Agreement, on an exclusive basis, the Parties shall provide each other the services (Hereinafter referred to as "Services") defined and described in Annex 1 - Services, attached hereto.

2.2. The Parties may mutually agree in writing to add or remove Services to or from this Agreement by means of an Addendum to be signed by the Parties and attached to this Agreement.

**3. PRICE, PAYMENT AND TAXES**

3.1. The Services shall be provided at the pricing as determined in Annex 1-Services, attached hereto.

First Party acknowledges that MIC2 in coordination with the Ministry of Telecommunications may change the price at any time in alignment with the provisions of Article 29 of the new Public Procurement Law No. 244/2021. Also in alignment with said Article 29, the Ministry of Telecommunications is entitled to initiate a request for any price change, and in both cases, both Parties undertake to execute such change of price without any objection whatsoever.

MIC2 shall communicate by email the change in price to First Party within 24 hours from its occurrence, and the change in price will be effective and applicable the following day from notification of the First Party. The above-mentioned change in price will be followed by a subsequent addendum to be signed by both parties reflecting the said change.

Prices are exclusive of all taxes. Each Party shall settle taxes and levies as dictated by the Lebanese laws, rules and regulations.

3.2. For each contractual year, MIC2 shall issue one yearly invoice for the yearly minimum committed volume of successfully delivered SMS,

The settlement of the annual invoice shall be done through two equal prepayments, whereby the First Party shall pay in advance the amount due for the first six (6) months within thirty (30) days from the issuance of the yearly invoice referred to in above Clause (3.2), and in advance within thirty (30) days from the beginning of the second six (6) months.

3.3. Once the First Party exceeds the volume of minimum commitment, MIC2 will issue a new invoice for the excess amount of successfully delivered SMS due ((excess volume \* SMS rate) + VAT (if applicable)) and the invoice shall be due to be settled within 30 days from its issuance.

3.4. All invoices under this Agreement shall be issued and settled exclusively in Euro currency. Settlement shall be made through direct bank wire transfer strictly from a bank account outside of Lebanon or from a local Lebanese bank to be pre-approved by MIC2, to MIC2’s bank account number that shall be specified by both parties within a letter to be notified to each other upon the signature of the two parties on the Agreement.

The transfer or the conversion of funds from any currency into EURO shall be carried by the First Party free of any charge whatsoever to MIC2, that is without imposing any financial burden such as expenses, transfer fees, or others on MIC2.

3.5. PERFORMANCE BOND

3.5.1. Within fifteen (15) days from the date of the signature of this Agreement, and in line with the provisions of Article 35 of the Public Procurement Law no. 244/2021, First Party must submit an “on first demand” international irrevocable bank guarantee for the benefit of MIC2 in a form and content to be pre-approved by MIC2 prior to its issuance. In the event of failure to submit the said performance bond, MIC2 shall execute the bid bond submitted during the public auction and apply the provisions of article 33 of the Public Procurement Law no. 244/2021.

3.5.2. The said Guarantee must be valid for the entire term of the Agreement and shall remain in force and continue to be effective from its date of issuance up until MIC2 releases the guarantor in writing and return its original copy to the First Party.

The First Party hereby undertakes to submit the abovementioned bank guarantee for a value representing 10 % of the total committed revenues to be generated during the entire term of the Agreement, being 3 years.

3.5.3. The issuing bank must be an international recognized bank whose last two years credit rating was at least “A” (or equivalent) for long term and “A1/A2” (or equivalent) for short term, unless otherwise pre-agreed by MIC2.

3.6.4. The payment of the guarantee shall be made directly into the bank account that MIC2 will indicate.

3.6. **BILLING DISPUTES**

3.6.1. The First Party’s billable traffic (successfully delivered A2P SMSs) will be based on MIC2’s generated CDRs. If any dispute concerning the accuracy of billing data recorded by either party’s network, The First Party shall so notify MIC2 in writing within three (3) calendar days from the occurrence of the said dispute. Said notice shall set forth in writing all details concerning the disputed traffic.

3.6.2. Parties shall co-operate to investigate promptly any dispute concerning the accuracy of any billing data recorded by either Party’s network, or any other amount payable under this Agreement. The disputing Party shall notify the other of any such dispute in writing.

3.6.3. In the event where the Parties are unable to reach agreement within two (2) weeks from the receipt of the abovementioned notice, then the dispute shall be submitted before the competent courts of law in Beirut and settled under the Lebanese laws, rules and regulations.

**4. NON-SETTLEMENT OF DUES**

In the event of failure by the First Party to settle MIC2’s dues as per the payment terms agreed upon hereinabove, that is within (30) days from relating Invoice issuing date, MIC2 shall be entitled to execute the Performance Bond submitted as per clause 3.5 hereinabove without prejudice to other legal remedies available including the termination of the agreement as per the provisions of clause 7 hereinbelow.

**5.** **UNSOLICITED TRAFFIC**

The First Party undertakes to implement industry-standard fraud detection and prevention mechanisms including but not limited to: spamming, spoofing, faking, grey route, SIM boxes, flooding, Artificially Inflated Traffic (*AIT*) and other unauthorized A2P termination.

5.1. First Party undertakes that it shall not use any Services for any illegal, immoral or improper purpose, or in any manner which contravenes applicable laws and codes, regulatory requirements of the appropriate jurisdiction in Lebanon or Mobile Operator requirements as they exist and as they change over time, and will do its best effort not to allow any third party to do so.

For the same purpose, First Party shall fully abide by the terms of the Deontology Code signed and attached hereto to form an integral part of this Agreement

5.2. Both Parties shall co-operate to prevent, detect and/or eliminate fraudulent use of the Messaging Interworking Services.

The First Party shall not engage, directly or indirectly, in any activity that exploits the firewall of MIC2 to facilitate fraudulent SMS traffic or affect other traffic such as damaging the genuine cases.

The First Party shall not engage in or facilitate any form of Artificially Inflated Traffic (AIT) or international A2P SMS trashing. In the event that any such Artificially Inflated Traffic (AIT) or international A2P SMS trashing is identified by any means (such as testing, audits, investigations, or complaints) and is found to involve the First Party, MIC2 shall have the right to claim damages and terminate the Agreement for breach in case of recurring violations.

5.3. Should the First Party choose to implement an enhancement to the A2P SMS traffic, the technical specifications of the proposed solution must be discussed with MIC2 and shall be subject to formal prior approval by MIC2.

5.4. If the First Party operates on more than one Lebanese network, the First Party undertakes not allow inter-operator A2P SMS bypass.

Any fraudulent behavior by First Party shall make First Party fully liable. In this event, First Party shall have the obligation to hold MIC2 harmless from and against any associated damages, penalties, losses, reputational harm, expenses or operational disruption incurred by MIC2, and shall give MIC2 the right to execute the Performance Bond submitted as per clause 3.5 hereinabove, in full, and terminate this Agreement without any liability upon MIC2 after notifying in writing First Party of such fraudulent behavior without being remedied in a period of (15) fifteen days starting from the date of notification.

5. 5. The First Party shall be liable for damages in the event of intent and gross negligence on its part, or the part of its statutory representatives or employees, or in the event of a breach of contractual obligations owing to neglect. In this case, MIC2 shall be entitled to execute the performance bond partially to the extent of the damages incurred. The amount of these damages shall be determined by MIC2 upon its sole discretion. MIC2 reserves the right to audit traffic patterns and investigate anomalies that may suggest fraud. The First Party agrees to fully and promptly cooperate with MIC2 in investigating any suspected fraud, including providing all necessary logs, message details, and relevant data to support such investigations. Delays in cooperation may be considered a breach of contract.

5.6. The First Party shall be required only to handle the international A2P SMS traffic terminated into MIC2’s network, and no other services related to SMS.

The First Party shall ensure that all valid, non-filtered SMS traffic received for routing is channeled to MIC2 without delay, modification, or suppression, unless prevented by force majeure or a documented technical fault.

5.7. The First Party shall be required to provide periodic reports including but not limited to statistical performance, geographical segmentation, SMS detailed report etc. and provide online access to MIC2’s technical and commercial teams for such reports.

**6. CONFIDENTIALITY**

6.1. For the purpose of this Agreement, the Parties undertake that they will keep confidential and will not use for their own purposes any information of a confidential nature, either directly or indirectly (“Confidential information”).

6.2. Notwithstanding the above, the Parties agree that information shall not be deemed Confidential Information and the Recipient shall have no obligation to hold in confidence such information, where such information:

(a) Is already known to the Recipient, having been disclosed to the Recipient by a third party without such third party having an obligation of confidentiality to the Disclosing Party; or

(b) Is or becomes publicly known through no wrongful act of the Recipient, its employees, officers, directors, or agents; or

(c) Is independently developed by the Recipient without reference to any Confidential Information disclosed hereunder; or

(d) Is approved for release (and only to the extent so approved) by the Disclosing Party; or

(e) Is disclosed pursuant to the lawful requirement of a court or governmental agency or where required by operation of law.

6.3. MIC2 may disclose Confidential Information to the Lebanese Ministry of Telecommunications.

6.4. The terms of this Clause shall survive expiry or earlier termination of this Agreement.

**7. TERM AND TERMINATION**

7.1. This Agreement shall be effective from the date of its signature by the Parties thereto and shall remain valid for an initial period of **three (3) years** (the Initial Term) thereafter.

7.2 Any termination of this Agreement shall be subject to the provisions of Article 33 of the Public Procurement Law no. 244/2021.

 In this event, MIC2 shall have the right to terminate this Agreement upon providing the First Party with a written notice of not less than fifteen (15) days specifying the nature of any breach or violation of this Agreement. If the First Party fails to cure such breach or violation within the said notice period, this Agreement shall be deemed terminated without further notice or obligation on the part of MIC2.

7.3. In the event of termination, the above provisions shall apply, in addition to the provisions of Article 40 of the Public Procurement Law no. 244/2021

7. 4 In the event of termination as per the provisions of above Clauses 7.2 and 7.3, MIC2 shall retain the entire amount paid by First Party for the yearly minimum commitment, in terms of additional compensation.

* 1. In all cases the termination shall not give the First Party the right to claim for any compensation of any kind and the First Party hereby waves its right to file such a claim.

**8. ASSIGNMENT**

The First Party shall not assign this Agreement, totally or partially, or any right or obligation hereunder.

However, MIC2 shall have the right to assign, transfer or purport all of its rights and obligations under this Agreement to the Republic of Lebanon or any of its designees, having given the First Party prior written notice of such assignment but without having to obtain their consent prior to such assignment.

**9. FORCE MAJEURE**

9.1. The Parties shall not be liable for any delay or failure of performance caused by a force majeure as defined by the Lebanese laws, rules and regulations, nor shall any delay or failure of performance due to the said force majeure effect be deemed a breach or a default in the performance of this Agreement.

However, the time within which a Party is required to perform any act under this Agreement shall be extended where the delay in the performance of the act is due to any of the events of the said force majeure. In this regard, the Party entitled to the extension of time under any of the provisions of this Agreement shall:

. Notify the other Party promptly of the occurrence of the event resulting in the delay;

. Use its best endeavors to abate the delay, as far as possible; and

. Perform the act delayed immediately after the abatement of the unavoidable delay unless the other Party shall have instructed it not to perform same.

9.2. If the event constituting the force majeure continues for a period of sixty (60) days, then either Party shall be entitled to terminate this Agreement by giving two (2) weeks’ notice in writing to the other Party.

**10. NOTICES**

Any and all notices permitted or required to be given hereunder shall be sent to the address first set forth above and deemed duly given upon actual delivery.

**11. GOVERNING LAW**

11.1. This Agreement, and all matters arising out of or relating to this Agreement, shall be governed by and interpreted in accordance with the laws of Lebanon, particularly the new Public Procurement Law No. 244/2021.

11.2. In the event there is a dispute between the Parties arising out of or otherwise relating to this Agreement, the Parties agree to try in good faith to resolve such dispute. Any and all such disputes that cannot be so resolved by the Parties, within fifteen (15) days from the beginning of the good faith trial mentioned herein, shall be submitted to the competent courts in Beirut and settled under the Lebanese laws, rules and regulations.

**12. GENERAL PROVISIONS**

12.1. The failure of either Party to enforce, at any time or for any period of time, the provisions hereof, or the failure of either Party to exercise any option herein, shall not be construed as a waiver of such provision or option and shall in no way affect that Party’s right to enforce such provisions or exercise such option. Any modification or amendment to this Agreement shall be effective only if in writing and signed by both Parties.

12.2. In the event any provision of this Agreement is determined to be invalid or unenforceable, the remainder of this Agreement (and each of the remaining terms and conditions contained herein) shall remain in full force and effect.

12.3. Each Party shall be responsible for its share of taxes and other fiscal duties as may be prescribed by the laws in force.

**13. ATTACHMENTS**

Annex 1 – Services

Annex 2 – The proposal submitted by First Party

Annex 3 – The Deontology Code

All 3 annexes constitute an integral part of this Agreement.

**14. Signature**

This Agreement has been signed in Beirut on …………………………, in (2) two originals, one being retained by each Party hereto.

|  |  |
| --- | --- |
| **FIRST PARTY** | **Mobile Interim Company No. 2 S.A.L.** |
|  | **Chairman General Manager****Salem Itani** |
|  | Signature: |
|  | **Chief Financial Officer****Nibal Matta Salameh** |
|  | Signature: |

**Annex 1**

**SERVICES**

MIC2 shall provide the First Party with Messaging Interworking Services allowing the latter to terminate international A2P SMS traffic into MIC2’s network.

The First Party shall not use the said Messaging Interworking Services to terminate any traffic which does not adhere to the definition of international A2P SMS (which shall mean an SMS where the sender is alphanumeric or a short number), or which is not permitted by applicable laws, or which damages or is likely to cause damage to the network of either Party, or which is spam , AIT , malicious or fraudulent.

Both Parties shall co-operate to prevent, detect and/or eliminate fraudulent use of the Messaging Interworking Services.

Per SMS-message fees:

MIC2 charges all SMS messages upon successful delivery to its subscribers.

Per SMS-message fees amount as follows:

. EURO /\*/, VAT exclusive, in the first contractual year.

. EURO /\*/, VAT exclusive, in the second contractual year.

. EURO /\*/, VAT exclusive, in the third contractual year.

Said fees may be subject to change as stipulated in clause 3.1 of the Agreement. Any modification of the value of the Agreement must be within the limits of the provisions of Article 29 in the Public Procurement Law No. 244 /2021.

First Party has committed to a Minimum Volume of SMS amounting (\*) million SMS throughout the first contractual year.

For the second contractual year the minimum volume will be (\*) million SMS, and for the third year, (\*) million SMS.

First Party shall have Direct OTT Connectivity:

First Party must be directly contracted (no hubs) with at least 3 out of top 5 of the following OTT’s service providers:

Apple

WhatsApp

Facebook

Google

Microsoft

In case of any additions or changes to the list of the 5 Top OTT’s, the First Party is required to contract directly with the new major OTT’s within 3 months period from the date of notification by MIC2. Supporting documentation verifying these direct connections must be subject to approval by MIC2 upon request.

First Party undertakes not to exceed a profit margin of 10% on the SMS unit price.

Failure by the First party to fulfill the above terms and conditions shall be deemed a breach of the Agreement and the relevant provisions of the agreement shall be applicable including clause 3.5 and clause 7 of the Agreement.

**Annex 2**

**Proposal submitted by First Party**

**Annex 3**

**The Deontology Code**